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**STATE VS DILAWAR KHAN ETC.**  
FIR No. 18, Dated 01.10.2023, u/s 302/109/34 PPC  
Police Station: Dabori

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

SESSION CASE NO. : 8/2 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
  3. HABIB ULLAH S/O MUHAMMAD SHAH, AGED ABOUT 32 YEARS
  4. YOUNAS KHAN S/O NIZAM KHAN, AGED ABOUT 37 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: 302/109/34 PPC**

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**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; (2) Saeed Khan s/o Jaman Shah; (3) Habib Ullah s/o Muhammad Shah and (4) Younas Khan s/o Nizam Khan, 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 302/109/34 PPC.

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

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where he found the dead body of Alaf Shah s/o Jan Badshah. The brother of the deceased namely Abdul 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

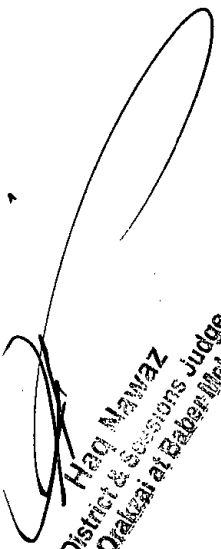
Han Nawaz  
District & Sessions Judge  
Dabori at Dabori

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Court. A brief resume of the depositions of the prosecution's witnesses is as under;

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.

  
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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

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recovery memo Ex. PW 3/1. The IO packed and sealed the same into parcels No. 1 and 2 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

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District & Sessions Judge  
Orakzai at Baber Mela

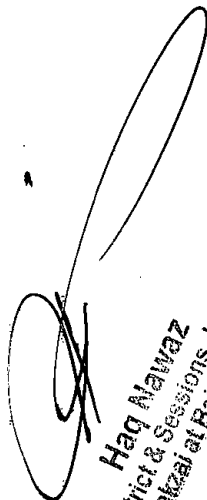
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3/6 and sealed the same in parcels No. 4 and 5 by affixing monograms of "SR". The witness verified the contents of the said documents and his signatures thereon. His statements were recorded u/s 161 CrPC.

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.

  
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District & Sessions Judge  
Orakzai at Peshawar

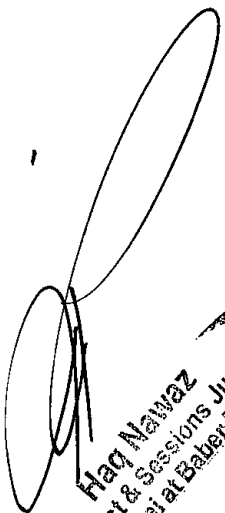
V. Ghani Ur Rehman deposed as PW-5. He stated that the SHO handed over the dead body of deceased along with relevant documents to him and he escorted it to civil hospital Ghiljo and handed the dead body over to the doctor for post-mortem examination on 01.10.2023. He received blood-stained garments of the deceased from the doctor which were handed over by him to the IO. His statement was recorded u/s 161 CrPC.

VI. 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

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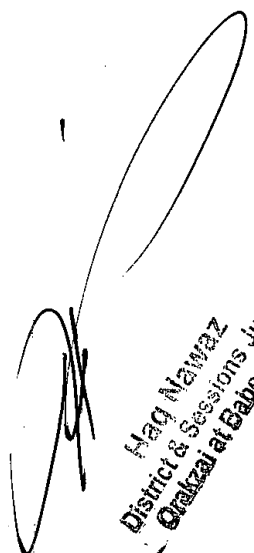
6/1 on pointation of the complainant. The IO took into possession blood-stained earth from the place of deceased vide recovery memo Ex. PW 3/1 in presence of the marginal witnesses which was packed and sealed into parcel No. 1 which is Ex. P1. The IO also took into possession 23 crime empties of 7.62 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 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

  
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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 remaining investigation was carried out by his successor.

  
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- VII. 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

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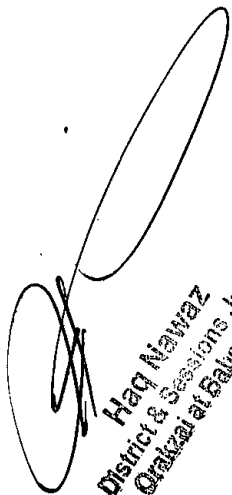
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on 06.12.2023 which were kept by him in the Malkhana. He handed over parcels No. 2, 4 and 5 on 12.12.2023 to the IO who dispatched the same to FSL. His statement u/s 161 CrPC was recorded.

VIII. 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 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

  
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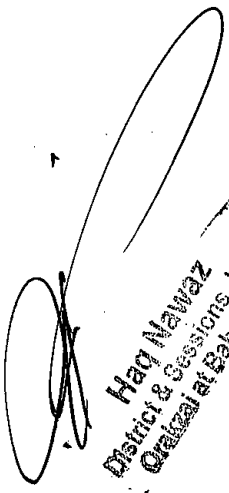
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Dabori. Wherefrom it was shifted to THQ Ghiljo for post-mortem examination. He went to the spot with the IO and pointed out the place of occurrence to him. Later on 04.10.2023, the complainant charged the accused for the commission of offence. He narrated the reason of murder of his brother by the accused as they were suspecting the murder of their father by the complainant party.

IX. Mehmood Ul Hassan appeared before the Court as PW-9. He submitted that the dead boy was identified by him to the police as well as before the doctor at THQ Hospital Ghiljo on 01.10.2023. His statement was recorded u/s 161 CrPC.

X. The other brother of the deceased namely Arif Shah appeared before the Court as PW-10. He stated that he received a phone call from a relative on 01.10.2023 at 1505 hours regarding the murder of his brother Alaf Shah by some unknown person. He called his younger brother Abdul Ghaffar (complainant) to visit the spot and find the dead body of deceased. The PW returned from Peshawar when his

  
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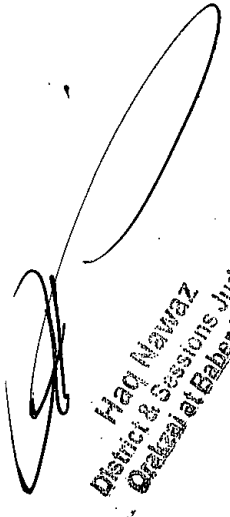
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brother Abdul Ghaffar confirmed the incident.

He told his brother not to nominate anyone prior to his arrival and satisfying themselves.

After getting their satisfaction, they charged the accused Dilawar Khan, Saeed Khan and Habib Ullah for the commission of offence.

The PW came to know during the course of investigation that the accused Younas Khan was in contact with the above-mentioned accused through their cell phones and he was extending all kinds of help and assistance to the accused who were acting upon the consultation and deliberation of said Younas Khan. The PW charged all the four accused for the commission of offence and submitted that his statement was recorded by the IO u/s 161 CrPC.

  
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Dabari, Dabori

- XI. 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, ASI Ayyub Khan, Shahid Umar and Muhammad Shah through recovery memo Ex. PW 3/4 in presence of the marginal witnesses.


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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 Kalashnikov along with a fixed charger containing 05 rounds of 7.62 bore on the

  
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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 ammunities 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 statement of PW Arif Shah regarding

Hazrat Ali  
District & Sessions Judge  
Quetta at Baber Mela


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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

  
Haq Ali Haq  
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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.

XII. Raees Khan, the Logistic Officer of THQ Hospital Ghiljo appeared the Court as PW-12. He stated that Dr. Hassan Ullah, who conducted post-mortem examination of the deceased, has went abroad and his whereabouts are not known; therefore, the PW verified the signature and handwriting of the said doctor over the post-mortem report which is Ex. PW 12/1.

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District & Sessions Judge  
Orakzai at Dabori, Balochistan

XIII. Finally, Qayyum Shah stood in the witness box as PW-13. He deposed that the accused Saeed Khan, Dilawar Khan and Habib Ullah are his relatives. The accused Saeed Khan came to his house on 30.09.2023 at 1740 hours and demanded a bamboo stick for plucking walnuts from his trees. The PW gave him the stick. He also saw the accused Dilawar Khan, Saeed Khan and Habib Ullah working in their field on 01.10.2023. His statement was recorded by

the IO u/s 161 CrPC. He further stated that he also recorded his statement before the Court of Judicial Magistrate u/s 164 CrPC on 22.12.2023.

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. The learned Sr. PP, assisted by counsel by the complainant submitted that though the accused were not charged in the FIR, but the complainant as well as the other PWs have charged them for the commission of offence in their supplementary statements and statements

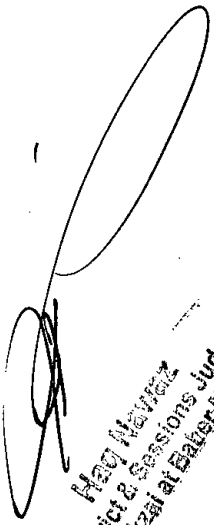
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recorded u/s 164 CrPC, after satisfying themselves about the involvement of accused in the commission of offence on the basis of their presence in the area at the relevant days as evident from the statements of PWs as well as the CDRs of the accused. The motive behind the occurrence has also been given in the supplementary statement regarding revenge of the murder of father of the accused Dilawar Khan and grandfather of accused Saeed and Habib Ullah. The positive FSL report about the crime empties and the weapon of offence, recovered on the pointation of accused, further substantiate the prosecution case. The accused, in their Bail Before Arrest Application, took the plea of alibi and submitted that they were arrested in a criminal case at District Kohat, but the said case was found to be a concocted one and disciplinary actions were taken against the delinquent police officials. They finally submitted that the prosecution remained successful to prove the case against the accused; therefore, the accused be convicted and exemplary punishment be awarded to them.

8. On the other hand, the learned counsel for the accused submitted that it was an unseen occurrence which was registered against the unknown accused. The Murasila shows that the complainant was having no enmity with anyone. The accused were charged after five days of the

  
Huzefa Naveez  
District & Sessions Judge  
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occurrence with no source of information. Statements u/s 164 CrPC were recorded after 52 days of the occurrence. All the private PWs are close relatives of the deceased. The Murasila and injury sheet are in different handwriting. The register No. 19 was not produced before the Court to confirm proper entry of the recovered Kalashnikovs and sending the parcels to FSL on the relevant days. The accused Dilawar Khan, Habib Ullah and Saeed Khan were arrested in two criminal cases at District Kohat on the day of occurrence and they were convicted by the competent Courts in the said cases which suggest that the said accused were not present at District Orakzai on the day of occurrence. He further submitted that no application for the discharge of cases was forwarded to the Courts on the basis of Inquiry conducted against the concerned police officials. All these facts make the case full of doubts; therefore, they requested for acquittal of the accused.

Mag. Henry  
District & Sessions Judge  
Orakzai at Bahar Mela

9. After hearing both the parties and perusal of the record it was found that though no one was charged for the commission of offence in the FIR, but the complainant/PW-8 charged the accused for the murder of his brother Alaf Shah in their supplementary statements recorded after 05 days of the occurrence. The complainant mentioned the motive behind the occurrence to be

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suspicion of the accused about the murder of father of accused Dilawar Khan by them. The accused Dilawar Khan, Habib Ullah and Saeed Khan, in their Bail Before Arrest Application No. 84/4 of 2023, submitted before the Court of ASJ, Orakzai that they remained under arrest in Case FIRs No. 438 and 440 registered at Police Station Gumbat, Kohat on the relevant day. The record of case FIR No. 438 Dated 01.10.2023 registered at PS Gumbat u/s 9-C CNSA was requisitioned which was decided by the Court of Sessions Judge, Kohat on 20.05.2024 on the basis of plead guilty of the accused Habib Ullah and Dilawar Khan. The said FIR was registered at 1530 hours on 01.10.2023 with the time of occurrence as 1400 hours and both the accused were shown arrested on the same day. They were produced before the Court of Judicial Magistrate-I, Kohat on 02.10.2023 and the Court sent them to judicial lock-up. The said FIR was registered on the complaint of Muhammad Ayyub IHC (ASI as per FIR No. 438). A Departmental Inquiry was initiated against the said Muhammad Ayyub (IHC) and LHC Rizwan Akbar on the complaint of PW-10 Arif Shah, brother of the deceased. The Inquiry file was requisitioned from the office of DPO, Kohat. The record of Inquiry file shows that another case FIR No. 440 Dated 01.10.2023 was also registered against the accused Saeed Khan on the same

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day at 1930 hours with the time of occurrence as 1830 hours u/s 15AA upon the recovery of a 30-bore pistol from him. According to the defence counsel, the said case was also decided on the basis of plead guilty at the time of production of the accused Saeed Khan before the Court on the following day.

10. The Inquiry file shows that both the IHC Muhammad Ayyub and LHC Rizwan Akbar were found guilty by the Competent Authority during the course of Inquiry conducted under the Khyber Pakhtunkhwa Police Rules, 1975 for fabrication of FIR and collusion with the accused. The major penalty of reduction in rank was imposed against the IHC Muhammad Ayyub on 09.07.2024 whereas LHC Rizwan Akbar was dismissed from service with immediate effect on the same date. Since, both the case FIR Nos. 438 and 440 were disposed of on the basis of plead guilty before the conclusion of disciplinary proceedings; therefore, the question of discharge from prosecution does not arise whereas all the proceedings carried out by the local police of Police Station Gumbat in case FIR Nos. 438 and 440 on 01.10.2023 was the result of said fabrication and collusion.

11. The Inquiry proceedings have, thus, proved that the accused with the connivance of local police of Police

May Nawaz  
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District of Faisalabad

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Station Gumbat, District Kohat had tried to show their presence outside the District Orakzai to avoid their nomination in the present case.

12. The occurrence was taken place at 1500 hours on 01.10.2023 on the report of complainant/PW-8 when he heard a fire shot in his house at the time when he was reciting Holy Quran. He was soon after informed by his brother/PW-10 through phone call from Peshawar that their brother was murdered by someone. When the complainant reached the place of occurrence at Jabba, he found his brother Alaf Shah dead and his body was smeared with blood. The dead body was subjected to post-mortem examination at THQ Hospital Ghiljo on the same day at 05:56 PM by Dr. Hassan Ullah. The Logistic Officer of THQ Hospital Ghiljo appeared before the Court as PW-12. He verified the signature of Dr. Hassan Ullah on the post-mortem report Ex. PW 12/1 and submitted that the said doctor has shifted abroad and his whereabouts are not known. According to the post-mortem report, the deceased received a total of seven entry and exit wounds upon his person and the Medical Officer opined that the deceased died due to firearm injuries to throat and great vessel. The time between death and post-mortem was given to be 03 hours approximately which confirms that

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Hag Mung  
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the occurrence was taken place at the relevant time as narrated by the complainant.

13. During the course of 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. Thus, it was also proved that the occurrence was taken place at the spot from where the blood-stained earth was recovered on the pointation of complainant as depicted in the site plan Ex. PW 6/1.

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14. Though the accused were nominated in the instant case after about 05 days of the occurrence, but both the complainant/PW-8 and his brother/PW-10 have submitted

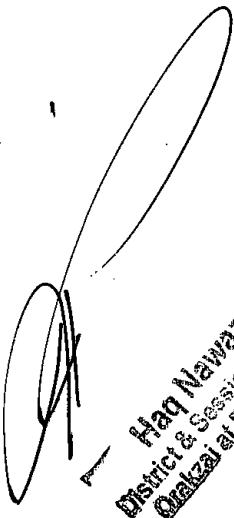
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in their statements that they did not charge anyone for the commission of offence before their satisfaction in this respect. Needless to mention that **the Hon'ble Peshawar High Court, Peshawar** in its judgment dated 06.12.2023 passed in **Cr.A No. 771-P of 2022** has observed about the development of law in FATA and unawareness of the local inhabitants about the consequences of delay, 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 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*

  
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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."

15. After arrest of the accused Dilawar Khan, Saeed Khan and Habib Ullah, 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 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. Both 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.

16. In view of the above facts and circumstances, the prosecution remained successful to prove that the deceased Alaf Shah was done to death by the accused Dilawar Khan by firing at him through Kalashnikov No. 56-1-14129082. He is, therefore, convicted u/s 302 (b) PPC and sentenced to life imprisonment with the benefit of Section 382-B CrPC. The convict shall pay an amount of Rs. 10 lacs as compensation to the legal heirs of deceased Alaf Shah s/o Jan Badshah, Caste Ali Khel, Sher Khel, District Orakzai in terms of Section 544-A CrPC. In default of payment of compensation, the convict shall



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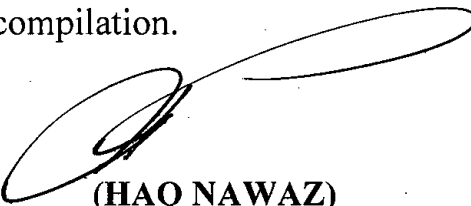
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undergo simple imprisonment for a period of 06 months.

The accused Dilawar Khan is on bail. He be taken into custody and be sent to Sub-Jail, Orakzai to serve the sentence. However, the prosecution could not connect the involvement of accused Saeed Khan, Habib Ullah and Younas Khan in the murder of deceased through cogent and confidence inspiring evidence. They are, therefore, acquitted from the charges levelled against them while extending the benefit of doubt in their favour. Their bail bonds cancelled and sureties stand discharged from the liabilities of bail bonds. Case property be destroyed after the expiry of period provided for appeal/revision. The requisitioned record be sent to the concerned offices forthwith. File of this Court be consigned to record after its necessary completion and compilation.

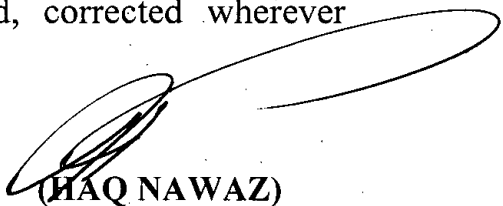
**Announced:**  
30.09.2025

  
(HAQ NAWAZ)  
Sessions Judge, Orakzai,  
at Baber Mela

**CERTIFICATE**

Certified that this judgment consists of twenty-five (25) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 30.09.2025

  
(HAQ NAWAZ)  
Sessions Judge, Orakzai,  
at Baber Mela