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State Vs Farman Ullah

Case FIR No. 34, Dated 02.06.2024 under section 379 PPC, PS Mishti Mela

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

Case No. 66/2 of 2024
Date of Institution: 01.08.2024
Date of transfer in: 07.10.2024
Date of Decision: 20.11.2025

State through:

FAIZ ULLAH SON OF IZZAT GUL, RESIDENT OF QOM
SHIEKHAN, TAPPA SAMOZAI, VILLAGE KANGANY,
DISTRICT ORAKZAI.

.....Complainant


VERSES

FARMAN ULLAH SON OF RAFI ULLAH, RESIDENT OF
QOM SHIEKHAN, TAPPA SAMOZAI, TANBAY, DISTRICT
ORAKZAI

.....Accused Facing Trial

Present: ABID ALI ADVOCATE FOR THE COMPLAINANT.

: SANA ULLAH KHAN ADVOCATE FOR ACCUSED
FACING TRIAL.


MUHAMMAD JUNAID ALAM
Civil Judge / JM-II
Orakzai at Kalaya

Case FIR No. 34, Dated 02.06.2024 under section 379 Pakistan

Panel Code, 1860 police station Mishti Mela

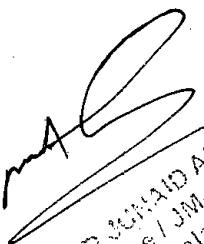
JUDGMENT:
20.11.2025

Through this judgment the court intends to dispose
of the instant case registered against accused Farman Ullah
vide FIR No. 34, dated 02.06.2024 under section 379 Pakistan

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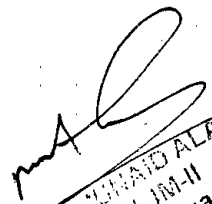
Panel Code, 1860 registered at Police Station Mishti Mela, Orakzai.

1. Brief facts as per contents of FIR are that complainant Faiz Ullah alongwith one Israfeel came to the PS on 02.06.2024 at 10:30 hours and reported to the local police. That on 30.05.2024, he took his two sheeves, in white color, to the nearby lands namely Kangana for grazing and left them there. When complainant went back in the afternoon to bring his two sheeves back home, but found that his sheeves had been stolen by unknown person. Complainant Faiz Ullah came to know from the near vicinity that his two sheeves had been stolen by the accused facing trial Farman Ullah. Thereafter, he charged the accused for the commission of offence. The local police read over the contents of FIR in his native language. He thumbs impressed the same as token of its correctness. One Israfeel Khan son of Rameen Gul verified the report of complainant and thumb impressed the same as a verifier. The accused was formally arrested. After registration of the case the complainant pointed out the spot to the OII police station Mishti Mela, who prepared site plan on his pointation, which is Ex. PB. After completion of investigation, SHO submitted complete challan against the accused which is Ex. PW-1/1.


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JWW Judge / JM-II
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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 Six (06) witnesses to prove its case against the accused while PW constable Muhammad Nawaz belt no. 1238 was abandoned and thereafter closed its evidence.
5. **PW-01** is the statement of SI Muhammad Younas, which is reproduced as under. He stated on oath that during the day of occurrence, he was posted as SHO police station Mishti Mela. After completion of investigation on 05.06.2024, he submitted complete challan against the accused. Today, he has seen the challan form which is correct and correctly bears my signature. Challan Form is Ex. PW-1/1.
6. **PW-02** is the statement of SI Muhammad Hanif, which is reproduced as under. He stated on oath that during the day of occurrence, he was posted as OII police station Mishti Mela. On 02.06.2024, he alongwith police officials proceeded to the spot and prepared site plan on the pointation of complainant which is Ex. PB. On 03.06.2024, he produced the accused


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C.O. Judge / JM-II
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before the Illaqa Magistrate for obtaining 03-days physical custody of accused, one-day physical custody was granted, vide his application is Ex. PW-2/1. He cursory interrogated the accused in the PS. On 04.06.2024, he produced the accused before the Court for further 03-days physical custody, it was turned down and accused was sent to judicial lock up Orakzai, vide his application is Ex. PW-2/2. He recorded statement of PWs including accused under section 161 Cr. PC. After completion of investigation he handed over the case file to SHO for submission of complete challan.

7. **PW-03** is the statement of ASHO Muhammad Aamir, which is reproduced as under. He stated on oath that during the day of occurrence, he was posted as ASHO police station Mishti Mela. On 02.06.2024, complainant Faiz Ullah came to the PS and reported to him that on 30.05.2024 at 09:00 am his two sheep in white color were left in the mountain of Kangana for grazing. When afternoon he saw that his two sheep were theft by unknown persons. Upon the information from near vicinity it was found that accused Farman Ullah son of Rafi Ullah have theft his two sheep. The report of complainant reduced in the shape of FIR which is Ex. PA. He charged the accused for the commission of offence. The one Israfeel son of Maecen Gul thumb impressed the report of complainant as verifier.


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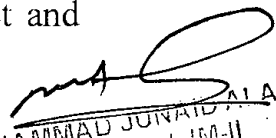
On the same day, he arrested the accused and issued his card of arrest which is Ex. PW-3/1. He also recovered and took into possession two sheep in white color from the accused vide recovery memo which is Ex. PC in the presence of marginal witnesses. He also prepared the recovery sketch in the presence of marginal witnesses to the recovery memo which is Ex. PW-3/2. He also prepared the pointation memo which is Ex. PW-3/3. He also handed over the two sheep on superdari to the complainant on personal bonds, vide the same is Ex. PW-3/4. Today, he has seen all the above referred documents which are correct and correctly bear his signatures.


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8. **PW-04** is the statement of constable Saleem Khan 1242, which is reproduced as under. He stated on oath that during the day of occurrence, he was posted as constable police station Mishti Mela. He was present with ASHO Aamir Khan that he recovered and took into possession two sheep in white color from the house of accused in his presence on 02.06.2024. Recovery memo was drafted on the spot in his presence as already exhibited as Ex. PC. ASHO also prepared recovery sketch in his presence which is already exhibited as Ex. PW-3/2. When we returned to the PS, the complainant pointed out the two sheep in white color. Pointation memo

was prepared in the PS in his presence. His statement was recorded by IO under section 161 Cr. PC.

9. **PW-05** is the statement of Israfeel Khan son of Maeen Gul, which is reproduced as under. He stated on oath that he second the statement of Faiz Ullah/complainant. When the sheep was stolen at 09:30 am. They were searching for two days. After that on 02.06.2025 they made report in PS. Police went to the village Tamby and recovered sheep and sheep were handed over to them and after that FIR was lodged against accused. IO came to the spot with two other police officials he made the site plan and recorded his statement. He verified the report of the complainant which is correct and correctly bear my impression.


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Civil Judge / JM-II
Qarkzai at Kalaya

10. **PW-06** is the statement of Faiz Ullah/complainant son of Izzat Gul, which is reproduced as under. He stated on oath that on 02.06.2024 at about 10:30 am, he alongwith Israfeel came to the PS and reported the occurrence to the local police. That on 30.05.2024 at 09:00 am he alongwith his sheep went to my hospital fields for grazing. After Zuhar prayer he found that he saw that his two sheep were theft by unknown persons. Before this occurrence the accused already theft thrice some other persons cattle. Upon the information from near vicinity it was found that accused Farman Ullah son of Rafi Ullah


have theft his two sheep. After that he went to PS and chalked report against the accused. Police went from PS and arrested the accused alongwith sheep. After that the accused released on bail. He charged the accused for the commission of offence. The local police read over the contents of his report in native language and he thumb impressed the same. The one Israfeel Khan was thumb impressed his report as a verifier. This is his statement.

11.PW constable Muhammad Nawaz belt no. 1238 was abandoned by the prosecution, as the witness of the same fact narrated by PW-04 constable Saleem Khan and thereafter prosecution closed its evidence.

12.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.

13.Thereafter, arguments of the parties heard.

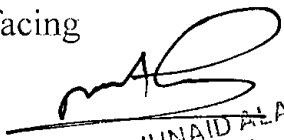
14.Learned counsel for accused contended that the accused facing trial is innocent and had falsely been charged by the local police and the charge against the accused is baseless/groundless. He further adduced that prosecution has totally failed to prove the case against the accused facing trial and a concocted case has been registered against him. He also


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Civil Judge I, J.M.

argued that the occurrence took place on 30.05.2025 while the complainant reported the occurrence on 02.06.2024 and FIR was lodged on 02.06.2024 after lapse of unexplained delay of 02-days, therefore, it is full of suspicious. He also adduced that there are material contradictions in the testimony of prosecution witnesses. He further argued that all the witnesses are police officials and no independent witness has been brought into the witness box. Therefore, he requested that the accused be acquitted from the charges levelled against him.

15. On the other hand, learned APP for the state and counsel for complainant vehemently refuted arguments advanced by the learned counsel for accused by arguing that the occurrence took place on 30.05.2024 and FIR was lodged on 02.06.2024, due to reason that after the alleged offence the complainant searching for actual culprit. He further argued that prosecution witnesses have fully supported the prosecution case and as such he prayed for conviction of accused facing trial.

16. Upon perusal of the available record and statements of P.Ws, it was revealed that as for as visit of IO is concerned, it is noted that when IO in the instant case Muhammad Hanif appeared before the court and stated in his cross examination that when he reached to the spot, wherein complainant and


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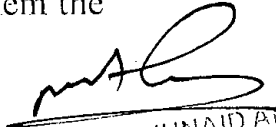
verifier were present. And the complainant appeared and also deposed in his cross examination that he alongwith Israfeel were present on the spot that when IO came to the spot.

As for as stolen sheeves are concerned, it is pertinent to mention here that when Seizing Officer, ASHO Aamir Khan appeared and deposed in his cross examination that he handed over the alleged stolen sheep to the complainant Faiz Ullah.

When Faiz Ullah appeared and stated in his cross examination that Seizing Office, ASHO Aamir Khan handed over to me (complainant) the alleged stolen sheep on superdari. In this regard superdari bond is placed on judicial record, which shows the recovery of alleged sheep has been made. Furthermore, PW-05, Israfeel Khan stated in his cross examination that SHO Aamir Khan handed over to them the alleged sheevs.

As for as recovery of the alleged sheeves is concerned, it is also noted that when the constable Saleem Khan, the marginal witness of the recovery memo appeared and deposed that the alleged sheep were recovered from the inside of the house of accused.

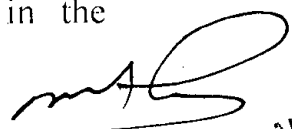
However, it is also pertinent to mention here that although there exist minor omissions in the prosecution case yet on the other hand during cross examination of PW-04 a question was


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put to the witness to which he replied that "*The alleged sheep were recovered from the inside of the house of accused*" This question amount to admission on the part of accused that he was in possession of alleged theft sheep and same was recovered from his house.

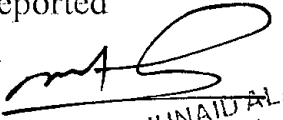
Record also reveals that recovery of alleged sheep from the house of accused, which prima facie support the case of prosecution. Furthermore, superdari bond is available on case file, which shows that ASHO handed over the recovered stolen sheep to the complainant. Moreover, prosecution witnesses are 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.

17. Record further transpires 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. Moreover, accused was examined u/s 342 Cr.P.C. He denied the allegations and claimed false implication but did not produce any evidence in defense nor opted to appear as witness on oath.


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18. 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.

19. 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 convicted and sentenced under section 379 Pakistan Panel Code, 1860 for 40-days imprisonment and fine of Rs. 10,000/- (Rupees Ten**


MUHAMMAD JUNAID ALAM
Judge / JM-II
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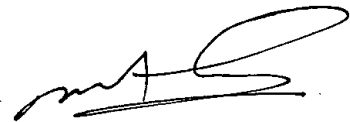
Thousand only). In default of payment of fine, he shall undergo for 15-days simple imprisonment. The benefit of section 382 Cr. PC is extended to the convict.

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

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

Announced

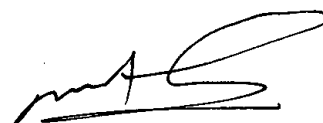
20.11.2025



Muhammad Junaid Alam,
Judicial Magistrate -II,
Tehsil Court Kalaya, Orakzai

CERTIFICATE

Certified that my judgment of today consists of twelve (12) pages, each page has been read, signed and corrected by me where necessary.



Muhammad Junaid Alam,
Judicial Magistrate -II,
Tehsil Court Kalaya, Orakzai