

IN THE COURT OF NOOR UL HAQ JUDICIAL MAGISTRATE-II, KALAYA,
ORAKZAI

State vs Sami Ullah etc

Case No7/2 of 2025.

Date of institution.....26.03.2025.

Date of decision.....11.08.2026.

Case FIR No. 54 Dated: 26.09.2024 U/S 419,420,471, PS Mishti Mela

Order. No. 23

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APP for the state present. Accused Nusrat Ameen on bail along with counsel present. Rest of the accused absent. Today, the case was fixed for evidence of prosecution, however, counsel for accused requested for acquittal of accused U/S 249-A Cr. PC. Arguments heard and record gone through.

Brief facts of the case are that on 26.09.2024 at 19:30 hours SHO concerned alongwith Constable Fazal Shah and Muhammad duly armed and driver Mekael Khan were on area patrol. During patrolling a young man was found roaming in suspicious condition was stopped and questioned, he disclosed his name as Nusrat Ameen son of Satar Khan of Qoum Bezot, and produced one computerized service card in the name of CTD Police, claiming that he was performing his duty as a constable in CTD Police. For the purpose of verification and satisfaction, information was obtained from CTD Branch Kalaya, who informed that there was no constable serving with them in the name of Nusrat Ameen. The service card so produced was taken into police possession and sealed in Parcel No. 1. One seal was put inside the parcel while affixed 03/03 seals of

(Signature)
Noor ul Haq
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100-443887-1000

Abdul Mateen SI appeared and deposed as PW-02. He stated that during the day of occurrence, he was posted as MIIC police station Mishti Mela. On 26.09.2024, he alongwith constables Fazal Shah belt no. 16,

Muhammad Nawaz belt no. 138 and driver Mckail were on patrolling. During patrolling one person in suspicious condition was stopped for the purpose checking. The accused disclosed his name as Nasrat Ameen. The accused Nasrat Ameen shows to him one computerized service card and introduced himself as CTD official. On verification from CTD Kalaya and it was confirmed that no constable in the name of Nasrat Ameen. He took into possession the said service card through recovery memo and sealed into parcel no. 01 vide recovery memo is Ex. PC in the presence of marginal witnesses. One seal was put inside the parcel while affixed 03/03 seals of monogram with the name of AR. The accused made forged and fake service card of CTD Police. He charged the accused for the commission of offence. He arrested the accused and issued his card of arrest which is Ex. PW-1/1. Murasila was drafted, which is Ex. PA/1. Card of arrest and Murasila were sent to the PS through constable Fazal Shah belt no. 1460. Copy of FIR alongwith Murasila were handed over to investigation staff.

SI Muhammad Hanif appeared and deposed as PW-03. He stated that during the day of occurrence, he was posted as OI police station Mishti Mela. On 26.09.2024, Moharrir Muhammad Saeed handed over to him copy of FIR, Murasila, card of arrest and recovery memo. He proceeded to the spot and prepared the site plan which is Ex. PB. He recorded statement of marginal witnesses on the spot. He also recorded statement of Moharrir in the PS. On 27.09.2024, he produced the accused before the Illaqa Magistrate for obtaining his physical custody vide his

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application is Ex. PW-3/1. One-day custody was granted. He cursory interrogated the accused in the PS. He also recorded statement of accused under section 161 Cr. PC. On the following day he produced the accused before the Illaqa Magistrate for recording his statement under section 164/364 Cr. PC vide his application is Ex. PW-3/2. Accused refused to confess his guilt and sent to judicial lock up Orakzai. On 29.09.2024, he issued notice under section 160 Cr. PC against the accused Amjad vide his application is Ex. PW-3/3. On 08.10.2024, he submitted interim challan against the accused. On 09.10.2024, he issued parwana notice for nomination of accused which is Ex. PW-3/4. He arrested the accused Amjad Nawaz and issued his card of arrest which is Ex. PW-3/5. On 10.10.2024, he produced the accused before the Illaqa Magistrate for obtaining his physical custody vide his application is Ex. PW-3/6. One-day custody was granted. During custody he recovered and took into possession laptop Dell no. 630 vide recovery memo which is Ex. PC in the presence of marginal witnesses. He also produced before me one stamp paper which is Ex. PR. He also cursory interrogated the accused in the PS. Accused confessed guilt before him. On 11.10.2024, he produced the accused before the court for confessional statement under section 164/364 Cr. PC vide his application is Ex. PW-3/7. On 12.10.2024, he issued parwana notice under section 160 Cr. PC against the accused Sami Ullah which is Ex. PW-3/8. On 25.10.2024, he issued parwana notice under section 61 Cr. PC which is Ex. PW-3/9. He recorded statement of DFC under section 161 Cr. PC. As the accused Sami Ullah avoiding his lawful

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arrest, applications for warrant under section 204 Cr. PC and notices under section 87 Cr. PC which are Ex. PW-3/10 & Ex. PW-3/11. He recorded statements of DFC and Atif CRC under section 161 Cr. PC. On 15.11.2024, accused Sami Ullah applied for BBA and he formally issued his card of arrest which is Ex. PW-3/12, which was confirmed on 22.11.2024. After completion of investigation he submitted supplementary challan against the accused.

PW Constable Muhammad recorded his statement as PW-04. He stated that he was posted as constable police station Mishti Mela. On 26.09.2024, he alongwith ASHO Abdul Matten and constable Fazal Shah belt no. 16 were on patrolling. During patrolling one person in suspicious condition was stopped by ASHO for the purpose checking. The accused disclosed his name as Nasrat Ameen. The accused Nasrat Ameen also shows one computerized service card and introduced himself as CTD official. On verification from CTD Kalaya and it was confirmed that no constable in the name of Nasrat Ameen. ASHO took into possession the recovered service card through recovery memo and sealed into parcel no. 01 vide recovery memo is already exhibited as Ex. PC in my presence as well as co-marginal witness namely Fazal Shah. ASHO put one seal inside the parcel while affixed 03/03 seals of monogram with the name of AR. Recovery memo was drafted on the spot in his presence. His statement was recorded under section 161 Cr. PC.

Shal Muhammad appeared and deposed as PW-05. He stated that during the day of occurrence, he was posted as SHO police station Mishti

Mela. After completion of investigation, he submitted interim challan, 512 challan and complete challan against the accused facing trial on 08.10.2024, 09.11.2024 and 23.11.2024 which are Ex. PW-5/1 to Ex. PW-5/3 respectively.

Upon careful appraisal of the prosecution evidence and the circumstances brought on record, allegation against the accused Nusrat Ameen is that he intentionally prepared and used a forged/fake service card showing himself to be a CTD Police official. However, the evidence and circumstances available on record do not sufficiently establish the requisite dishonest or fraudulent intention on the part of the accused.

It is an admitted circumstance emerging from the record that the accused, Nusrat Ameen, was in fact a police official. The mere fact that, at the relevant time, he was not physically posted/performing duty at a particular Police Station or Police Line does not, by itself, establish that he was personating police official or that he had no lawful connection with the Police Department. The prosecution case is therefore required to establish, beyond reasonable doubt, that the accused deliberately fabricated a false document with fraudulent intention and knowingly used the same as a genuine document.

The circumstances concerning preparation of the disputed card also create a substantial doubt in the prosecution case. The accused was asked to prepare/obtain his service card in the ordinary course, and the card was prepared on a laptop by Sami Ullah, a canteen owner, with the assistance of Amjid Nawaz, who was working there as an employee. Thus, the mere

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possession and production of the card by the accused does not, without further reliable evidence, prove that the accused himself fabricated the document or possessed the requisite criminal intention to commit forgery.

Furthermore, the subsequent departmental proceedings assume considerable significance. The Deputy Inspector General of Police, Kohat Region, while deciding the appeal of the accused, set aside his dismissal from service and directed his reinstatement with immediate effect. This subsequent departmental determination, though not by itself conclusive of the criminal charge, lends support to the existence of serious doubt regarding the allegation against the accused.

It is also significant that the prosecution has not brought sufficient material on record to establish beyond reasonable doubt that the accused himself forged the disputed card, that he knowingly caused a forged document to be prepared, or that he used the same with fraudulent or dishonest intention. The mere recovery of the card from his possession, in the circumstances of the case, is insufficient to safely record a conviction.

The prosecution has failed to prove the charge against accused beyond reasonable doubt. The evidence available on record is insufficient to establish the essential ingredients of the alleged offence, while the circumstances discussed above create reasonable doubt in the prosecution case. It is a settled principle of criminal jurisprudence that even a single reasonable doubt arising in the prosecution case is sufficient to extend its benefit to the accused as a matter of right and not of grace.

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There are so many dents and doubts in case of prosecution benefit of which goes to the accused. There is no probability of accused being convicted. Further proceedings would be a futile exercise and wastage of precious time of the court, therefore, application U/S 249-A Cr. PC is accepted and accused facing trial namely Nusrat Ameen, Amjid Nawaz and Sami Ullah are acquitted from the charges levelled against them. They are on bail. Their sureties stand discharged from their liability.

Case property if any be dealt with in accordance with the law.

File be consigned to record room after necessary completion and compilation.

Announced.
11.08.2026


(Noor Ul Haq)
Judicial Magistrate-II,
Tehsil Kalaya, Orakzai