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STATE VS DILAWAR KHAN ETC.
FIR No. 18, Dated 01.10.2023, u/s 15AA
Police Station: Dabori

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

SESSION CASE NO. : 8/3 OF 2025
DATE OF INSTITUTION : 16.05.2024
DATE OF TRANSFER-IN : 29.05.2025
DATE OF DECISION : 30.09.2025

STATE THROUGH ABDUL GHAFAR S/O JAN BADSHAH, CASTE
ALI KHEL, ALAF KHEL, DISTRICT ORAKZAI

------(Complainant)

VS

1. DILAWAR KHAN S/O LAIQ SHAH, AGED ABOUT 42 YEARS
2. SAEED KHAN S/O JAMAN SHAH, AGED ABOUT 29 YEARS
CASTE ALI KHEL, SHER KHEL, DISTRICT ORAKZAI; PRESENTLY
RESIDING AT JANGAL KHEL, CHAKAR MELA, KOHAT

------(Accused)

Present: Abul Qasim, Senior Public Prosecutor for the State.
: Aziz Ur Rehman Advocate for complainant.
: Gohar Khan, Zeb Shehzad, Ilyas Ali Shah and Naveed Rehman
Advocates for accused facing trial.

FIR No. 18
U/S: 15AA

Dated: 01.10.2023
Police Station: Dabori

JUDGEMENT
30.09.2025

This case was registered against the accused (1) Dilawar Khan s/o Laiq Shah and (2) Saeed Khan s/o Jaman Shah; Caste Ali Khel, Sher Khel, District Orakzai; presently residing at Jangal Khel, Chakar Mela, Kohat vide FIR No. 18, Dated 01.10.2023 at Police Station Dabori u/s 15AA.

2. According to the prosecution case, the local police, while responding to information about the occurrence, reached Jaba field situated at Ali Khel, Alaf Khel on 01.10.2023 where he found the dead body of Alaf Shah s/o Jan Badshah. The brother of the deceased namely Abdul

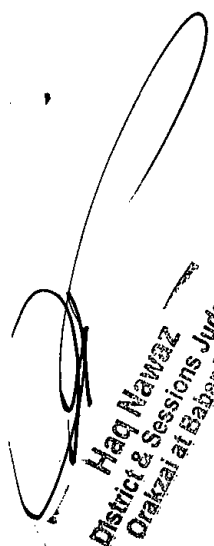
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Ghaffar reported the matter at about 1600 hours that he was reciting the Holy Quran in his house when he heard reports of fire shots at 1500 hours and received a phone call from his brother Arif Shah that someone has murdered their brother Alaf Shah with firearm on the spot. He rushed to the spot and found his brother Alaf Shah smeared with blood who was murdered by some unknown accused. The complainant reported that he has no enmity with anyone. He charged unknown accused for the commission of offence.

3. Later on 05.10.2023, the complainant charged the accused Dilawar Khan, Habib Ullah and Saeed Khan for the commission of offence in his statement recorded u/s 164 CrPC. Whereas the accused Younas Khan was charged on 07.12.2023 during investigation of the case.

4. Initially, challan u/s 512 CrPC was submitted against the accused Dilawar Khan, Habib Ullah and Saeed Khan. Later on, supplementary challan was submitted against all the accused. They were summoned and copies were provided to them under Section 265-C CrPC. The accused pleaded not guilty and claimed trial. The prosecution produced a total of 13 witnesses before the Court in the main case. A brief resume of the depositions of the prosecution's witnesses with regard to the allegations u/s 15AA is as under;


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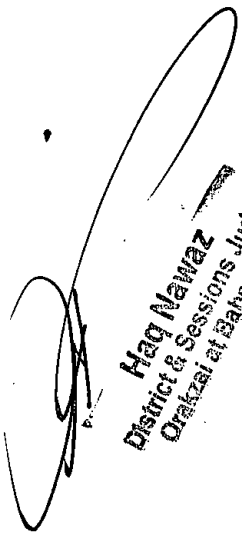
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I. Imtiaz Khan SHO recorded his statement as PW-1. He stated that on receiving information, he reached to the place of occurrence on 01.10.2023, where the complainant reported the matter to him. He reduced it into writing in the shape of Murasila Ex. PA. He prepared injury sheet Ex. PW 1/1 and inquest report Ex. PW 1/2 of the deceased and sent the same along with the dead body to hospital through Constable Ghani Ur Rehman. The Murasila was sent to police station through Constable Sami Ullah for registration of FIR. The PW submitted challan Ex. PW 1/3 under Section 512 CrPC against the accused.

II. Jahanzeb Khan SI stood in the witness box as PW-2. He stated that he submitted complete challan Ex. PW 2/1 against the accused on 15.02.2024.

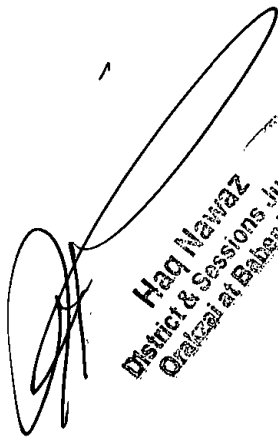
III. Abdullah appeared before the Court as PW-3. He deposed that he accompanied the IO to the spot on 01.10.2023. The IO recovered blood-stained earth from the place of deceased and 23 crime empties of 7.62 bore through recovery memo Ex. PW 3/1. The IO packed and sealed the same into parcels No. 1 and 2


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by affixing monogram of "SR". The PW is also witness to the recovery memo Ex. PW 3/2 through which the IO took into possession the blood-stained garments of the deceased brought by Constable Ghani Ur Rehman. The same were packed in parcel No. 3 by affixing monogram of "SR". The PW received post-mortem report of the deceased from doctor and handed it over to the IO on 03.10.2023. He took the parcels No. 1 to 3 along with route certificates Ex. PW 6/5 & Ex. PW 6/6 to FSL on 05.10.2023. He is also marginal witness of the recovery memos Ex. PW 3/3 and Ex. PW 3/4 vide which the IO took CDR of the complainant, the accused, the deceased, the police officials and other persons. The IO prepared pointation memo Ex. PW 3/5 on the pointation of accused in presence of the PWs and made addition in the site plan with red ink on 06.12.2023. The IO recovered and took into possession two Kalashnikovs from the house of accused on the pointation of accused on 06.12.2023 through recovery memo Ex. PW 3/6 and sealed the same in parcels No. 4 and 5 by affixing monograms of "SR". The witness verified the contents of the said documents and


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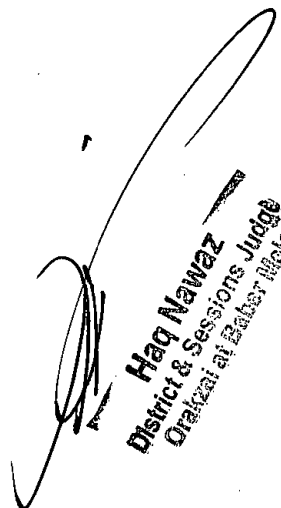
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his signatures thereon. His statements were recorded u/s 161 CrPC.

IV. Khalil Ur Rehman appeared before the Court as PW-4. He stated that he took parcels No. 2, 4 and 5 along with route permit certificate Ex. PW 11/7 to FSL on 12.12.2023. The receipt of the parcels was handed over by him to the IO. His statement was recorded u/s 161 CrPC.

V. Saif Ur Rehman appeared before the Court as PW-6. He stated that he has conducted partial investigation in the case during which he visited the spot and prepared site plan Ex. PW 6/1 on pointation of the complainant. The IO took into possession blood-stained earth from the place of deceased vide recovery memo Ex. PW 3/1 in presence of the marginal witnesses which was packed and sealed into parcel No. 1 which is Ex. P1. The IO also took into possession 23 crime empties of 7.62 bore through the same recovery memo and sealed it into parcel No. 2 which is Ex. P2. He affixed the monogram of "SR" on the parcels. He took into possession blood-stained garments of the deceased brought by Constable Ghani Ur Rehman to the police station vide recovery


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memo Ex. PW 3/2 and sealed it into parcel No. 3 by affixing monogram of "SR". The PW prepared list of the legal heirs of deceased. The complainant charged the accused in his statement recorded before the IO on 04.10.2023 and the IO produced the complainant before the Court of learned Judicial Magistrate vide application Ex. PW 6/2 on 05.10.2023 for recording his statement u/s 164 CrPC. He handed over parcels No. 1 to 3 along with the applications to FSL and route permit certificates to Constable Abdullah for taking it to FSL on 05.10.2023. The IO conducted raid on the house of the accused but they were not found. The accused were avoiding their lawful arrest, therefore, the IO obtained warrant of arrest against the accused u/s 204 CrPC and got issued proclamation u/s 87 CrPC. He obtained CRD data of the accused, the complainant, the deceased and one other person vide recover memo Ex. PW 3/3 which was brought by the Constable Azam Khan on 02.11.2023. He placed on file the FSL reports and recorded statements of Arif Shah, brother of the deceased and other PWs. The PW was transferred thereafter and the

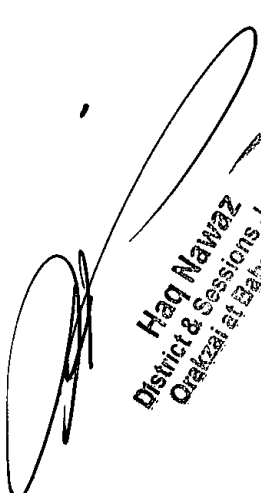

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remaining investigation was carried out by his successor.

VI. Moharrir Waqas Khan recorded his statement as PW-7. He deposed that the Murasila was received by him through constable Sami Ullah on 01.10.2023 which was incorporated by him into FIR Ex. PW 7/1. The copy of FIR was handed over by him to the Incharge Investigation. He received parcels No. 1 to 3 which were kept in the Malkhana of the PS. The IO handed over parcels No. 4 and 5 to him on 06.12.2023 which were kept by him in the Malkhana. He handed over parcels No. 2, 4 and 5 on 12.12.2023 to the IO who dispatched the same to FSL. His statement u/s 161 CrPC was recorded.

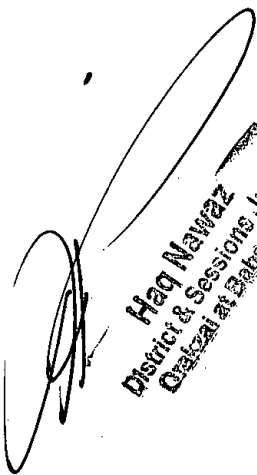

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VII. The complainant, Abdul Ghaffar, appeared before the Court as PW-8. He submitted that the deceased Alaf Shah was his brother. The accused Habib Ullah, Dilawar Khan and Saeed are his relatives whereas the accused Younas Khan is the resident of Khwaidad Khel. He was busy in reciting the Holy Quran on the eventful day on 01.10.2023 when he heard the firearm shot at 1500 hours. He received a

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phone call from his brother Arif Shah and informed him that their brother Alaf Shah has been murdered. When he reached to the place of occurrence i.e., Jabba, the complainant found his brother lying dead there and his body was smeared with blood. In the meanwhile, the police attracted to the spot. He reported the matter to them which was read over to him and his thumb impression was obtained on the same. The dead body of brother of the complainant was taken to THQ Hospital Dabori. Wherefrom it was shifted to THQ Ghiljo for post-mortem examination. He went to the spot with the IO and pointed out the place of occurrence to him. Later on 04.10.2023, the complainant charged the accused for the commission of offence. He narrated the reason of murder of his brother by the accused as they were suspecting the murder of their father by the complainant party.


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VIII. Sub-Inspector Gul Asghar appeared before the Court as PW-11. He stated that investigation of the case was handed over to him on 28.11.2023. He took into possession CDR of the accused Younas and LHC Rizwan Akbar,

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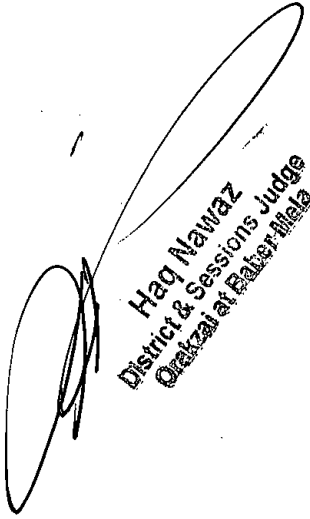
ASI Ayyub Khan, Shahid Umar and Muhammad Shah through recovery memo Ex. PW 3/4 in presence of the marginal witnesses. He recorded the statements of PWs Qayyum Shah and Asif Ullah u/s 161 CrPC, who disclosed that the accused were seen by them in the area on 30.09.2023 and 01.10.2023. He arrested the accused Dilawar Khan, Saeed Khan and Habib Ullah on 04.12.2023 vide card of arrest Ex. PW 11/1 after cancellation of their Bail Before Arrest petition. He produced them before the Court of Judicial Magistrate on the following day vide application Ex. PW 11/2 for obtaining physical custody which was allowed and two days police custody was granted. The accused confessed their guilt before the IO, who recorded their statements u/s 161 CrPC. The PW was led to the spot by the accused on 06.12.2023 vide pointation memo Ex. PW 3/5. He made addition in the site plan accordingly. He also recovered a Kalashnikov along with a fixed and a spare charger containing 13 rounds of 7.62 bore on the pointation of accused Dilawar Khan vide recovery memo Ex. PW 3/6 and sealed it into parcel No. 4. He also recovered another


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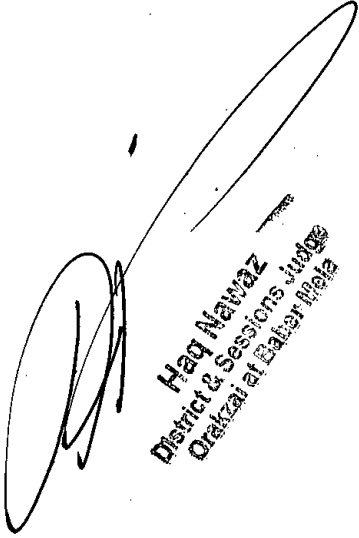
Kalashnikov along with a fixed charger containing 05 rounds of 7.62 bore on the pointation of accused Saeed Khan through the same recovery memo and sealed it into parcel No. 5. The IO also prepared recovery sketch Ex. PW 11/3 at the instance of accused Dilawar Khan and Saeed Khan. He added Section 15AA in the case and issued Parwana for addition of the said Section which is Ex. PW 11/4. He also added Section 109 PPC in the case after the nomination of Younas Khan as accused and issued Parwana in this respect which is Ex. PW 11/5. He again produced the accused Dilawar Khan, Saeed Khan and Habib Ullah before the Court of Judicial Magistrate on 07.12.2023 vide application Ex. PW 11/6 for recording their confessional statements, but they refused to record their statements and were sent to judicial lock-up. The IO sent parcels No. 4 and 5 containing the crime weapons with ammunitons and parcel No. 2 containing the crime empties to FSL Peshawar for analysis along with route certificate Ex. PW 11/7 through constable Khalil Ur Rehman on 12.12.2023. He placed on file the FSL report which is Ex. PW 11/8. He recorded the


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statement of PW Arif Shah regarding nomination of the accused Younas Khan along with the co-accused on 13.12.2023. He obtained warrant u/s 204 CrPC and got issued proclamation u/s 87 CrPC against the accused Younas Khan vide applications Ex. PW 11/9 and Ex. PW 11/10. He produced PW Qayyum Shah and Asif Ullah before the Court of Judicial Magistrate for recording their statements u/s 164 CrPC vide application Ex. PW 11/11. Their statements recorded u/s 164 CrPC were produced as Ex. PW 11/12 and Ex. PW 11/13. After the cancellation of BBA petition of accused Younas Khan, the IO arrested him on 12.01.2024 vide card of arrest Ex. PW 11/14. He produced the accused before the Court of JM vide application Ex. PW 11/15 for obtaining his physical custody which was turned down and the accused was sent to judicial lock-up. The IO produced the statement of complainant recorded u/s 164 CrPC as Ex. PW 11/16 and CDR of the accused as well as the PWs and deceased as Ex. PW 11/17. He also produced the inquiry report against the delinquent police officials namely LHC Rizwan and ASI Muhammad


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Ayyub as annexure 'A' and 'B'. He handed over the case file to SHO for submission of complete challan against the accused. He verified all the documents prepared by him and submitted that the same correctly bear his signatures.

5. After completion of prosecution evidence, statements of the accused were recorded u/s 342 Cr.P.C. The accused claimed innocence; however, they neither wished to be examined on oath nor opted to produce any evidence in defence.

6. The records of BBA petition No. 84/4 of 2023 before the Court of Addition Sessions Judge, Orakzai, FIR No. 438 Dated 01.10.2023 registered at Police Station Gumbat u/s 9-C CNSA bearing case No. SPL 68/2024 decided by the Court of Sessions Judge, Kohat on 20.05.2024 and Inquiry files in original against LHC Muhammad Ayyub No. 484 and Ex-Constable Rizwan Akbar No. 65 were requisitioned from the Record Room of Sessions Court Orakzai at Baber Mela, Record Room of Sessions Court, Kohat and office of the DPO, Kohat. Arguments heard and record perused.

7. After hearing both the parties and perusal of the record it was found that the accused were nominated for the murder of brother of the complainant. During the course of

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investigation, the Investigating Officer took into possession blood-stained earth with 23 crime empties from the spot through recovery memo Ex. PW 3/1 and sealed the same into parcels No. 1 and 2 respectively. The blood-stained garments of the deceased were also taken into possession through recovery memo Ex. PW 3/2 and sealed into parcel No. 3. The said parcels No. 1, 2 and 3 were sent to FSL through application Ex. PW 6/3 with route certificates Ex. PW 6/5 and Ex. PW 6/6 on 05.10.2023 through the PW-3. The FSL reports Ex. PW 6/10 and Ex. PW 6/11 dated 08.11.2023 and 12.10.2023 show that both the blood-stained earth and blood-stained garments of the deceased were having human blood of the same group, whereas the 23 crime empties were of 7.62 mm bore and these were fired from one and the same 7.62 bore weapon.

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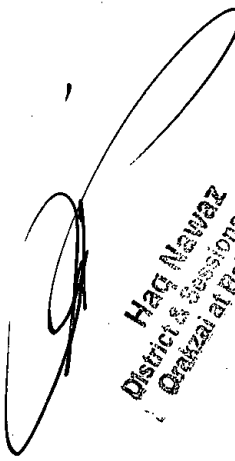
8. After arrest of the accused Dilawar Khan and Saeed Khan, they not only pointed out the place of occurrence to the Investigating Officer through pointation memo Ex. PW 3/5 and addition was made in the site plan accordingly, but the weapon of offence i.e., Kalashnikov of 7.62 mm bore bearing No. 56-1-14129082, used by the accused Dilawar Khan in the commission of offence was also recovered on his pointation through recovery memo Ex. PW 3/6 on 06.12.2023. Similarly, another Kalashnikov of 7.62 mm bore bearing No. 1954-EN7186 was also

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recovered by the IO on the pointation of accused Saeed Khan through the same recovery memo. Both the Kalashnikovs were packed in parcels No. 4 and 5 and were sent to FSL vide route permit certificate Ex. PW 11/7 on 12.12.2023 through PW-4 along with parcel No. 2 containing 23 crime empties. The FSL report dated 18.12.2023 Ex. PW 11/8 confirmed that the twenty-three 7.62 mm bore crime empties were fired from 7.62 mm bore (SMG) rifle No. 56-1-14129082 and it was foreign made. The said rifle was recovered on the pointation of accused Dilawar Khan. It was further reported that the 7.62 mm bore (SMG) rifle No. 1954-EN7186, recovered on the pointation of accused Saeed Khan, is foreign made and it is in proper working order in its present condition. The IOs and the marginal witness to the recovery memo and pointation memo appeared before the Court as PW-6, PW-11 and PW-3. They were subjected to sufficient cross examination, but no material contradiction could be brought on record except the difference of signatures of the PW-3 on recovery memo Ex. PW 3/1 with his signatures on other documents. He, however, categorically owned his signature on the said recovery memo as well.

9. In view of the above facts and circumstances, the prosecution remained successful to prove the recovery of weapon of offence on the pointation of accused Dilawar Khan and the recovery of another Kalashnikov on the

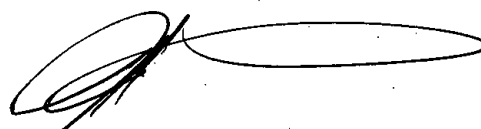

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pointation of accused Saeed Khan. They are, therefore, convicted u/s 15 of the Khyber Pakhtunkhwa Arms Act and sentenced to three (03) years rigorous imprisonment with the benefit of Section 382-B CrPC. The accused are on bail. They be taken into custody and be sent to Sub-Jail, Orakzai to serve the sentence. Case property be confiscated to State. File of this Court be consigned to record after its necessary completion and compilation.

Announced:
30.09.2025



(HAQ NAWAZ)
Sessions Judge, Orakzai,
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CERTIFICATE

Certified that this judgment consists of fifteen (15) pages.

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

Dated: 30.09.2025


(HAQ NAWAZ)
Sessions Judge, Orakzai,
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