

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

SESSION CASE NO. : 4/3 OF 2025
DATE OF INSTITUTION : 21.04.2025
DATE OF TRANSFER-IN : 29.05.2025
DATE OF DECISION : 16.12.2025

STATE THROUGH MIR GUL S/O JANA GUL, CASTE SHEIKHAN,
TAPA BAZID KHEL, DISTRICT ORAKZAI

------(Complainant)

VS

KAMRAN KHAN S/O MIR GUL, AGED ABOUT 19/20 YEARS, R/O
MIR MELA, CASTE SHEIKHAN, DISTRICT ORAKZAI

------(Accused facing trial)

Present: Abul Qasim, Senior Public Prosecutor for the State.
: Sana Ullah Khan Advocate for accused facing trial.

FIR No. 06		Dated: 04.02.2025
U/S: 15AA		Police Station: Mishti Mela

JUDGEMENT
16.12.2025

This case was registered against the accused Kamran Khan s/o Mir Gul, r/o Mir Mela, Caste Sheikhan, District Orakzai vide FIR No. 06, Dated 04.02.2025 at Police Station Mishti Mela u/s 15AA.

2. According to the prosecution case, the local police, while responding to information about the occurrence, reached to the spot and found the dead body of Mst. Robina Bibi. The father of the deceased namely Mir Gul reported the matter at 0820 hours on 04.02.2025 that his son namely Muhammad Arif had murdered Muhammad Ayaz in 2024 on the pretext of having illicit relations with Mst. Robina Bibi and she had left the house and taken shelter


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in Dar Ul Aman Kohat. The complainant further reported that she was brought by the accused facing trial yesterday from Dar Ul Aman to the house. On 03.02.2025 at 1920 hours, the complainant was having meal when he heard hue and cry on the main gate of his house, at which he came out and found that the accused had fired upon Mst. Robina Bibi with a pistol on the pretext of honour and died on the spot.

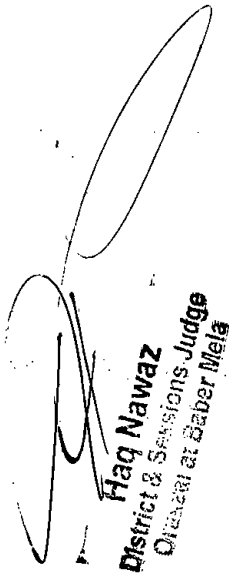
3. After completion of investigation, complete challan against the accused was submitted. The accused was summoned and copies were provided to him under Section 265-C CrPC. He was formally charged. The accused pleaded not guilty and claimed trial. The prosecution produced a total of 07 witnesses before the Court. A brief resume of the depositions of the relevant prosecution witnesses is as under;

- I. Moharrir Muhammad Saeed recorded his statement as PW-2. He deposed that the Murasila was received by him through constable Abid Gul on 04.02.2025 which was incorporated into FIR Ex. PA. He handed it over to Incharge Investigation. He received parcels No. 1 to 3 from the IO which was kept safely in the Malkhana of the police station after making entry in register No. 19 Ex. PW


Hary Muhammad
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2/1. He handed over parcels No. 1 to 3 to the IO for sending it to FSL on 06.02.2025. He also received parcel No. 4 from the IO on 07.02.2025 and made its entry in the relevant register. The said parcel No. 4 was handed over by him to the IO for transmitting it to FSL on 17.02.2025. His statement u/s 161 CrPC was recorded.

II. Azmat Ullah SHO recorded his statement as PW-4. He stated that he rushed to the spot on receiving information about the incident on 04.02.2025, where the complainant reported the matter to him. He reduced the same into writing in the shape of Murasila Ex. PA. He prepared injury sheet of the deceased Ex. PW 4/1 and inquest report Ex. PW 4/2. He handed over these documents to Constable Mast Ali Shah for handing it over to Medical-Officer. The Murasila was sent to police station through constable Abid Gul for registration of FIR. The SHO arrested the accused on 05.02.2025 vide card of arrest Ex. PW 4/3. He submitted complete challan Ex. PW 4/4 against the accused facing trial.


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III. Moeen Ur Rehman appeared before the Court as PW-5. He stated that he was present with the IO during spot inspection on 04.02.2025. He is the marginal witness to the recovery memos prepared by the IO who made recoveries from the spot in his presence. He took parcels No. 1 to 3 along with applications and route permit certificates to FSL on 06.02.2025 and handed over its receipts to the IO upon his return. The accused pointed out the spot to the IO on 07.02.2025 who prepared pointation memo Ex. PW 5/3 in presence of the PW. The PW is also the marginal witness of the recovery memo Ex. PW 5/4 vide which the IO took into possession the crime weapon recovered on the pointation of accused. He also took parcel No. 4 along with route certificate and application to FSL on 17.02.2025. His statements were recorded by the IO u/s 161 Cr.P.C.


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IV. Muhammad Hanif OII stood in the witness box as PW-6. He stated that after entrustment of the investigation to him, he proceeded to the spot. He took into possession blood through cotton from the place of deceased and recovered 02 crime empties of 30-bore from

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the place of accused vide recovery memo Ex.

PW 5/1 and sealed it into parcels No. 1 and 2.

He prepared site plan Ex. PB on the pointation

of complainant. He received blood-stained garments of the deceased through Constable

Mast Ali Shah in the police station vide

recovery memo Ex. PW 5/2 and sealed it into

parcel No. 3. He handed over these parcels to

the Moharrir for keeping it safely. He recorded

the statements of PWs u/s 161 CrPC. The IO

produced the accused before the court of

Judicial Magistrate on 06.02.2025 vide

application Ex. PW 6/1 for obtaining his

physical custody and obtained his two days

physical custody. He sent parcels No. 1 to 3 to

FSL through Constable Moeen Rehman with

route certificates Ex. PW 6/2 and Ex. PW 6/3

and applications addressed to the Incharge FSL

Ex. PW 6/4 and Ex. PW 6/5 on the same day.

He prepared list of the legal heirs of the

deceased Ex. PW 6/6. He interrogated the

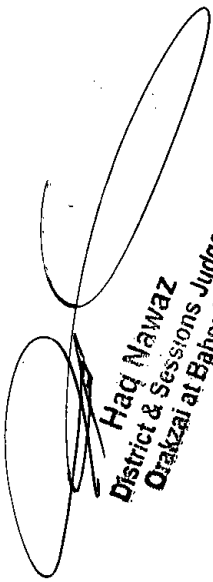
accused and during the interrogation, the

accused confessed his guilt before him and

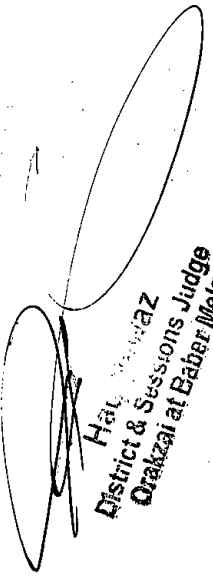
voluntarily led the police to the spot and

correctly pointed out the place of occurrence to

the IO vide pointation memo Ex. PW 5/3. The

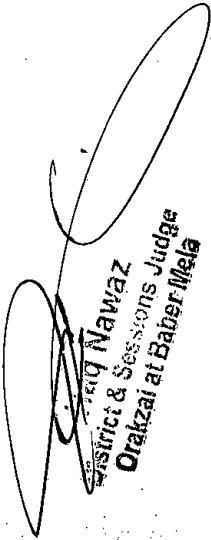

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IO also recovered the crime weapon i.e., pistol on the pointation of accused which was taken into possession vide recovery memo Ex. PW 5/4 and it was sealed into parcel No. 4. He also prepared recovery sketch Ex. PW 6/7. The PW added Section 15 of the Khyber Pakhtunkhwa Arms Act in the case and issued Parwana in this respect which is Ex. PW 6/8. He produced the accused before the Judicial Magistrate on 08.02.2025 for recording his confessional statement vide application Ex. PW 6/9, but the accused refused to confess his guilt and was sent to Judicial Lock-up. The PW sent parcel No. 4 through Constable Moeen along with route certificate Ex. PW 6/10 and application Ex. PW 6/11 to FSL on 17.02.2025. He received the FSL reports of blood-stained garments, the crime weapon and the crime empties which are Ex. PW 6/12 to Ex. PW 6/14 and placed the same on file. He produced attested copies of FIR No. 38, Dated 16.06.2024, u/s 302/311 PPC and 15AA of Police Station Mishti Mela as Mark-A. He admitted all the documents to be correct which correctly bears his signatures.


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District & Sessions Judge
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4. After completion of the prosecution evidence, statement of the accused was recorded u/s 342 Cr.P.C. The accused claimed innocence; however, he neither wished to be examined on oath nor opted to produce any evidence in defence.

5. After hearing both the parties and perusal of the record, it was found that during the course of investigation in the main case, the accused not only pointed out the place of occurrence correctly vide pointation memo Ex. PW 5/3 but the weapon of offence was also recovered on his pointation from the apricot wood lying in front of the house of Nadar Khan through recovery memo and sketch of recovery Ex. PW 5/4 and Ex. PW 6/7 leading to the addition of Section 15AA in the case. Though there are minor contradictions in the prosecution's case i.e., the recovery memo Ex. PW 5/4 shows the recovered weapon to be without number whereas the FSL report Ex. PW 6/13 shows that the weapon in question was having its number as A-9116. Similarly, the marginal witness to the recovery memo who appeared before the Court as PW-5 stated in his cross examination that the weapon in question was loaded with cartridges and it was recovered from the woods lying on the back side of the house of accused, but the **Hon'ble Peshawar High Court, Peshawar** in its judgment dated 26.11.2025 passed in the case of "**Misbah**


Faraz Nawaz
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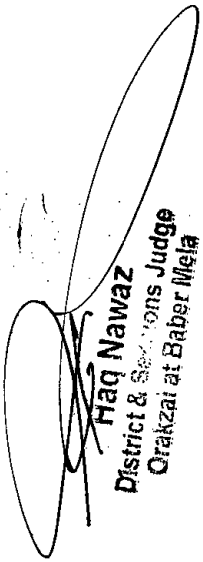
VS Sahir and the State" bearing Cr. Appeal No. 347-

P/2025 held that;

"Defects in investigation, especially in districts such as Khyber (erstwhile FATA including Orakzai), which is a newly merged district where many police officials are former Khasadar personnel still familiarizing themselves with modern investigation procedures, cannot be treated as fatal to the prosecution."

6. The two empty shells of 30-bore recovered from the spot by the IO through recovery memo Ex. PW 1/1 were sent to FSL on 06.02.2025 vide route certificate Ex. PW 6/2. The FSL report Ex. PW 6/14 was received that the two 30-bore crime empties were fired from one and the same 30-bore weapon. The recovered crime weapon was sent to FSL by the IO on 17.02.2025 through route certificate and application to FSL Ex. PW 6/10 and Ex. PW 6/11 and the FSL authorities reported vide report Ex. PW 6/13 that the two 30-bore crime empties were fired from the 30-bore pistol No. A-9116.

7. In view of the above facts and circumstances, it is held that the prosecution remained successful to prove the recovery of weapon of offence on the pointation of accused Kamran Khan s/o Mir Gul, r/o Mir Mela, Caste

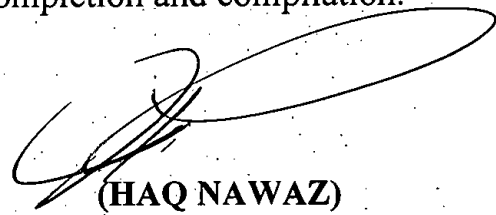

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Sheikhan, District Orakzai during the course of investigation of the main case. The accused is, therefore, convicted u/s 15 of the Khyber Pakhtunkhwa Arms Act and sentenced to three (03) years rigorous imprisonment with the benefit of Section 382-B CrPC. The case property is confiscated to state. Copy of the judgment is provided to the accused free of cost. File of this Court be consigned to record after its necessary completion and compilation.

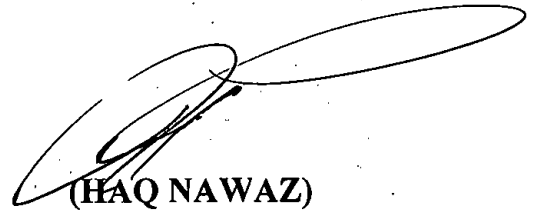
Announced:
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CERTIFICATE

Certified that this judgment consists of nine (09) pages.
Each page has been read, corrected wherever necessary
and signed by me.

Dated: 16.12.2025


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