

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

SESSIONS CASE NO. : 3/2 OF 2025
DATE OF INSTITUTION : 11.12.2024
DATE OF TRANSFER-IN : 29.05.2025
DATE OF DECISION : 14.10.2025

STATE THROUGH SHO MUHAMMAD YOUNAS, POLICE STATION
KALAYA

.....(COMPLAINANT)

-VERSUS-

NOOR JAMAL SHAH KAKA KHEL S/O MUHAMMAD ALI SHAH
KAKA KHEL, AGED ABOUT 48 YEARS, CASTE KOKI KHEL,
DISTRICT KHYBER

..... (ACCUSED)


Present : Abul Qasim, Senior Public Prosecutor for State.
: Abid Ali Advocate for accused.

FIR No. 93 **Dated: 07.09.2024** **U/S: 468 & 471 PPC**
Police Station: Kalaya

JUDGEMENT
14.10.2025

This case was registered against the accused Noor Jamal Shah
Kaka Khel s/o Muhammad Ali Shah Kaka Khel, Caste Koki
Khel, District Khyber vide FIR No. 93, Dated 07.09.2024 at
Police Station Kalaya u/s 468 and 471 PPC.

2. According to averments of the FIR, the SHO Police Station
Kalaya, while responding to the information of smuggling of
narcotics from Anjani to Bara via motorcar, laid a picket on
main metaled road near Garag Check-Post on 07.09.2024. A
Motorcar Suzuki heading from Anjani arrived there at 1330
hours. The vehicle was stopped and the driver was
disembarked. The complainant searched the vehicle and
opened a secret cavity made in the CNG Tank inside the


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vehicle with a key, which led him to the recovery of 14 packets of chars, wrapped in yellow scotch tape. The complainant weighed each packet, which turned out to be 1000 grams, making a total of 14,000 grams. He separated 10 grams as sample from each packet and sealed it into parcels No. 1 to 14. The remaining 13,860 grams of chars were sealed in parcel No. 15. The parcels were sealed with the monogram of "MY". Videography of the occurrence was carried out through Constable Inshad Ali which was transferred to a USB and sealed in parcel No. 16. The Murasila and other documents were sent to police station; hence, the FIR was registered.

3. After completion of investigation, complete challan was put in court. The accused was summoned and copies were provided to him under section 265-C CrPC. He pleaded not guilty and claimed trial. The prosecution produced a total of 06 witnesses. A brief resume of the depositions of the prosecution witnesses is as under;


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- I. Constable Sajid Ullah stood in the witness box as PW-1. He stated that he took the parcels No. 1 to 14 and parcel No. 16 to FSL for chemical analysis on 10.09.2024. He handed over the receipt of the parcels to the IO upon his return from FSL. His statement was recorded u/s 161 CrPC.

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II. AMHC Asmat Ali appeared in the witness box as PW-2. He stated that he incorporated the contents of Murasila into FIR Ex. PW 2/1 and received the parcels No. 1 to 16 in duly packed and sealed condition from the complainant which was kept by him in safe custody at Malkhana while the motorcar was received by him from the SHO. It was parked in police station's premises, after making its entry in Register No. 19 Ex. PW 2/2. The PW handed over parcel No. 15 to the IO for its production before the Court of Judicial Magistrate on 08.09.2024. He received it back from the IO on the same day and kept it in Malkhana. He also handed over parcels No. 1 to 14 and 16 to the IO for transmitting it to FSL on 10.09.2024. He made entries in the daily diaries which is Ex. PW 2/3.

III. The complainant, SHO Muhammad Younas, appeared before the Court and recorded his statement as PW-3. He stated that he received information regarding smuggling of huge quantity of narcotics from Anjani to Bara on 07.09.2024. He along with constables Saleem Khan and Murad Khan with driver Inshad Ali laid a picket on main road near Garage Check-Post, upon this



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information. He stopped a Motorcar Suzuki at 1330 hours and debarked the driver. He recovered 14 packets of chars from a secret cavity made inside the CNG Tank of the vehicle. He weighed each packet which turned out to be 1000 grams, making a total of 14,000 grams. The complainant separated 10 grams from each packet for FSL examination which were packed and sealed into parcels No. 1 to 14. The remaining 13,860 grams were sealed in parcel No. 15. The videography of the occurrence was carried out through Constable Inshad Ali and it was sealed in parcel No. 16. The complainant affixed monogram of "MY" on the parcels. The recovery was affected through recovery memo Ex. PW 3/1. The accused disclosed his name as Noor Jamal Shah Kaka Khel s/o Muhammad Ali Shah Kaka Khel. The complainant issued his card of arrest which is Ex. PW 3/2. He prepared the Murasila Ex. PW 3/3 and sent it along with other documents to police station through Constable Murad Gul for registration of FIR. He pointed out the place of occurrence to the IO on his arrival to the spot. Thereafter, he took the case property and the accused to police station and handed over to


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Moharrir. He submitted complete challan Ex. PW 3/4 against the accused after completion of investigation. He verified the contents of all the documents prepared by him and submitted that his signatures are correctly affixed on the same.


IV. The Constable Murad Gul is PW-4. He is marginal witness to the recovery memo Ex. PW 3/1 vide which the complainant took into possession the case property. He narrated the prosecution's story in his statement and verified the contents of recovery memo and submitted that it correctly bears his signature. He further stated that he took the Murasila to police station for registration of FIR. His statement was recorded u/s 161 CrPC.

V. Investigating Officer Aftab Hassan was examined as PW-5. He stated that after entrustment of the investigation to him in the instant case, he proceeded to the spot and prepared the site plan Ex. PB on the pointation of complainant. He recorded the statements of witnesses on the spot. The PW produced the accused before the Court of Judicial Magistrate on 08.09.2025 vide application Ex. PW 5/1 for obtaining his physical custody, as a result 01-day custody was granted.




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He again produced the accused before the Court of Judicial Magistrate on 09.09.2025 vide application Ex. PW 5/2 for recording his confessional statement. He sent the test samples to FSL along with applications Ex. PW 5/3 and Ex. PW 5/4 and route permit certificates Ex. PW 5/5 and Ex. PW 5/6 on 10.09.2024. He received parcel No. 16 from the FSL Carrier and handed it over to Moharrir Sajid Ullah. The FSL result of contraband was placed on file by him which is Ex. PK. He drafted an applications Ex. PW 5/7 and Ex. PW 5/8 for verification of the motorcar bearing No. RU-769ICT/Islamabad from FSL and Excise & Taxation Office. He also placed on file its FSL report which is Ex. PK/1. He submitted the case file to SHO for onward proceedings after completion of investigation.


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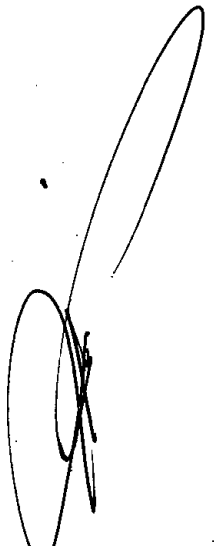
Driver Inshad Ali appeared before the Court and recorded his statement as PW-6. He stated that he was present with the SHO on 07.09.2024 at 1330 hours on the spot where the SHO recovered contraband from a motorcar. He made videography of the spot proceedings and saved it in a USB which was sealed by the SHO in parcel No. 16. His statement was recorded u/s 161 CrPC.

4. After completion of prosecution evidence, statement of the accused was recorded u/s 342 Cr.P.C. He claimed innocence; however, he neither wished to be examined on oath nor opted to produce any evidence in defence. I have heard learned Sr. PP and counsel for the accused.
5. The learned Sr. PP argued that the accused was apprehended with a vehicle containing huge quantity of narcotics. The prosecution remained successful to establish safe transmission of the case property from the spot to police station and sending samples to FSL from police station through sufficient evidence. The FSL report in respect of the vehicle in question confirmed that a forged chassis plate has been pasted with adhesive material which was removed and the original chassis number become visible after chemical treatment. There is no material contradiction in the statements of PWs in spite of sufficient cross examination by the defence counsel. He, therefore, requested for conviction of the accused.
6. On the other hand, the learned counsel for the defence submitted that the prosecution has failed miserably to prove their case beyond the shadow of doubt through cogent evidence due to major and material contradictions in the statements of PWs. He referred to the statements of PW-3, PW-4 and PW-6 and submitted that there is no mention of visiting Shiraz Garhi in the statement of PW-6 before the


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occurrence as stated by the other two witnesses. He also referred to the time of videography in the statement of PW-6 as 1420 hours and submitted that it was carried out after the occurrence. He, therefore, requested for acquittal of the accused from the charges levelled against them.

7. After hearing both the parties and perusal of the record it was found that the occurrence was taken place on 07.09.2024 at 1330 hours on the main road near Garag Check-Post within the criminal jurisdiction of Police Station Kalaya when vehicle No. RU769/ICT Islamabad was intercepted by the complainant/PW-3. During checking of the vehicle, he found and recovered 14 packets of chars weighing 1000 grams each from the secret cavity of the CNG Tank of the vehicle through recovery memo Ex. PW 3/1. The Seizing Officer as well as the marginal witness of the recovery memo namely Murad Gul appeared before the Court as PW-3 and PW-4.


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They supported the prosecution's case in their statements and deposed that the occurrence was taken place at the relevant time when they laid a barricade at the place of occurrence. They were subjected to sufficient cross examination, but no material contradiction could be brought on record. The recovered contraband and the vehicle were shifted to police station after separation of samples for FSL and sealing the same in separate parcels and handed over to Moharrir, who appeared before the Court as PW-2. The Moharrir kept the

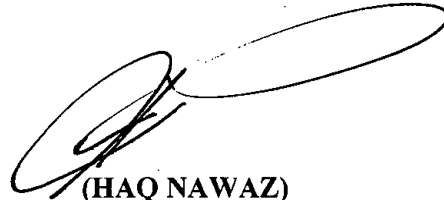
recovered narcotics and its samples in safe custody at Malkhana and parked the vehicle in premises of the police station. The IO produced his applications Ex. PW 5/7 and Ex. PW 5/8 for issuance of letters to FSL and Excise & Taxation Officer for verification of the vehicle. The attested copies of letter No. 660/SP/Inv Dated 13.09.2024 by the Superintendent of Police Orakzai and FSL report dated 03.10.2024 Ex. PK/1 show that a forged chassis plate bears No. "SB308PK988166" has been pasted with adhesive material which was removed and the original chassis No. "SB308PK01010006" become visible after chemical treatment. Similarly, the Excise and Taxation Officer, Motor Registration Authority Islamabad in its letter No. RU769/E&T/2024 Dated 18.11.2024 submitted in response of letter No. 664/SP/Inv Dated 13.09.2024 to Superintendent of Police Orakzai that the vehicle bearing Registration No. RU678 bears chassis No. VZN185-0200647. Hence, it was proved that the vehicle in possession of the accused was having a forged chassis plate.

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8. In view of above facts and circumstances, it is concluded that the prosecution remained successful to bring home the charges against the accused beyond the shadow of any doubt. The accused Noor Jamal Shah Kaka Khel s/o Muhammad Ali Shah Kaka Khel, aged about 48 years, Caste Koki Khel, District Khyber is, therefore, convicted under Sections 468

and 471 PPC and sentenced to undergo 05 years rigorous imprisonment each and pay the fine of Rs. 05 lacs. In default of payment of fine, the convict shall suffer simple imprisonment for a period of 06 months. Both the punishments shall run concurrently with the benefit of Section 382-B CrPC. Copy of the judgment is provided to convict free of cost. The crime vehicle is confiscated to State. File of this Court be consigned to record room after its necessary completion and compilation.

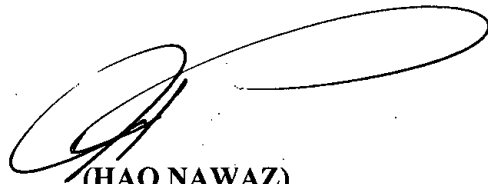
Announced:
14.10.2025


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CERTIFICATE

Certified that this judgement consists of ten (10) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 14.10.2025


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