

Order No. 04

12.10.2020

DPP, Umar Niaz for the State present. Muhammad Shafiq SHO present and his statement recorded as CW-1. The DPP for the state by recording his statement requested for the discharge of the accused on the strength of deficient and weak evidence.

As per brief facts of the case, on 18.04.2020, local police received information regarding the availability of absconding accused namely, Muhammad Bashir s/o Sherdil Khan, Muhammad Hussain s/o Wakil Khan and Wakil Khan s/o Zahoor Shah, involved in case FIR no. 1115, dated 02.08.2019, u/s 302/324/148/149/34 PPC of PS Jarma Kohat, in their houses. On receipt of information, the complainant Muhammad Shafiq SHO alongwith Aftab Hussain SI, Ajmal SI, Sajid ASI, Taj Gul HC, Sahar Gul HC, Mohib HC and other police officials went to the house of accused. At about 05:45 am, indiscriminate firing started at the police party from the houses of accused Gul Chaman and Shan Umar for the intention of the murder of police party. In exercise of the right of self-defense, the police party also started firing at them. The local police, later on, came to know that accused Gul Chaman, Muhammad Younis and Sami Ullah have fired at police party from their houses while accused Shan Umar have made firing at them from his own house for which the local police also retaliated and made

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firing at them. Accused Gul Chaman, Muhammad Younis and Shan Umar have provided shelter and assistance to the above-named proclaimed offenders. After the commission of the offence, accused left their houses and decamped from the spot. To this effect, the complainant Muhammad Shafiq SHO drafted Murasila and sent to PS through Najeeb Ullah for registration of FIR and accordingly, the FIR in question was registered.

After completion of investigation, the learned District Public Prosecutor submitted the case for discharge of the accused within the meanings of section 4-C (II) and 5-B of the Khyber Pakhtunkhwa Prosecution Act, 2005 and requested for the withdrawal of the case u/s 494 Cr.P.C on the strength of deficient and weak evidence besides he has also submitted an application for the discharge of the case on 14.09.2020.

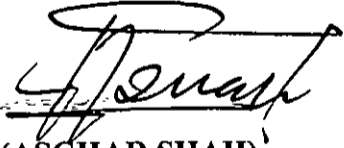
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 District of Peshawar

In order to ascertain the facts, complainant, Muhammad Shafiq SHO was summoned and examined as CW-1. The complainant admitted in his statement that the accused were not identified either by him or his accompanied officials and that the names of the accused were confirmed from the people of the locality but the witness was unable to name the people of the locality either to the court or to the investigating officer. The learned DPP beneath the statement of the complainant recorded his

statement requested for the discharge of the accused. As such, there is nothing to proceed further because the star witness of the prosecution is unable to identify the accused besides neither the feature of the accused are mentioned in the initial report nor any identification parade was conducted during the investigation to determine as to whether the accused facing trial were the real culprit or otherwise. The recording of evidence would be a futile exercise, therefore, the application of the learned DPP is accepted and above-named accused stand discharged from the instant case whereas the case stand dismissed as withdrawn. Bail bonds of the accused stand cancelled and their sureties stand discharged from the liabilities of bail bonds. Case property be disposed of in accordance with law.

File be consigned to Sessions Record Room after its necessary completion and compilation.

Announced:
12.10.2020


(ASGHAR SHAH)
Sessions Judge, Orakzai
at Baber Mela