

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

Case No. 19/3 of 2023
Date of Institution: 01.12.2023
Date of Transfer in: 07.10.2024
Date of Decision: 18.12.2025

State through:

SHO NASIR AHMAD POLICE STATION KALAYA, ORAKZAI.

.....**COMPLAINANT**

VERSES

SYED IRTIZA HASSAN SON OF SYED AMEEN SHAH,
 RESIDENT OF KALAYA SAIDAN, DISTRICT ORAKZAI AND
 TWO OHTERS.

....**ACCUSED FACING TRIAL**


Present: ASAD IJAZ ADVOCATE FOR ACCUSED
 FACING TRIAL.

MUHAMMAD JUNAID ALAM *Case FIR No. 89, Dated 01.09.2023 under section 11-A CNSA, police
 Civil Judge / JM-II station Kalaya, Orakzai.*
 Orakzai at Kalaya

JUDGMENT/ORDER:
18.12.2025

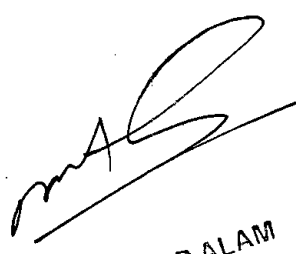
Through this judgment the Court intends to dispose
 of the instant case registered against accused namely Irtiza
 Hassan, Syed Jaffar Abbas and Meer Hassan Jan vide FIR No.
 89, dated 01.09.2023 under section 11-A CNSA, registered at
 Police Station Kalaya.

1. Brief facts as per contents of FIR are that SHO/complainant Nasir Ahmad alongwith constables Manzoor Ali belt no. 424 and Wajid Ullah belt no. 320 were on area patrolling. SHO/complainant received information during patrolling, that some persons were busy in drinking and selling of ice. Upon the said information the SHO/complainant alongwith police officials were came to near Kalaya Darbar, where three persons were present and busy in drinking ice in one vacant room, near Kalaya Darbar. The local police empowered them and they disclosed their names Irtiza Hassan son of Syed Ameen Shah, Syed Jaffar Abbas son of Syed Habib Hussain and Meer Hassan Jan son of Syed Hanif Shah. On body search, of accused Irtiza, the SHO/complainant recovered and took into possession one Kalai paper in white color containing ice. On weighing through digital scale it came out 30-grams ice. On search of accused Syed Jaffar Abbas, the SHO/complainant recovered and took into possession one Kalai paper in white color from the front pocket containing ice. On weighing through digital scale it came out 25-grams ice. Furthermore, on body search of accused Syed Meer Hassan Jan, the complainant/SHO recovered and took into possession one Kalai paper in white color from the badda shalwar, containing ice. On weighing through digital scale it came out 20-grams ice. SHO/complainant took all the



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recovered substance through recovery memo which is Ex. PW-1/3. One-gram sample each from the recovered ice was sent to FSL for chemical analysis and was packed and sealed into separate parcel no. 01 to 03. Remaining stuff of ice was packed and sealed into separate parcel no. 04 to 06. 01/01 seals of monogram with the name of NA were put inside each parcel while affixed 03/03 seals of monogram with the name of NA on each parcel. Recovery memo was drafted on the spot. The accused Irtiza was also required in case FIR no. 50 dated 11.05.2023 under sections 506/353/186/189/148/149 Pakistan Penal Code, 1860 and 3/4 A.F. The accused was formally arrested and issued his card of arrest which is Ex. PW-1/2. Murasila was drafted on the spot, which is Ex. PW-1/3. Murasila, recovery memo and card of arrest were sent to police station through constable Wajid Ullah belt no. 320. Complainant charged the accused for the commission of offence. Upon the same FIR bearing no. 89 dated 01.09.2023 under section 11-A CNSA, registered at Police Station Kalaya.

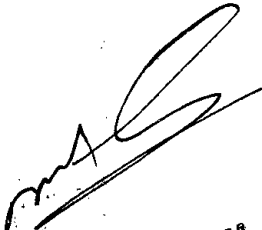

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2. After completion of investigation, complete challan was submitted by prosecution against the accused facing trial.
3. Accused were summoned and legal formalities under Section 241-A Cr. PC was complied with. Accused Irtiza and Syed Jaffar Abbas were formally charged. They pleaded not guilty

and claimed trial. However, accused Meer Hassan Jan was initially appeared while later on absconding. Afterwards prosecution was directed to produce its evidence against the accused facing trial.

4. Prosecution produced three (03) witnesses to prove its case against the accused facing trial.


5. **PW-01** is the statement of constable Wajid Ullah belt no. 320, which is reproduced as under. He stated on oath that on the day of occurrence, he was present with SHO, PS Kalaya during gasht. During ghust SHO Nasir Khan received spy information. Upon information SHO went to the spot where three persons were present and busy in drinking ice. The one person disclosed his name as Irteza. SHO Nasir Ahmad recovered and took into possession one Kalai paper from the side pocket of accused Irteza containing ice. On weighing through digital scale it came out 30-grams ice. On the body search of accused Syed Jaffar Abbas, SHO recovered and took into possession one Kalai paper in white color from the front pocket containing ice. On the weighing through digital scale it came out 25 gram of ice. On the body search of accused Syed Meer Hassan SHO recovered and took into possession one Kalai paper in white color from the Bada Shalwar containing ice. On weighing through digital scale it came out 20-gram ice. 01-gram sample was separated for FSL analysis which were



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packed and sealed into separate parcel No.01 to 03 and remaining stuff i.e. ice was packed and sealed into separate parcel No.04 to 06. 01/01 seal was put inside each parcel while SHO affixed 03/03 mono grams with the name of NA. Recovery memo was drafted on the spot. Videography of the occurrence has been made and save in the USB which was packed and sealed into separate parcel No.07. One seal was put inside the parcel while affixing 03/03 seals of mono gram NA. SHO Nasir Ahmad handed over to me Murasila, recovery memo and card of arrest which he took to the PS and handed over the same to Moharrir in the office of DD. This is his statement. His statement was recorded by IO u/s 161 Cr.PC. Today, he has seen the above referred documents which are correct and correctly bears his signature.

6. **PW-02** is the statement of constable Manzoor Ali, which is reproduced as under. He stated on oath that on the day of occurrence, he was present with SHO, PS Kalaya during gasht. During ghust SHO Nasir Khan received spy information. Upon information SHO went to the spot where three persons were present and busy in drinking ice. The one person disclosed his name as Irteza. SHO Nasir Ahmad recovered and took into possession one Kalai paper from the side pocket of accused Irteza containing ice. On weighing through digital scale it came out 30-grams ice. On the body




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search of accused Syed Jaffar Abbas, SHO recovered and took into possession one Kalai paper in white color from the front pocket containing ice. On the weighing through digital scale it came out 25 gram of ice. On the body search of accused Syed Meer Hassan SHO recovered and took into possession one Kalai paper in white color from the Bada Shalwar containing ice. On weighing through digital scale it came out 20-gram ice. 01-gram sample was separated for FSL analysis which were packed and sealed into separate parcel No.01 to 03 and remaining stuff i.e. ice was packed and sealed into separate parcel No.04 to 06. 01/01 seal was put inside each parcel while SHO affixed 03/03 mono grams with the name of NA. Recovery memo was drafted on the spot. Videography of the occurrence has been made and save in the USB which was packed and sealed into separate parcel No.07. One seal was put inside the parcel while affixing 03/03 seals of mono gram NA. This is his statement. His statement was recorded by IO u/s 161 Cr.PC. Today, he has seen the above referred documents which are correct and correctly bears his signature.


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7. **PW-03** is the statement of SI Muhammad Hanif, which is reproduced as under. He stated on oath that on the day of occurrence, he was posted as IO PS Kalaya. On 01.09.2023, copy of FIR, Murasila, card of arrest and recovery memo for


investigation. He alongwith police officials were proceeded to the spot, where SHO alongwith police officials were already present. he examined the case property in sealed condition. He prepared the site plan on the pointation of complainant/SHO Nasir Ahmad, which is Ex. PB. He also annexed DD regarding arrival and departure of the police officials which is Ex. PW-3/1 (consists of two pages). He recorded statements of marginal witness namely constable Wajid Ullah belt no. 320 and Manzoor Ali belt no. 424 on the spot under section 161 Cr. PC. SHO alongwith accused first left the spot and thereafter, he returned to the PS. He recorded statement of Moharrir Muhammad Jameel under section 161 Cr. PC. He cursory interrogated the accused in the PS. On 02.09.2023, he handed over parcel no. 01 to 03 to constable Fazal Wadood belt no. 1438 for the purpose of FSL, vide his application is Ex. PW-3/2. On the same day, he produced the accused before the Illaqa Magistrate for obtaining 05/05-days of physical custody of accused vide his application is Ex. PW-3/3. Two days' custody was granted against accused Irteza and Meer Hassan Jan while accused Syed Jaffar Abbas was released on bail due to juvenile. On 04.09.2023, he produced the accused Irteza and Meer Hassan Jan before the Illaqa Magistrate for recording of their confessional statements u/s 164/364 Cr.PC vide his application is Ex.PW-3/4. Accused



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refused to confess their guilt and were sent to judicial lock-up. FSL report received in positive which is Ex. PZ. He also annexed DD which is Ex. PW-3/5 (consists of 02 pages) and copy of register no. 19 which is Ex. PW-3/6. On completion of investigation he handed over the complete/juvenile challan against the accused to SHO concerned. Today, he has seen all the referred documents which are correct and correctly bears his signature.

8. Afterwards, prosecution closed its evidence.
9. Statements of accused under section 342 Cr. PC was recorded wherein he pleaded not his guilt and also did not wish to be examined on oath. He even opted not to produce defense evidence.
10. Thereafter, argument was heard on behalf of the counsel for accused and APP for the state advanced his arguments.
11. Claim of the prosecution is that the accused facing trial was charged for possessing of 30-grams ice. Perusal of the statement of PWs, it was revealed that as for as the alleged occurrence is concerned, it is pertinent to mention here that Murasila reveal that the occurrence took place on 01.09.2023 at about 19:50 hours whereas FIR was lodged at about 20:30 hours.


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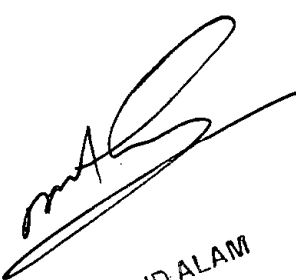
As for as the place of occurrence is concerned, it is noted that PW-03 is stated in his cross examination that the place of

occurrence is situated near Kalaya Darbar. Murasila also revealed that the place of occurrence is near Kalaya Darbar. Furthermore, Murasila reveal that the occurrence took place in a vacant room while PW-03 stated in his cross examination that the place of occurrence was a room.

As for as the case property is concerned, it is noted that PW-03, IO in the instant case has stated in his cross examination that he sent the case property to FSL on 02.09.2023 while the application endorsed to FSL reveal that the IO sent the case property on 02.09.2023.

It is also worth mentioning here that the accused was charged for heinous offence and effect on the society. Recovery has been affected from the direct possession of the accused. Accused were charged directly by name in promptly lodged FIR. Accused facing trial was absconding for some time.

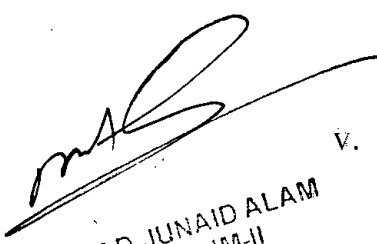
In light of above discussion, it is clear that only minor discrepancies are in the prosecution evidence, however, they are not fatal to the merit of the case. The case of the prosecution is proved, through solid and reliable evidence, therefore, the accused facing trial is hereby convicted for commission of offence under section 11-A CNSA, for 06-months simple imprisonment and Fine of Rs 10,000/-. In default he shall undergo for 01-month simple imprisonment. Furthermore, there is nothing on record which could show



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previous involvement of accused in such like cases, being first offender, thus, the sentence and conviction ibid is suspended and converted into probation and he is placed on probation for the period under six months the Probation Ordinance. He shall remain under the supervision of the Probation Officer (male) for the above-mentioned period subject to furnishing bail bonds in the sum of Rs. 100,000/- with two local and reliable sureties, to the satisfaction of probation officer (male) Orakzai with the following conditions.

- i. That he shall not repeat the offence.
- ii. That he shall keep and maintain peace and order in the society.
- iii. That he must exhibit good behavior during the prescribed period of probation.
- iv. That he shall appear before the probation officer once in a month, which date is left to the discretion of the probation officer to be fixed.
- v. That he shall not leave the country without permission of probation officer.
- vi. That if he violates the above conditions, the bonds will be recalled and he will be proceeded in accordance with the provision of the Ordinance ibid.



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vii. That in case of default by the convict, the direction regarding probation shall stand recalled and convict shall undergo imprisonment accordingly.

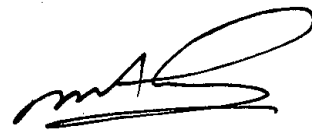
viii. The Probation Officer (male) is directed to submit his report to this court about their character and conditions as aforesaid once in a quarter. Copy of this order be sent to the probation officer for compliance as per law.

12. Prima facie case exist against absconding accused namely Meer Hassan Jan. Hence, perpetual warrant of arrest be issued against him. His name be entered in the list of proclaimed offender with red ink.

13. Case property be dealt with in accordance with law.

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


Announced
18.12.2025


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

CERTIFICATE

Certified that my judgment of today consists of eleven (11) pages, each page has been read, signed and corrected by me where necessary.

Announced:
18.12.2025


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