

**2IN THE COURT OF MUHAMMAD JUNAID ALAM,**  
JUDICIAL MAGISTRATE -II TEHSIL KALAYA, DISTRICT ORAKZAI

**Case No.** 1/2 of 2025  
**Date of Institution:** 08.02.2025  
**Date of Decision:** 23.10.2025

**State through:**

AIN ULLAH SON OF KHAMIN GUL, RESIDENT OF QOM MISHTI,  
 NAVI MELA, DISTRICT ORAKZAI.

.....**COMPLAINANT**

VERSES

ABID ULLAH SON OF AZIZ MANAN, RESIDENT OF QOM  
 MISHTI, NAVI MELA, DISTRICT ORAKZAI

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

**Present:** SANA ULLAH KHAN ADVOCATE FOR THE  
 COMPLAINANT.

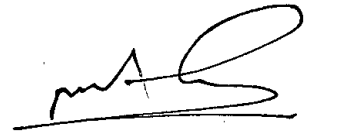
: ABID ALI ADVOCATE FOR ACCUSED FACING  
 TRIAL.

Case FIR No. 52, dated 08.09.2024 under sections 324/337-A(v)/337-F(iii)


Pakistan Panel Code, 1860 police station Mishti Mela, Orakzai

**JUDGMENT:**  
**23.10.2025**

Through this judgment the court intends to dispose of the instant  
 case registered against accused Abid Ullah vide FIR No. 52, dated  
 08.09.2024 under sections 324/337-A(v)/337-F(iii) Pakistan Panel  
 Code, 1860 registered at Police Station Mishti Mela, Orakzai.

  
 MUHAMMAD JUNAID ALAM  
 Civil Judge - II  
 Orakzai at Kalaya

1. Brief facts as per contents of FIR are that on 07.09.2024, the local police on receipt of information reached to the DHQ Hospital Hangu and found the injured Khamin Gul in unconscious condition where the complainant, Ain Ullah (son of injured) at 2120 hours made the report to the police of the fact that on the day of occurrence at 20:35 hours, he alongwith his father Khamin Gul were on way back to home after we offer *Isha* prayer in Masjid, when reached the place of occurrence, the accused facing trial duly armed was already present there, opened firing at them, as a result his father received injuries while he luckily escaped unhurt. Hence, the present FIR. The co-villagers shifted the injured to DHQ Hospital Hangu through private vehicle. He alongwith Rayat Gul were the eyewitness of the occurrence. He charged the accused for the commission of offence. No motive behind the occurrence. The local police read over the contents of the report in the shape of Murasila which is Ex. PW-3/1. Upon the Murasila FIR was lodged against the accused which is Ex. PA. complainant thumbs impressed the report as token of its correctness. The one Rayat Gul is the eyewitness of the occurrence and he also thumb impressed his report as verifier. SHO prepared the injury sheet and handed over to constable Hamza Waqas and he took the same and handed over the

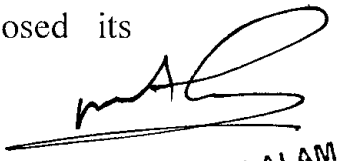


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doctor on duty. SHO also handed over the Murasila to constable Shah Azim belt no. 89 and he handed over the same to Moharrir in the police station.

2. 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 charge sheeted. He pleaded not guilty and claimed trial, afterwards prosecution was directed to produce its evidence.
4. Prosecution produced Ten (10) witnesses to prove its case against the accused while PW constable Khalil Ur Rehman, was abandoned being the witness of the same fact as narrated by PW-05 Muhammad Riaz and thereafter closed its evidence.
5. **PW-01** is the statement of Muhammad Saeed MHC, which is reproduced as under. He said" I was present in his office.

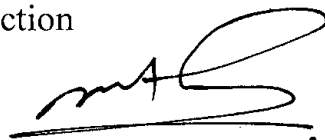
Constable Shah Azim Belt no. 89 brought Murasila from SHO Akhter Munir. I correctly incorporated the same into FIR Ex. PA. After registration of FIR, copy of FIR and Murasila were handed over to IO for investigation. Case property in sealed condition was handed over to me by IO. Case property was kept in safe custody of PS Maal Khana. Entry was made in register 19 accordingly. Copy of register

  
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19 is Ex.PW-1/1. On 11.09.2024, parcel no. 01 & 02 containing case property were handed over to IO for the purpose of sending it to FSL”.

6. **PW-02** is the statement of constable Hamza Waqas, which is reproduced as under. He said “I was present with SHO Akhter Munir in the DHQ Hospital Hangu. SHO prepared the injury sheet of injured Hameen Gul and handed over to me and he took the same and handed over the doctor on duty. Doctor on duty handed over to me blood stained garments of the injured and due to dark night I passed the night at check post. On the following day when IO came to the PP, I handed over the same to IO. My statement was recorded by IO under section 161 Cr. PC in the PP”.

7. **PW-03** is the statement of SI Akhter Munir which is reproduced as under. He said “on 07.09.2024, injured Hameen Gul son of Hussain Gul aged about 60/61 years R/O Navi Mela was brought to DHQ, Hospital Hangu. Injured was in unconscious condition. His son namely Ain Ullah/complainant reported to me regarding the occurrence, which I reduced into writing in shape of Murasila which is Ex. PW-3/1. Report was read over to complainant, who thumb impressed the same as token of its correctness. One Rayat Gul, thumb impressed the report as verifier. Injury sheet of injured

  
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was prepared by me which is Ex.PW-3/2. The injury sheet was sent to doctor on duty through constable Hamza Waqas belt no. 1267. Murasila was sent to PS through constable Shah Azam belt no. 89. After completion of investigation, I prepared complete challan against the accused which is Ex. PW-3/3. Today, I have seen the same which correctly bears his thumb impression”.

8. **PW-04** is the statement of ASI Muhammad Ayub which is reproduced as under. He stated on oath “that during the days of occurrence, I was posted as IO police station Mishti Mela. After registration of FIR, the investigation of the instant case was entrusted to him. On 08.09.2024, I proceeded to the spot, where I recovered and took into possession blood stained earth which was packed and sealed into parcel no. 01 which is Ex. P-1 in the presence of marginal witnesses vide recovery memo which is Ex. PW-4/1 and thereafter, I prepared the site plan upon the pointation of complainant Ain Ullah in the presence of marginal witnesses of recovery memo which is Ex. PB. On the same day, I arrested the accused near his house at about 11:30 am and issued his card of arrest which is Ex. PW-4/1. I alongwith accused went to Shahu Khel Check Post, where constable Hamza Waqas handed over to me blood stained garments containing white qamees of the injured

  
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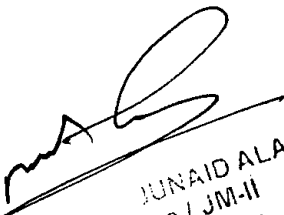
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which was packed and sealed into parcel no. 02 which is Ex. P-2 in the presence of marginal witnesses vide recovery memo Ex. PW-4/2. I recorded statements of PWs under section 161 Cr. PC. I returned to the PS and handed over the accused and parcel no. 01 & 02 to the Moharrir of the PS. On the following day, I thoroughly interrogated accused facing trial in the PS and produced him before the Magistrate concerned for obtaining 05-days physical custody vide my application is Ex. PW-4/3, one-day custody was granted. I produced the accused for pre and post medical examination before the doctor. On 10.09.2024, I thoroughly interrogated accused facing trial in the PS and produced him before the Magistrate concerned for further obtaining 03-days physical custody vide my application is Ex. PW-4/4, who turned down and order to send the accused to Judicial Lockup Orakzai. He recorded statement of accused under section 161 Cr. PC. On the same day I recorded statement of eyewitness namely Rayat Gul (verifier of the report) under section 161 Cr. PC and I also made pointation of the place of occurrence. On 11.09. 2024, I took parcel no. 01 & 02 from MHC Muhammad Saeed in duly sealed condition which I handed over the same to constable Muhammad Riaz belt no. 53 for taking the same to FSL Peshawar vide route certificate

  
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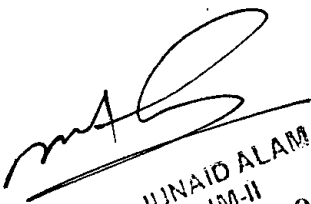
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bearing no. 54/21 dated 11.09.2024. Upon return to the PS, I recorded statement of MHC Muhammad Saeed and Constable Muhammad Riaz under section 161 Cr. PC. After receiving the FSL report of the instant case in affirmative, I placed the same on file, which is Ex. PZ. I also placed on file all the relevant documents of the instant case containing FSL application which is Ex. PW-4/5. On completion of investigation, I handed over the case file to SHO concerned for submission of complete challan against the accused facing trial before the court. Today, I have seen the above referred documents which are correct and correctly bear my signatures".

  
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9. PW-05 is the statement of constable Muhammad Riaz, which is reproduced as under. He stated on oath" that during the days of occurrence, I was posted as constable police station Mishti Mela. On 08.09.2024, I was present with IO on the spot. During spot inspection, IO recovered and took into possession blood stained earth from the place of injured which was packed and sealed into parcel no. 01 which is already exhibited as Ex. P-1. IO prepared recovery memo on the spot which was already exhibited as Ex. PW-4/1 in my presence. I thumb impressed the same. Similarly, I alongwith IO came to Shahu Khel check post, where constable Hamza Waqas hand

over blood stained qamees in white color to IO, which was packed and sealed into separate parcel no. 02, vide recovery memo already exhibited as Ex. PW-4/2 in my presence. Recovery memo was drafted in Shahu Khel check post. By affixing 3/3 seals of monogram with the name of MH while put one seal inside each parcel. My statement was recorded by IO under section 161 Cr. PC in Shahu Khel check-post. On 11.09.2024, IO handed over to me parcel no. 01 & 02 of the instant case duly in sealed condition having monogram with the name of MH for FSL examination along with application and road certificate bearing no. 54/21MM dated 11.09.2024 which is Ex. PW-5/1. I took the same to FSL Peshawar and handed over the same to in-charge FSL, Peshawar. Receiving signature and seal of in-charge FSL Peshawar was obtained on road certificate which I handed over to concerned police official on my return. My statement was recorded by IO under section 161 Cr. PC on my return".

**10.PW-06** is the statement of constable Shah Azeem, which is reproduced as under. He stated on oath "during the days of occurrence, I was posted as constable PP Shaho Khel check post. I was present with SHO Akhter Munir in the DHQ Hospital Hangu. After preparing the Murasila report, he handed over the same to me which I took to the PS and handed


  
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over to Moharrir Saeed for registration of FIR and returned to the PP Shahu Khel in official vehicle. My statement was recorded by IO under section 161 Cr. PC in the PP”.


**11.PW-07** is the statement of Shal Muhammad, which is reproduced as under. He stated on oath “during the relevant days, I was posted as SHO police station Mishti Mela, Orakzai. After completion of investigation, I submitted complete challan against the accused. Today, I have seen the challan form which correctly bears my signature. Challan form is Ex. PW-7/1”.

**12.PW-08** is the statement of Dr. Shoaib Gul, which is reproduced as under. He stated on oath “during the days of occurrence, I was posted as Medical Officer, DHQ Hospital Hangu. On 07.09.2024, injured Ameen Gul son of Hussin Gul was given first aid at DHQ Hospital Hangu. The injured was referred to Tertiary Care Hospital Peshawar. The injured was brought to the hospital under the escort of constable Hamza Waqas belt no. 1267. I, examined the injured and the following injuries were found on his person. The patient was presented with history of firearm injury, at the wound on forehead approximate 6x3cm with no charring mark. Wound on right peritotemporal region approximately 2x2 cm with no

  
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charring mark. Two wound on right shoulder (scapula region) each approximately 2x2 cm with no charring mark”.

“**Note:** Patient was attended at DHQ hospital, Hangu and referred by DHQ to Tertiary Care Hospital for the management and neuro surgical consultation. Treatment was given at DHQ Hospital, Hangu, I received the patient and referred him to tertiary care unit (LRH Peshawar) with vital BP 130/80 HR 88 per minute GCS 13/15 and first aid was given. The injured was treated at LRH, Peshawar and after treatment he was discharged from LRH. Today, I have seen his report which is correct and correctly bears my signature which is Ex.PW-8/1. Report of LRH is Ex.PW-8/2”.

  
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**13.PW-09** is the statement of Rayat Gul son of Hussain Gul, which is reproduced as under. He stated on oath that “I alongwith complainant Ain Ullah and injured Hameen Gul were present inside the boundary wall of the Masjid and injured Hameen Gul was talking on mobile. In the meanwhile, accused Abid Ullah from the roof of Masjid veranda started firing with commit to their lives, due to his firing Hameen Gul got injured and fall down and after hit injured Hameen Gul was taken to the hospital. I am the witness of the occurrence. Complainant lodged report in the hospital of the occurrence in my presence. I thumb impressed the report as verifier.

Today, I have seen the report which is correct and correctly bears my thumb impression. This is my statement which was recorded by the IO”.

**14.PW-10** is the statement of Ain Ullah (complainant) son of

Hameen Gul, which is reproduced as under. He stated on oath

“I alongwith injured Hameen Gul and Rayat Gul were present

inside the boundary wall of the Masjid and injured Hameen

Gul was talking on mobile. In the meanwhile, accused Abid

Ullah from the roof of Masjid veranda started firing with

commit to their lives, due to his firing my father Hameen Gul

sustained injuries to his head and right shoulder and fall down

and he luckily escaped unhurt from the firing of accused.

They shifted the injured to DHQ hospital Hangu in private

vehicle. The one Rayat Gul was the eyewitness of the

occurrence. He lodged my report in the hospital on

07.09.2024 at 2120 hours. The local police read over contents

of my report in native language and the report was verified by

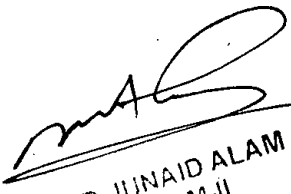
eyewitness Rayat Gul and they both thumb impressed the

same. I charged the accused for the commission of offence.

Today, I have seen my report which is correct and correctly

bears my thumb impression. After that IO prepared the site

plan on my pointation on 08.07.2024. Today, I have seen my

  
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report which is correct and I correctly thumb impressed the same”.

15.PW constable Khalil Ur Rehman was abandoned by prosecution, being the witness of the same fact as narrated by PW-05 constable Muhammad Riaz, and thereafter, prosecution closed its evidence.

16.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.

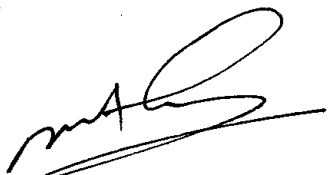
17.Thereafter, arguments of the parties heard.

18.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 there are material contradictions in the testimony of prosecution witnesses. He further argued that no recovery of weapon has been made. He further argued that recovery memo was prepared at the police station, not at place of recovery. He further argued that the alleged motive has neither been disclosed by any witness nor supported by

  
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evidence. He also argued that it is settled law that where motive is not present, it reacts against the prosecution. Therefore, he requested that the accused be acquitted from the charges levelled against him.


19. On the other hand, counsel for complainant vehemently refuted arguments advanced by the learned counsel for accused by arguing that the accused was directly charged in the promptly lodged FIR. He further argued that the accused, with a premeditated and deliberate intention, made a fatal attack upon the complainant with a deadly weapon, which, if death had been caused, would have amounted to Qatl-e-Amd. He also argued that the accused aimed at the vital parts of the body of the father of complainant, indicating clear intention to cause death. It is settled law that for Section 324 PPC, actual injury causing death is not essential the intention and attempt are sufficient. He further argued that the medical report fully supports the ocular account. The seat, nature, and dimension of injuries confirm that the weapon used was capable of causing death in the ordinary course of nature. He also argued that the doctor has opined that the injuries were dangerous to life, which directly supports the complainant's version. He further argued that prosecution witnesses have fully supported



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the prosecution case and as such he prayed for conviction of accused facing trial.

20. Upon perusal of the available record and statements of PWs, it was revealed that as for as visit of IO Muhammad Ayub to the spot is concerned, it is pertinent to mention here that PW-04, i.e. IO in the instant case had deposed in his cross examination that he left the police station for spot proceedings at about 06:00 AM while constable Muhammad Riaz in the instant case appeared as PW-05, had also deposed in his cross examination that I alongwith IO Muhammad Ayub left the police station at 06:00 AM. Furthermore, IO stated in his cross examination that he consumed 90 minutes on the spot when PW-05 Muhammad Raiz appeared and deposed in his cross examination that we consumed 90 minutes on the spot proceedings.

  
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As for as, the distance from PP Shahu Khel and spot is concerned, it is noted that PW-05 Muhammad Riaz stated in his cross examination that the distance between PP and spot is about 01/02 KM while PW-06 constable Shah Azeem deposed in his cross examination that the distance between PP and spot is of about 1.5 KM.

As for as arrival of SI Akhter Munir to the PP Shahu Khel is concerned, it is noted that PW-03 Akhter Munir stated in his

cross examination that he reached to the PP Shahu Khel at about 20:30 hours while PW-06 Shah Azeem deposed in his cross examination that SI Akhter Munir came to the PP Shahu Khel at about 09:20/30 PM. PW-03, stated in his cross examination that he reached to the Hospital at about 08/40/50 PM when PW-06 Shah Azeem is appeared before the court and stated in his cross examination that we reached to the hospital at about 09:35 PM.

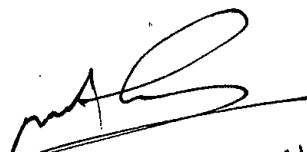
As for as shifting of injured is concerned, it is pertinent to mention here that PW-08 Dr. Shoaib Gul stated in his cross examination that the injured was referred to a Tertiary Care Hospital at Peshawar while PW-09, Rayat Gul, the eyewitness of the occurrence has stated in his cross examination that the injured was shifted to Peshawar by complainant Ain Ullah. PW-10 Ain Ullah also stated in his cross examination that after report we remained in the hospital till 10:00 PM and after that we left for Peshawar Hospital.

Record also reveals that recovery of blood from the spot of occurrence has been made which prima facie support the case of prosecution and the same has properly been exhibited. Moreover, constable Hamza Waqas produced blood stained garments of the injured in PP Shahu Khel. Furthermore, Medico legal and FSL Reports also support the version of

  
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complainant. Moreover, prosecution witnesses are consistent and confidence-inspiring and fully supported the version of prosecution regarding the recovery and site plan. Only minor omissions exist in the statement of PWs, however, no material contradictions exist in the statement of PWs.

21. Record further transpires that constable Hamza Waqas has produced blood stained garments of injured in PP Shahu Khel vide recovery memo Ex. PW-4/3 and FSL Report Ex. PZ which shows the occurrence took place. Furthermore, site plan would reveal that the accused has been shown at point-3, which shows the presence of accused facing trial and making firing on the complainant party and after the occurrence, he fled away from the spot, which further strengthen the case of prosecution. It is also worth mentioning here that the available record supports the version of complainant. It is worth mention that the accused was directly and by name charged by the complainant.

  
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22. The Court is of the firm view that the story deposed by the prosecution on ocular account 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.

23. The detailed discussion of the case would lead to the conclusion that the prosecution has successfully marshalled their troops against the accused facing trial and have concluded the same in its favour. There exist no major contradictions in the evidence of the prosecution leading towards doubts in favour 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 hereby convicted under Section 324 Pakistan Panel Code, 1860 and sentenced for rigorous imprisonment for 01-year and Two-months and fine of Rs. 30,000/-, and in default of payment of fine, to further undergo 03-months and 05-days simple imprisonment.**

**He is also convicted under section 337-A(v) Pakistan Panel Code, 1860 for rigorous imprisonment for 01- year.**

**He is also convicted under section 337-F(iii) Pakistan Panel Code, 1860 for rigorous imprisonment for 01- year. All the**


  
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**sentences shall run concurrently. Benefit under Section 382-B Cr.PC. shall be extended to the accused for the period already spent in judicial custody.**

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

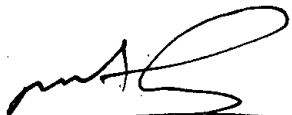
**25.**Case file be consigned to Record room after its completion and necessary compilation.

**Announced**  
23.10.2025

  
**Muhammad Junaid Alam,**  
Judicial Magistrate -II,  
Tehsil Courts Kalaya, Orakzai

**CERTIFICATE**

Certified that my judgment of today consists of Eighteen (18) pages, each page has been read, signed and corrected by me where necessary.

  
**Muhammad Junaid Alam,**  
Judicial Magistrate -II,  
Tehsil Courts Kalaya, Orakzai