

STATE VS ZAR MOEEN

FIR No. 70 | Dated: 18.07.2023 | U/S: 302 PPC | Police Station: KALAYA

IN THE COURT OF BAKHT ZADA

ADDITIONAL SESSIONS JUDGE-I, ORAKZAI (AT BABER MELA)

SESSION CASE NO. : 09/JC OF 2023
DATE OF ORIGINAL INSTITUTION : 25.10.2023
DATE OF PRESENT INSTITUTION : 20.11.2024
DATE OF DECISION : 18.04.2025

SAJI GUL S/O YARULLAH, R/O QAUM QAMAR KHEL, AFRIDI,
PRESENTLY RESIDING AT KARGHAN, LAGHONAY, DISTRICT
ORAKZAI.

.....(COMPLAINANT)

-VERSUS-

ZAR MOEEN S/O YARULLAH, R/O QAUM QAMAR KHEL, AFRIDI,
PRESENTLY RESIDING AT KARGHAN, LAGHONAY, DISTRICT
ORAKZAI.

..... (ACCUSED FACING TRIAL)

JUDGEMENT

18.04.2025

Accused Zar Moeen S/O Yarullah R/O Qaum
Qamar Khel, Afridi, presently residing at Karghan,
Laghonay, District Orakzai is facing trial in case FIR No.
70, dated 18.07.2023, registered U/S 302 PPC of PS
Kalaya, District Orakzai.

- (2). Facts of the prosecution case as reported in
Murasila are that the SHO received information regarding
injured Yarullah S/O Khial Dan, R/O Qaum Qamar Khel,
aged about 62/63 years has been brought to the
emergency room of DHQ Hospital, Mishti Mela where
the injured was present in conscious condition. He was
accompanied by Saji Gul bearing CNIC No. 21201-
9067157-3 cell phone number 03070539156 reported that
he along with wife were present at his home. That around
06:30, Yarullah (deceased then injured) was giving advice

Saker
18-4-25
BAKHT ZADA
Addl. District & Sessions Judge-I,
Orakzai at Hangu

(U)

STATE VS ZAR MOEEN

FIR No. 70 | Dated: 18.07.2023 | U/S: 302 PPC | Police Station: KALAYA

to his brother Zar Moeen and during which he flared up with anger and in retaliation he went inside the room took out the gun and fired at him, resultantly he got injured and accused Zar Moeen decamped from the spot. The occurrence was witnessed by the complainant and his wife. Motive for the occurrence is giving advice. He charged the accused for the commission of the offence. He duly thumb impressed the report which was verified by one Waris Khan S/O Yousaf Khan by thumb impressing the same. Injury sheet of the deceased was prepared and handed over to constable Wajid Ullah No. 320 for escort of the deceased then injured to medico legal officer for treatment. Murasila was handed over to constable Manzoor Ali No.424 for taking the same to PS for registration of FIR, hence, the present FIR.

- (3). After receiving the copy of FIR, the investigation officer proceeded to the spot and prepared site plan Ex. PW-10/1 at the pointation of the complainant on 18.07.2023. The accused was arrested and after completion of investigation, complete challan was submitted against him.

- (4). Accused Zar Moeen S/O Yarullah being in custody was summoned through Zamima Bay. He was brought before the court on 31.10.2023 and provisions of Section 265-C of the Criminal Procedure Code, 1898 was complied with. Formal charge against the accused was

Daker
18-4-25

BAKHT ZADA
Addl: District & Sessions Judge-1,
Orakzai at Hangu

STATE VS ZAR MOEEN

FIR No. 70 | Dated: 18.07.2023 | U/S: 302 PPC | Police Station: KALAYA

framed on 04.11.2023, to which he pleaded not guilty and claimed trial.

(5). The prosecution produced and recorded the statements of as many as nine (09) PWs. Statement of PWs namely Muhammad Khalil, Wajid Ullah, Syed Abbas Bukhari, Muqadar Khan, Manzoor Ali, Dr. Farzand Ali, Muhammad Jamil MHC, complainant Saji Gul and Nasir Ahmad SHO recorded as PW-01 to PW-09 respectively.

(6). Learned Sr. PP for the state abandoned PWs Gul Kareem and Waris Khan.

(7). Today, learned defense counsel produced compromise deed and proformas of compromise before the court and requested that compromise has been effected with the LRs of deceased Yarullah. The list of LRs is available on the case file which is already exhibited as Ex. PW-10/3 from the investigation officer during his statement. Learned defense counsel submitted another application that one of the LRs namely Rehman Gul is residing abroad in connection with his livelihood and permission for recording his statement may be granted through WhatsApp. Learned Sr. PP for the state wrote no objection on the application and the same is accepted accordingly.

(8). Today, all the LRs appeared before the court and submitted compromise affidavit Ex. PA and proformas of

Saker
18-4-25
BAKHT ZADA
Addl. District & Sessions Judge-1
Orakzai at Harigu

113
STATE VS ZAR MOEEN

FIR No. 70 | Dated: 18.07.2023 | U/S: 302 PPC | Police Station: KALAYA

compromise Ex. PB consisted of 02 pages. LRs of deceased recorded their joint statement wherein they stated that they have effected a genuine compromise with the accused facing trial Zar Moeen without any pressure and coercion and they being major have waived of their rights of Qisas and Diyat and have pardoned the accused facing trial in the name of Almighty Allah. They are major and have got no objection if the accused facing trial is acquitted in the instant case on the sole ground of compromise. Copies of their CNICs obtained and exhibited as Ex. P1 to P8. They duly thumb impressed their statement. Joint statement of identifiers, of LRs of deceased, namely Qismat Khan and Zahir Shah is separately recorded wherein, they correctly identified and verified the LRs of deceased before the court and thumb impressed their statement as token of correctness. Their CNICs are Ex. P9 & Ex. P10.

- (9). LR Rehman Gul, being abroad was contacted through WhatsApp in consequence to acceptance of his application submitted by the learned defense counsel as mentioned above. He was contacted through the mobile phone No. 03337337769 of Naib Court on his WhatsApp No. 03070539156. He stated that he has also effected compromise with the accused and has pardoned him in the name of Almighty Allah. He also waived off his right under Qisas and Diyat being major. He further stated that

Bakht Zada
18.7.25
BAKHT ZADA
Addl. District & Sessions Judge-1,
Orakzai at Hangu

114
STATE VS ZAR MOEEN

FIR No. 70 | Dated: 18.07.2023 | U/S: 302 PPC | Police Station: KALAYA

he has got no objection on the acquittal of the accused. Copy of his CNIC is Ex. P11. Screen shots from his video call through WhatsApp were obtained and placed on file as token of proof. He was also identified by the identifiers named above by thumb impressing the statement of Rehman Gul.

- (10). After hearing arguments, available record perused which shows that a genuine compromise has been effected between the LRs of the deceased and accused facing trial which is supported by the statements of LRs. The list of LRs is already available on the case file and exhibited during statement of the IO as Ex. PW-10/3. Affidavit/compromise deed is Ex. PA and proformas of compromise are Ex. PB consisted of two pages which are duly thumb impressed by the LRs of the deceased. One of the LRs namely Rehman Gul being abroad, his statement was recorded through WhatsApp in view of the no objection of the learned Sr. PP for the state. He was duly identified at the time of recording his statement by identifiers namely Qismat Khan S/O Zahir Khan and Abdul Marjan S/O Gul Marjan. Screenshots during his WhatsApp video call obtained and placed on file. Joint statement of the remaining LRs duly signed by all of them except Rehman Gul is recorded and placed on file and joint statement of their identifiers namely Qismat Khan and Abdul Marjan also recorded and placed on file. They

Zaker
18-4-25
BAKHT ZADA
Addl: District & Sessions Judge-1,
Orakzai at Harigu

115
STATE VS ZAR MOEEN


FIR No. 70 | Dated: 18.07.2023 | U/S: 302 PPC | Police Station: KALAYA

all stated that they have effected a genuine compromise with the accused facing trial Zar Moeen and being major they have waived off their rights of Qisas and Diyat. They have got no objection on acquittal of the accused facing trial in the instant case on the basis of compromise.

(11). Keeping in view the above, it is held that a genuine compromise has been effected between the parties and the LR's of deceased Yarullah have got no objection on the acquittal of accused facing trial, therefore, I hereby accept the compromise and acquit the accused facing trial on the basis of compromise. He is in custody. He be released, if not cited in any other case. Case property be kept intact till the expiry of period provided for appeal/revision under the law.

(12). Case file be consigned to the record room after its necessary completion and compilation.

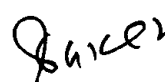
Announced:
18.04.2025


18-4-25
BAKHT ZADA
Additional Sessions Judge-I,
Orakzai at Baber Mela

CERTIFICATE

Certified that this judgment consists of six (06) pages.

Each page has been read, corrected wherever necessary and signed by me.


18-4-25
BAKHT ZADA
Additional Sessions Judge-I,
Orakzai at Baber Mela