

(57)

QAREEB KHAN VS THE STATE  
Cr. Appeal No. 3/10 of 2025

**IN THE COURT OF HAQ NAWAZ,**  
**SESSIONS JUDGE, ORAKZAI (AT BABER MELA)**

CRIMINAL APPEAL NO. : 3/10 OF 2025  
DATE OF INSTITUTION : 20.08.2025  
DATE OF DECISION : 27.09.2025

QAREEB KHAN S/O KHIWA GUL, R/O WACHA DARA  
SULTANZAI, DISTRICT ORAKZAI

..... (APPELLANT/CONVICT)

-VERSUS-

STATE THROUGH MST. ZIARAT KHELA WIFE OF MALA KHEL,  
R/O WACHA DARA SULTANZAI, DISTRICT ORAKZAI

..... (RESPONDENT)

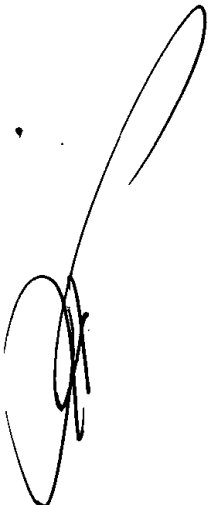
**Present** : Sana Ullah Khan Advocate for appellant/convict.  
: Abid Ali Advocate for respondent.  
: Sr. PP, Abul Qasim for the State.

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**JUDGMENT**  
**27.09.2025**

This criminal appeal was preferred by the appellant/convict against the judgment dated 31.07.2024 of learned Judicial Magistrate-II, Tehsil Courts Kalaya, District Orakzai passed in case No. 77/2 of 2023 whereby the appellant was convicted in case FIR No. 62, Dated 14.06.2023, registered at Police Station Kalaya and sentenced to 02 years imprisonment with fine of Rs. 30,000/- each under Sections 354, 506 and 509 PPC. In default of payment of fine, the convict was directed to undergo 06 months simple imprisonment under the said Sections of law. The benefit of Section 382-B CrPC was extended to him.

2. The case was registered on the basis of report of complainant/respondent Ziarat Khela which entered into Daily Diary No. 05 dated 26.05.2023. She reported that she went to a mountain situated at Sultanzai for cutting woods

  
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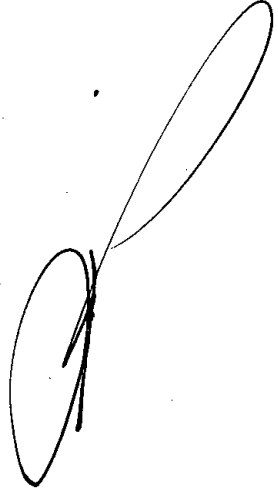
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in the morning on 24.05.2023. The accused Qareeb Khan came near to her at 1500 hours and asked her that what does she do. The complainant told him that he has nothing to do with her; however, he came nearer and caught hold her by saying that he will not leave her today. He tried to force himself upon the complainant and thereby torn her clothes. She made hue and cry due to which the accused left her. Being a female and empty handed, the complainant could not do anything.

3. The local police conducted initial inquiry under Section 157 (1) CrPC, resulting into registration of the present FIR.

After completion of investigation, complete challan was put in Court. The accused was summoned. Copies were provided to him u/s 241-A CrPC and he was formally charged. The accused pleaded not guilty and claimed trial. The prosecution produced a total of 10 witnesses before the Court of Judicial Magistrate. After recording statement of the accused and hearing the parties, the learned trial Court convicted the accused through his impugned judgment, hence, this appeal was preferred.

4. I have heard counsel for the parties and perused the record.
5. The learned counsel for the appellant submitted that there is a delay of 02 days in lodging the report. The report was lodged to counterblast case FIR No. 57 registered against the son and nephew of the husband of complainant two days



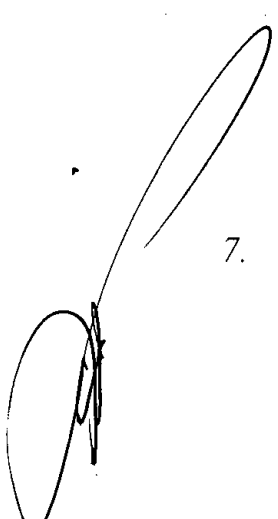
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earlier. There are contradictions in the statements of PWs regarding spot inspection and preparation of documents. He also referred to the statement of complainant and submitted that the occurrence was taken place at 1500 hours whereas she had returned from the mountain at 1100 hours. He, therefore, requested for acceptance of the appeal and acquittal of the appellant.

6. On the other hand, the learned Sr. PP and counsel for the respondent submitted that the delay in lodging the report was explained in the report. The recovery of torn clothes of the complainant supports the prosecution's case. Though there are some discrepancies in the statements of official witnesses, but the complainant is consistent about her allegation against the appellant. They, therefore, requested for dismissal of the appeal.

7. After hearing both the parties and perusal of the record, it was found that after the initial report entered in DD No. 5 dated 26.05.2023, the Inquiry Officer took into possession the torn clothes of the complainant on the same day vide recovery memo Ex. PW 3/1. He also inspected the spot and prepared the site plan Ex. PB on the same day. Though the record as well as the statements of PWs show that the complainant did not accompany the Inquiry Officer for pointation of the place of occurrence, but the only material piece of evidence, available in the instant case, was the torn

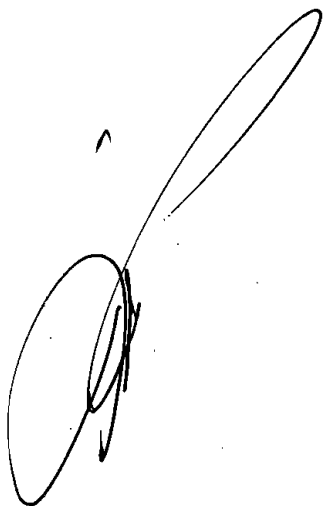


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garments of the complainant which were taken into possession at the house of complainant in presence of the marginal witnesses. The Inquiry Officer/PW-3 submitted in his statement that he went to the house of complainant, during the course of inquiry, where she handed over her torn shirt to him. Further that the complainant shall not suffer for any discrepancy on the part of Inquiry/Investigation Officer. So far delay in lodging the report is concerned, the same is not only explained in the initial report by the complainant to be her unawareness from the law and fear of the accused, but in a similar case, **the Hon'ble Peshawar High Court, Peshawar** in its judgment dated 06.12.2023 passed in **Cr.A No. 771-P of 2022** observed as follows;

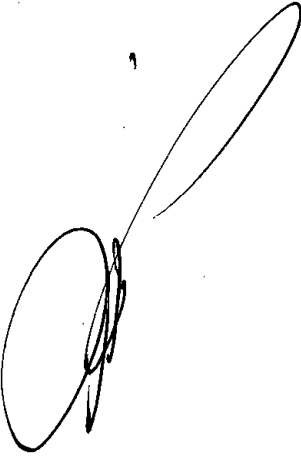
*"This fact cannot be denied that people of the erstwhile FATAs & PATAs were being dealt with under the Frontier Crime Regulation, 1901 (FCR). In the year 2018 FATA Interim Governance Regulation, 2018, was promulgated on 29<sup>th</sup> May, 2018, with an aim to provide for an interim system of administration of justice, maintenance of peace and good governance in the Federally Administered Tribal Areas and repeal of the Frontier Crimes Regulation, 1901 and matters connected therewith and ancillary thereto till the merger of the Federally Administered Tribal Areas ("FATA") with the*



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*Province of Khyber Pakhtunkhwa. On expiration of life of the Regulation (ibid), Constitution (Twenty-fifth Amendment) Act, 2018, was brought by the government, whereby FATAs/PATAs were merged with the Province of Khyber Pakhtunkhwa. The parties are the residents of the erstwhile FATA; therefore, it is appealable to a prudent mind that they were unaware of the sanctity of prompt report about the incident and the adverse consequences of delay."*

8. It is pertinent to note that statement of the complainant could not be shattered during her cross examination. Though she disclosed about her return from the mountain at 1100 hours and the occurrence was taken place at 1500 hours, but it was not certain that she was asked about her return from the mountain at the same time on the day of occurrence, as the question was not clear in this respect. She fully supported her initial report in her statement as PW-4 and charged the appellant for outraging her modesty and tearing out her clothes. The FIR No. 57 dated 24.05.2023, registered against the son of the complainant and another, also disclose the motive behind the occurrence to be dispute over woman folk. This fact further substantiates the prosecution's case. The argument by learned counsel for the appellant that the present FIR was the counterblast of said



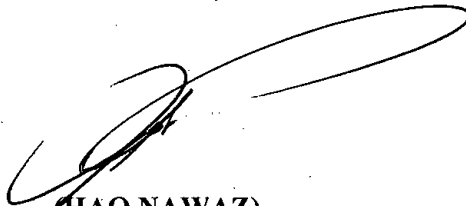
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FIR is not tenable for the reason that no one will put one's honour at stake just to counterblast a simple FIR u/s 506/34 PPC.

9. In view of the above facts and circumstances, the learned trial Court has rightly convicted and sentenced the appellant. This appeal, being devoid of merits, is dismissed. The appellant was admitted to bail after suspension of the impugned judgment. He be taken into custody and be sent to Sub-Jail, Orakzai to serve the remaining sentence. File of this court be consigned to record room after its necessary completion and compilation.

**Announced:**  
27.09.2025

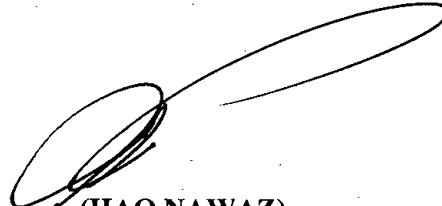


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**CERTIFICATE**

Certified that this judgment consists of six (06) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 27.09.2025



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Sessions Judge, Orakzai  
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