

IN THE COURT OF MUHAMMAD JUNAID ALAM,

JUDICIAL MAGISTRATE -II TEHSIL KALAYA, DISTRICT ORAKZAI

Case No. 64/2 of 2022
Date of Institution: 11.10.2022
Date of transfer in: 07.10.2024
Date of Decision: 10.10.2025

State through:

SHAL MUHAMMAD, THE THEN SHO POLICE STATION
 KALAYA, DISTRICT ORAKZAI.

.....**COMPLAINANT**


VERSES

MEHDI HASSAN SON OF KHAL MEHDI, RESIDENT OF MIR
 WALI GARHI, TEHSIL LOWER DISTRICT ORAKZAI

.....**ACCUSED FACING TRIAL**

Present: SYED MUZAHIR HUSSAIN ADVOCATE FOR THE
 FOR ACCUSED FACING TRIAL.

JUDGMENT:
10.10.2025


 MUHAMMAD JUNAID ALAM
 Civil Judge / JM-II
 Orakzai at Kalaya

Through this judgment the court intends to dispose

of the instant case registered against accused Mehdi Hassan
 vide FIR No. 75, dated 11.08.2022 under section 295-A &
 298-A of Pakistan Panel Code, 1860 registered at Police
 Station Kalaya.

1. Brief facts as per contents of FIR are that on 11.08.2022 at
 13:00 hours, the SHO received many public complaints about
 SI Mehdi Hassan (accused facing trial) that he had shared
 posts from mobile phone on social media (Facebook)

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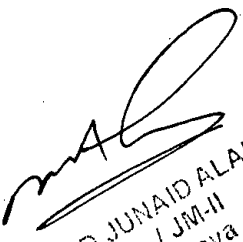
State Vs Mehdi Hassan

Case FIR No. 75, Dated 11.08.2022 under section 295-A/298-A Pakistan Panel Code.

1860 police station Kalaya

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containing derogatory remarks in respect of the holy personages i.e. Suhaba-e- Karam (R.A). On the day of occurrence, fresh post was also shared on social media (Facebook) by accused facing trial containing derogatory remarks in respect of the companions of the Holy Profit (PBUH) contained derogatory remarks regarding Alh-e-Sunat outraging the religious feelings of the public. The posts shared by accused facing trial could result into a dangerous clash between the Ahl-e-Tasheh and Ahl-e-Sunnat. The SHO checked the media post shared from the ID of the accused on his mobile and took screenshot of the same. Complainant charged the accused facing trial for the commission of the offence. The accused was arrested and issued his card of arrest which is Ex. PW-2/1. SHO/complainant took into possession mobile phone OPPO brand Model CPH 2083 in blue color vide recovery memo which is Ex. PW2/2 in the presence of marginal witnesses. SHO drafted the Murasila on the spot. He handed over the Murasila, recovery memo and card of arrest through constable Muhammad Rasool, belt no. 1423 to the police station for registration of the instant case. After registration of the case the SHO/complainant pointed out the spot of offence to the Inspector Bakht Munir, who prepared site plan on his pointation, which is Ex. PB. After



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completion of investigation, SHO submitted complete challan against the accused facing trial.

2. Accused facing trial was arrested and later on, released on bail. After completion of investigation, complete challan was submitted by prosecution against the accused facing trial.

3. Accused was summoned and legal formalities under Section 241-A Cr. PC were complied with. Accused was formally indicted. He pleaded not guilty and claimed trial, afterwards prosecution was directed to produce its evidence. Prosecution produced six (06) witnesses to prove its case against the accused while abandoned PW Fazal Rabi being the witness of the same fact as narrated by PW Muhammad Raziq. Thereafter, on 02.09.2023, Dy. PP for the State closed the prosecution evidence. After closure of prosecution evidence, statement of accused was recorded under section 243 Cr. PC. Accused opted not to produce defence evidence.

4. Arguments of the counsel for accused and APP for the State heard and the case was fixed for order on 21.11.2023. However, prosecution submitted an application under Section 344 read with section 196 Cr. PC, contending that sanction of the competent authority under section 196 Cr. PC for prosecution of section 295-A PPC had not been obtained. The application was allowed. On 25.05.2024, prosecution re-


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submitted case of FIR no. 75 dated 11.08.2022, under sections 295-A & 298-A Pakistan Panel Code, 1860, alongwith Ex-Post Facto Sanction No. 822/DC-Ork/Litigation Cell dated 13.05.2024 accorded by Deputy Commissioner, District Orakzai for prosecution of accused in the cited case. Trial proceedings were resumed. As sanction was accorded by the authority concerned, therefore, de-nova trial was initiated against the accused.

5. On 13.07.2024, de-nova charge was framed against the accused, to which he pleaded not guilty and he claimed de-nova trial.

6. Prosecution was allowed to re-produce its evidence accordingly prosecution produced six (06) witnesses to prove its case against the accused and thereafter closed its evidence.

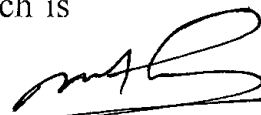
7. **PW-01** is the statement of constable Khan Wada, which is reproduced as under.

Stated on oath that the recovered USB (FX) along with application and road permit certificate were handed over to him which he took to PFSA, Lahore for examination. USB was handed over to in-charge FSL, Lahore but it was returned with remarks that examination facility of USB is not available at PFSA, Lahore. USB was returned to him which he handed over to CIO on his return.


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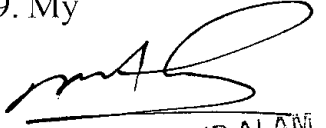
8. **PW-02** is the statement of constable Abdul Raziq, which is reproduced as under.

Stated on oath that on 19.08.2022, the recovered USB (FX) along with application and road permit certificate were handed over to me which I took FSL, Peshawar for examination. USB was handed over to in-charge FSL, Peshawar but it was returned with remarks that examination facility of USB is not available at FSL, Peshawar. USB was returned to me which I handed over to IO on my return. My statement was recorded u/s 161 Cr.PC. Similarly, I also one of the marginal witnesses to the recovery memo which is Ex.PW-2/1 vide which IO took into possession one USB (FX) of silver color produced by Shal Muhammad SHO in which the Shal Muhammad SHO saved the material shared/uploaded by accused from his mobile which was sealed into parcel No. 2 by putting 01 monogram in the name of SH inside the parcel while 03 monograms were affixed on the parcel. I along with other marginal witness Fazal Rabi signed the above recovered memo. My statement was recorded by the IO to this extent u/s 161 Cr. PC. Today, I have seen the recovery memo which is correctly bears my signature.



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9. **PW-03** is the statement of Moharrir Hamayoun, which is reproduced as under. Stated on oath that on the day of occurrence, I was present in the PS on duty when constable Muhammad Rasool brought Murasila from complainant Shal Muhammad SHO, PS Kalaya. I incorporated the contents of Murasila into FIR Ex. PA. Case property was also brought to PS along with accused and it was handed over to me. Case property was kept in safe custody. Accused was locked up. Case property was handed over to IO for the purpose of sending it to FSL on 19.08.2022. The case property was returned with the objection which was also handed over to me for safe custody. On 31.08.2022, he handed over the same again to the IO for onward sending the same to FSL, Lahore. I also entered the detail of the case property in register 19. My statement was recorded U/S 161 Cr.PC.

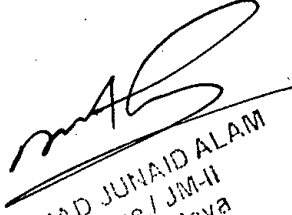
10. **PW-04** is the statement of Akhter Munir, Inspector CIO, which is reproduced as under. Stated on oath that after registration of the case, copy of FIR along with other relevant documents was handed over to me for investigation. I visited the spot i.e. room of investigation branch and prepared site plan on the pointation of complainant SHO Shal Muhammad Khan. Site plan is Ex. PB. Accused was already locked in the lock-up of police station. He was handed over to me for


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interrogation. On 12.08.2022, I produced accused before the Illaqa Magistrate for obtaining his physical custody vide application Ex.PW-1/1. 03-days physical custody of the accused was granted. I interrogated the accused and recorded his statement u/s 161 Cr.PC. Accused confessed his guilt before me, therefore, on 15.08.2022, I produced the accused before the court for recording his confessional statement vide application Ex.PW-1/2. Accused refused to confess his guilt before the court and was committed to judicial lock-up. On 14.08.2022, I took into possession USB silver color produced by complainant SHO Shal Muhammad vide recovery memo Ex.PW-1/3. It was packed and sealed into parcel No. 2 by affixing 3 seals with mark of SH. The same is Ex. P-1. I recorded statements of marginal witnesses u/s 161 Cr.PC. Copies of screenshots in respect of posts shared by accused facing trial are Ex.PW-1/4 to Ex.PW-1/13. Vide application Ex.PW-1/14 sent USB to FSL. The FSL authorities returned the same contending that they do not have the facility for examination of USB. Resultantly, it was sent to Lahore, Punjab for examination and report. They also returned the same with the same contention. After completion of investigation, case file was handed over to SHO concerned for submission of challan against the accused.



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11.PW-05 is the statement of constable Muhammad Rasool, which is reproduced as under. Stated on oath that on the day of occurrence, I was posted in PS Kalaya. On the day of occurrence, I was present with SI Shal Muhammad during patrolling when he received information regarding the occurrence. We proceeded to the investigation room where accused facing trial was present. In my presence, SI Shal Muhammad took into possession mobile phone OPPO brand model 2083 vide recovery memo already exhibited as PW-2/2 by affixing monogram with mark of SH. SI Shal Muhammad handed over to me recovery memo, card of arrest, Murasila and also accused which I took to Moharrir of PS. I returned back from PS. While IO arrived to the spot. He recorded my statement u/s 161 Cr.PC. Today, I have seen the recovery memo which is correct and correctly bears my signature.


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12.PW-06 is the statement of Shal Muhammad SHO/complainant, which is reproduced as under. Stated on oath that during the days of occurrence, I was posted as SHO, PS Kalaya. On 11.08.2022 at 13:00 hours, there were public complaints that SI Mehdi Hassan (accused facing trial) had shared posts on social media (Facebook) containing derogatory remarks in respect of the holy personages. On the day of occurrence, fresh post was shared on social media

(Facebook) by accused facing trial containing derogatory remarks in respect of the companions of the Holy Profit (PBUH). His posts contained derogatory remarks regarding Alh-e-Sunat outraging the religious feelings of the public. The posts shared by accused facing trial could result into a dangerous clash between the Ahl-e-Tasheh and Ahl-e-Sunnat. I checked the post shared from the ID of the accused on his mobile and took screenshot of the same. He also took screenshots of the previous shared posts. He arrested the accused from the investigation room of PS Kalaya vide card of arrest Ex.PW-2/1, and took into possession mobile phone OPPO marka model CPH-2083 in presence of marginal witnesses vide recovery memo Ex.PW-2/2. The mobile was packed and sealed into parcel No. 01 Ex. P-1 by affixing 03 seals with the mark of SH. One seal was put inside the parcel. Murasila Ex.PW-2/3 was drafted which was sent through constable Muhammad Rasool No. 1423 along with recovery memo, card of arrest and accused. After registration of the case, IO came to the spot who prepared site plan on my pointation. Screenshots were printed and handed over to IO. After completion of investigation, I submitted complete challan against the accused and thereafter prosecution closed its evidence.

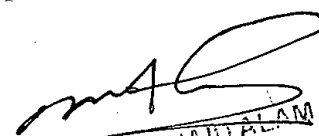

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13. Afterwards, statement of accused was recorded under section 342 Cr. PC wherein he pleaded not guilty and also did not wish to be examined on oath. He even opted not to produce any defense evidence.

14. Thereafter, arguments of the parties heard.

15. Learned counsel for accused contended that the accused

facing trial is innocent and had falsely been charged by the local police and the charge against the accused is baseless/groundless. He further argued that the prosecution has totally failed to prove the case against the accused facing trial and a concocted case has been registered against him. He also argued that the SHO/complainant had issued card of arrest at some other place than the spot. He further argued that it is not clear that from whom the recovery of alleged mobile has been affected. Furthermore, complainant stated that the screen shots had been taken from his mobile. Furthermore, argued that the alleged mobile has not been sent for FSL examination. He further alleged that the alleged mobile is still locked. He also argued that SHO/complainant malafidely charged the accused for the commission of offence. He also argued that there are material contradictions in the testimony of prosecution witnesses. He further argued that all the witnesses are police officials and no independent witness has


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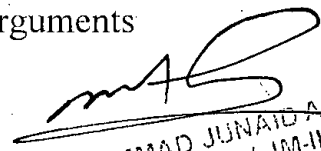
been brought into the witness box. Therefore, he requested that the accused be acquitted from the charges levelled against him.

16. Learned APP for the state on leave, therefore, his arguments could not be heard.

17. Upon perusal of the available record and statements of PWs

it was revealed that as for as USB is concerned, it is pertinent to mention here that PW-01 stated in his cross examination that the USB was handed over to me on 30.08.2022. He also said that it is correct that no sign or seal of FSL authority is available on route certificate, however, in self-stated statement he stated that the seal and remarks of PFSA Lahore are available on the FSL application. While PW-02 Muhammad Raziq also stated in his cross examination that it is correct that the sign and seal of the concerned official of FSL was not available on route permit certificate however, in self-stated statement he stated that the official of FSL authority orally stated that USB facility is not available. Furthermore, stated that the alleged USB was taken into possession by IO on 14.08.2022.

As for as spot is concerned, it is pertinent to mention here that PW-04 in his cross examination stated that he prepared the site plan on the pointation of complainant/SHO in the room


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of Investigation Branch. PW-06 Shal Muhammad stated in his cross examination that public complaints were received while he was on gusht at Mirbak road and accused was arrested from the investigation room of PS Kalaya. The PW-06 said that the site plan was made on his pointation, where the accused was present.

As for as derogatory posts are concerned, it is pertinent to mention here that all the PWs are consistent that derogatory posts were made from accused's Facebook ID.

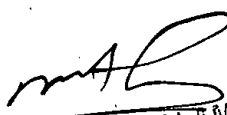
As for as mobile is concerned, it is noted that PW consistently deposed that a mobile phone was recovered from the accused in his presence. They maintained that it was packed and sealed by the complainant SI Shal Muhammad at the spot.

As for as preparation of documents are concerned, it is noted that all the PWs have consistently deposed that recovery memo, Murasila, and arrest documents were prepared at the spot.

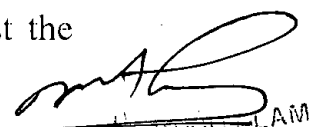
As for as derogatory posts shared by the accused facing trial are concerned, it is noted that complainant SI Shal Muhammad was consistent about the connection of accused and his Facebook ID and that he took screenshots of accused's posts.


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It is also worth mentioning here that the prosecution evidence, particularly the testimony of PW-04 and PW-06, supported by documentary evidence (screenshots, recovery memos, register entries), proves that the derogatory posts were shared from the ID attributed to the accused. The testimonies of the prosecution witnesses are consistent, confidence-inspiring, and corroborative in material particulars. The presence of accused at the scene has not been denied nor shaken in cross-examination. The complainant and other witnesses stood firm and categorically attributed the derogatory words to the accused. The defence plea of false implication remains unsubstantiated as no independent witness or documentary evidence has been produced by the accused. Mere denial cannot rebut the trustworthy oral and documentary evidence led by prosecution. The conduct of the accused, the words used, and the circumstances clearly show deliberate and malicious intent to outrage religious sentiments. Thus, ingredients of Sections 295-A and 298-A PPC stand fully proved against the accused beyond shadow of reasonable doubt. Furthermore, the language used in the said posts (Ex.PW-1/4 to Ex.PW-1/13) is clearly derogatory towards sacred personalities and falls within the mischief of **Section 298-A PPC**. Further, the deliberate and malicious act of


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posting such material on social media platforms, accessible to the general public, amounts to outraging religious feelings of Muslims at large, hence attracting **Section 295-A PPC**. Moreover, no enmity or ulterior motive for false implication has been shown from the SHO/complainant. It is also worth mentioning here that words/acts attributed to the accused clearly fall within the mischief of Section 295-A PPC as they were deliberate and intended to outrage religious feelings. The derogatory remarks regarding holy personages also constitute an offence under Section 298- A PPC. The defense has not been able to shake the credibility of prosecution witnesses, nor did the accused offer any plausible explanation. Therefore, the Court safely hold that the prosecution has successfully proved the charge against the accused beyond reasonable doubt.

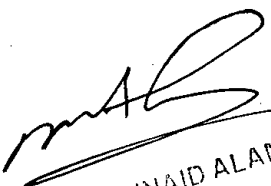

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Record further transpires that accused was directly and name charged by the complainant i.e. State through SI Shal Muhammad. Recovery of mobile oppo brand has been affected from the direct possession of accused facing trial. Screen shots were taken from the Facebook ID of the accused facing trial.

18. The Court is of the firm view that the story deposed by the prosecution is in the absence of any malafide etc. on their part

and is thus confidence inspiring, trustworthy and reliable. No doubt certain minor omissions do exist in the evidence of the prosecution but these are not of such nature either to deny the presence or proceedings of the witnesses carried out at the spot at the relevant time of the occurrence. There exist no major contradictions in between the statements of the ocular account or the formal witnesses and all the witnesses deposed in line with the story reported in the first information report.

19. The detailed discussion of the case would lead the Court to the conclusion that the prosecution has successfully marshalled their troops against the accused facing trial and have concluded the same in its favor. There exist no major contradictions in the evidence of the prosecution leading towards doubts in favor of accused facing trial. Therefore, this Court safely holds that the accused facing trial is guilty of the offence charged for on the basis of solid evidence produced by the prosecution. However, being first offender, a lenient view is taken and he is convicted and sentenced for deliberate and malicious acts intended to outrage religious feelings of citizens by insulting its religion religious personalities or religious beliefs **under Section 295-A Pakistan Panel Code, 1860** for rigorous imprisonment of **two (02) years** and fine of **Rs. 50,000/- (Rupees Fifty thousand)**. In default of payment



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of fine, he shall undergo further simple imprisonment for **six (06) months**. He is also convicted and sentenced for use of derogatory remarks, in respect of holy personages **under section 298-A Pakistan Panel Code, 1860** for rigorous imprisonment of **two (02) years** and fine of **Rs. 50,000/-**. In default of payment, he shall undergo further simple imprisonment for **six (06) months**. Both sentences shall run **concurrently**. The benefit of **Section 382-B Cr. PC** shall be extended to the accused facing trial.

20. Case property, if any, stands confiscated in favor of State.

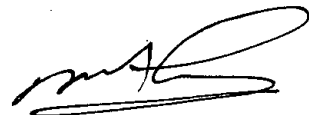
21. Case file be consigned to Record room after its completion and necessary compilation.

Announced
10.10.2025


Muhammad Junaid Alam,
Judicial Magistrate -II,
Tehsil Court Kalaya, Orakzai

CERTIFICATE

Certified that my judgment of today consists of **sixteen (16)** pages, each page has been read, signed and corrected by me where necessary.


Muhammad Junaid Alam,
Judicial Magistrate -II,
Tehsil Court Kalaya, Orakzai