

IN THE COURT OF IJAZ MAHSOOD, SCJ/JM,
ORAKZAI AT BABER MELA, HANGU

CASE NO. : 04/JC OF 2024
DATE OF INSTITUTION: 05.06.2023
TRANSFER IN: 21.05.2024
DATE OF DECISION: 13.11.2025

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STATE THROUGH: Constable Muhammad Hussain belt
No. 1917 R/O Qoum Mamozai, District Orakzai.
----- (Complainant)

VS

Muhammad Khurshid s/o Sakhi Badshah.
R/O Adoo Khel, Mamozai, District Orakzai.
----- (Accused Facing Trial)

JUDGMENT
13.11.2025

This judgment is to decide a criminal case instituted on
FIR 02 lodged at the behest of Mr. Muhammad Hussain, the
complainant, against Mr. Muhammad Khurshid, Mr. Inam
Ullah, and Mr. Wahid Ullah. It is pertinent to highlight that the
former one accused being minor was tried separately. In the
case in hand, 'accused' shall primarily refer to Mr. Muhammad
Khurshid only.

Reported Facts:

The matter as derived from FIR NO 02 that is based on
Murasila report of 25/01/23 reads as follows. ASHO of Police
Station Ghiljo states that he received information on a wireless

Senior Civil Judge
Orakzai
13/11/2025

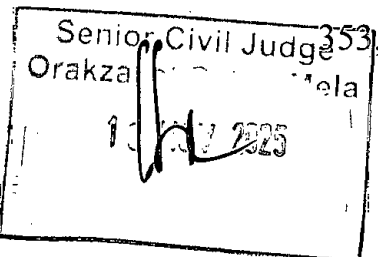
radio from Mr. Nawaz Sharif, operator at Samaa police post who stated that constable Mr. Muhammad Hussain Belt No 1917 fell victim to certain offences. Complainant Mr. Muhammad Hussain reportedly was on his way to join his duty at the post when three masked men attacked him. One held a knife to his neck, and the other two robbed him off his service weapon i.e. Rifle no 5727693 with a magazine carrying 30 rounds. That two of the attackers were around 5 plus feet tall and that he could identify them if confronted. That he was robbed of his weapon and bullets and the assailants fled the scene.

This report was subsequently converted into an FIR initially against unknown persons, and after an inquiry the accused persons were named as the alleged offenders. Of the three persons accused, one Mr. Muhammad Khurshid is a juvenile who was tried separately, and the other two major persons accused of the offences were tried together.

Charge:

The accused was charged with the offences of forcible snatching of service weapon, deterring and preventing a public servant from discharge of his lawful duty, under sections 392,

353, and 186, coupled with section 34, respectively.

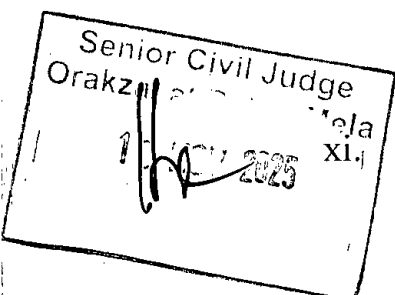


Witnesses/Exhibits:

Prosecution produced and examined nine witnesses, including Mr. Nawaz Sharif wireless Operator, Mr. Muhammad Ibrahim ASI, Mr. Muhammad Hussain complainant, Mr. Rooh Ul Amin constable, Mr. Tajmeen Khan ASHO, Mr. Abdul Manan Moharrir, Mr. Arshad Khan constable, Mr. Abdul Malik OII and Mr. Rehmat Ullah Judicial Magistrate. They have exhibited the following documents;

- i. Murasila as Ex.PA.
- ii. Recovery Memos as Ex.PW- 4/1 and Ex.PW-4/3.
- iii. Site pointation memo as Ex. PW-4/2.
- iv. Copy of FIR as Ex. PA/1.
- v. Site plan as Ex.PW -8/1.
- vi. Stolen Kalashnikov as Ex.PW- P-1.
- vii. Sketch memo at the instance of accused Muhammad Khursheed as Ex.PW- 8/2 and Ex. PW-8/6.
- viii. Card of arrest as Ex.PW-8/3.
- ix. Parwana notice as Ex.PW-8/4.
- x. Application for physical custody of accused as Ex.PW-8/5.

Knife sealed into parcel No. 01 as Ex.P-2.

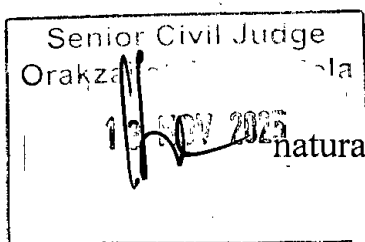


- xii. Application for recording confessional statement of accused Muhammad Khursheed as Ex.PW- 8/7.
- xiii. Application to produce complainant for recording statement u/s 164 Cr. P.C as Ex.PW-8/8.
- xiv. Application for physical custody of the accused Inam Ullah and Waheed Ullah as Ex.PW-8/9.
- xv. Pointation memo as Ex. PW-8/10.
- xvi. Application for recording confessional statement of accused Waheed Ullah and Inam Ullah as Ex.PW- 8/11.
- xvii. Confessional statement of accused as Ex.PW-9/1.
- xviii. Certificate and questionnaire consist of 03 pages as Ex.PW-9/2 and Ex.PW-9/3.

After the prosecution had recorded and closed its evidence, the accused was confronted under Section 342 CrPC with incriminating evidence/material produced against him during trial. He denied the charge and rebutted the evidence as false.

The probative worth, consistency or otherwise of the testimonies of the witnesses is appraised as follows.

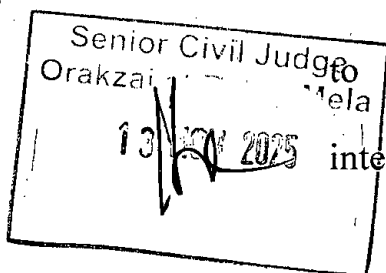
Reasons:



Being a criminal case, the onus to prove the charge naturally fell on the prosecution. It produced 09 witnesses to

establish the charge. The merits and probative worth, or lack thereof shall be examined in the section below:

- In the Murasila report, the complainant informs that the incident occurred on 16:20 and in his statement during trial he states that he left his house on 16:20. He elaborates in his statement that the scene of occurrence and his house are 200 paces apart. The time and distance of the place of occurrence are to be borne in mind in forming perspective on the prosecution's case.
- In his cross-examination, the complainant asserts that he identified the accused Mr. Khurshid on the spot at the time while the offence was underway. His statement reads, *'I identified the accused Mr. Khurshid on the spot and I pointed him with my sound.'*
- The portion of case file that pertain to investigation contains a report that an unknown informant led us into the direction of Mr. Khursheed, and caused the prosecution to suspect him. Subsequently, on interrogation based on suspicion the accused was found involved and was nominated accordingly, couple of days after the lodging of FIR.
- Statement of the complaint referred to above is oblivious

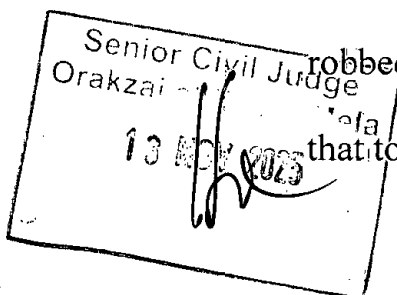


to the narrative of the alleged 'informant', and interrogation under suspicion etc. It is claimed that the

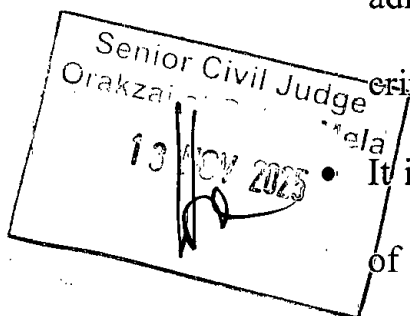
accused was identified on spot, although he was nominated days after the FIR was lodged against unknown persons.

- Murasila reads that the complainant went to the police post at Samaa, and related the matter to Mr. Nawaz Sharif who conveyed it to the SHO and the latter reported it to the moharrir of the PS.
- Mr. Nawaz Sharif, the wireless operator who conveyed the information to the ASHO, maintains that he met the complainant and was informed of the incident at 16:30. It is pertinent to revisit the time of departure of complainant from his house, the time of occurrence and the time of report. Complainant left his house at 16:20, was attacked and robbed at 16:20, and he managed to report the matter at 16:30.
- In a span of ten minutes, the complainant leaves his house, is attacked, robbed, and then manages to reach the police post and report the matter. The complainant was on foot while travelling between these places. If the post, his house and the place of occurrence could be travelled in 10 minutes, it is tempting to conclude that he was

robbed either in front of his house or the police post, and that too in daytime.



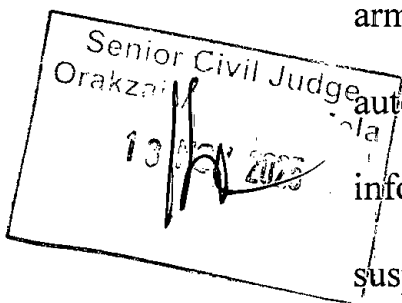
- It is slightly hard to accept that a police official, duly trained in combat and armed with service rifle, was robbed by ordinary persons, with no criminal antecedents, and one of them being a juvenile, and that too at a short distance from both his house and the police post.
- The OII in his statement as witness no 08 for prosecution holds that they proceeded to interrogate the juvenile accused Mr. Khursheed on suspicion and he led them not only to recovery of the robbed items, but also to his accomplices.
- Suspicion, unfortunately, like a magician's hat, is employed by prosecution to pull out favourable things or fill gaps at will. For legally admissible plea of suspicion, there must exist sufficient reasons or reasonable grounds. Anything less than that would make police action wrong, and in the worst case, abuse of power.
- Investigation officer has not bothered to record the grounds, reasons, or material that might have caused him to harbour suspicion against the accused, who, admittedly, is not only a juvenile, but also has no criminal antecedents.



- It is opportune to briefly visit the purported 'confession' of guilt by the juvenile accused. Confession, when it is

thoroughly connected, cogent, and corroborated could be relied upon for conviction. However, in a case so fraught with inconsistencies, the confession of a juvenile who was produced by the local police in absence of any elder relative, is hard to rely upon. The fact that of the three accused persons, only the juvenile accused confessed, also subtracts from its merits.

- The defence holds that the entire story is a cooked one, and designed and drafted within the Police Station. This allegation although not cogently substantiated does tempt the mind into belief. There is nothing on record that could be termed as independent, objective, of a neutral origin, or something that could not be invented and arranged for from within the PS.
- Accused is the favourite child of law that is he deserves to be favoured when the scales are evenly balanced. In the current matter, the entire narrative seems to develop so conveniently for the prosecution that any reasonable person would doubt its spontaneity and veracity.
- 2 major and one juvenile persons, ordinary citizens, armed with a knife, robs a trained combatant of his



automatic weapon and flees the scene. A mysterious informant through an unknown information causes to stir suspicion in the minds of the prosecution against the juvenile accused who plainly confesses to the offence,


allegedly. Additionally, he names his accomplices, and helps in recovery of the case property. All this is too good and smooth to be accepted without doubts and hesitation. The court is ill at ease to rely on this version.

Ruling:

Prosecution was burdened with proof of the charge beyond doubts, and in the opinion of the court, they have failed to discharge the burden to the satisfaction of the court.

File be consigned to the record room after its completion and compilation.


Announced
13.11.2025


(Ijaz Mahsood)
SCJ/JM,
Orakzai (at Baber Mela)

CERTIFICATE

Certified that this order consists of Nine (09) pages. Each page has been read, corrected where-ever necessary and signed by me.

Dated:13.11.2025


(Ijaz Mahsood)
SCJ/JM,
Orakzai (at Baber Mela)