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STATE VS ALAM KHAN ETC.

FIR No. 54, Dated 27.04.2021, u/s 334/336/337-A(i)/337-A(ii)/147/149 PPC, Police Station: Kalaya

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

SESSION CASE NO. : 71/2 OF 2026
DATE OF ORIGINAL INSTITUTION : 18.08.2021
DATE OF TRANSFER-IN : 19.08.2026
DATE OF DECISION : 26.10.2026

STATE THROUGH MEHBOOB S/O ABDUL SATTAR, CASTE MANI
KHEL

------(Complainant)

VS

1. QADAM HUSSAIN S/O ALAM KHAN
 2. AKRAM HUSSAIN S/O ALAM KHAN
 3. MANAN ALI S/O SAQI GHULAM
 4. MEERAN ALI S/O SAQI GHULAM
 5. HALIM ALI S/O MUHAMMAD JANAN
- CASTE MANI KHEL, DISTRICT ORAKZAI

------(Accused facing trial)

FIR No. 54, **Dated: 27.04.2021,**
Police Station: Kalaya **u/s: 334/336/337-A(i)/337-A(ii)/147/149 PPC,**

JUDGEMENT
26.10.2026

This case was registered against the accused Qadam Hussain S/O Alam Khan, Akram Hussain S/O Alam Khan, Manan Ali S/O Saqi Ghulam Meeran Ali S/O Saqi Ghulam and Halim Ali S/O Muhammad Janan vide FIR No. 54, Dated 27.04.2021 at Police Station Kalaya u/s 334/336/337-A(i)/337-A(ii)/147/149 PPC.

2. According to the prosecution's case, the complainant, Mehboob Ali, reported the matter in Daily Diary No. 05 dated 10.04.2021. According to which, the complainant was having a land dispute with the accused Alam Hussain. A jirga was convened on 10.04.2021. During the course of jirga at Kalaya Bazar, the complainant

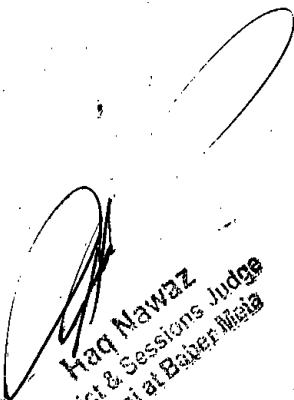
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requested for initiating jirga proceedings as they were getting late for their school duties. On his demand, the jirga member Khial Meen and his son Waiz Hussain along with Alam Khan, Akram Hussain, Qadam Hussain, Manan Ali, Meeran Ali, Halim Ali and his brother got infuriated and started quarrel with the complainant party. They hit the complainant with bricks as a result of which Diar Ali got hit on his head whereas the complainant was hit on his face and other parts of his body. After initial inquiry and opinion by the prosecution, the FIR was chalked out on 27.04.2021.

3. After completion of investigation, complete challan was submitted against the accused. They were summoned by the Court of Judicial Magistrate. Proceedings were abated against the accused Alam Khan due to his death and copies were provided to the accused under Section 241-A CrPC. They were formally charged, but the accused pleaded not guilty and claimed trial. The accused Khialmeen and Waiz Hussain were acquitted u/s 249-A CrPC vide order dated 20.09.2025. The prosecution produced a total of 08 witnesses before the Court. After completion of prosecution evidence, statements of the accused were recorded u/s 342 CrPC. Whereafter, the complainant submitted an application u/s 540 CrPC for examination of Qayyum Ali and Sher Ali. The


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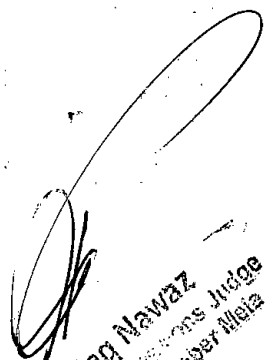
application was contested by the accused which was dismissed on 22.07.2026. The complainant preferred Cr. Revision No. 10/10 of 2026 against the said order. In the meanwhile, the case was transferred to this Court on 19.08.2026 on the basis of letter No. 415/SDJ/HRW/Admn Dated 17.01.2026 by the Registrar, Peshawar High Court, Peshawar. Arguments on the main case as well as Cr. Revision Petition No. 10/10 of 2026 heard and record perused.

4. A brief resume of the depositions of prosecution witnesses is as follows;

I. Wasil Khan appeared before the Court and recorded his statement as PW-1. He submitted that he registered the instant FIR after receiving legal opinion from the office of DPP, Orakzai. He verified the same and stated that it is correct and correctly bears his signature. His statement was recorded by the IO u/s 161 CrPC.

II. Malak Janan stood in the witness box as PW-2. He stated that he submitted complete challan Ex. PW 2/1 against the accused after completion of investigation.

III. Dr. Usman, Medical Officer, appeared before the Court and recorded his statement


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as PW-3. He submitted that he examined the injured Mehboob Ali on 10.04.2021 and found the following injuries on his body;

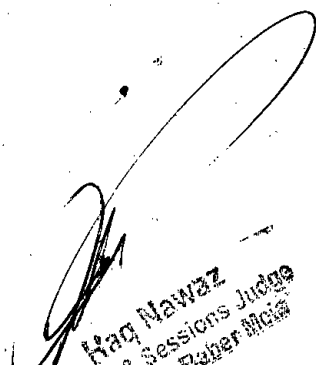
There were bruises on different parts of face and swelling on the left temporal area as the patient was complaining of unclear vision and blood in the sclera. He referred the patient to the eye specialist. Patient's 03 teeth were broken due to trauma. X-rays of the left costal region was done, according to which there was only blunt trauma. As per eye specialist report, eye vision of the patient was not damaged. The patient was referred to a dentist and as per his report, 03 teeth of the patient were broken while 01 was fractured.

(a) Kind of weapon: Blunt object.

(b) Nature of the injury: Grievous.

He handed over the MLC report to local police. He produced MLC report which is Ex. PW 3/1.

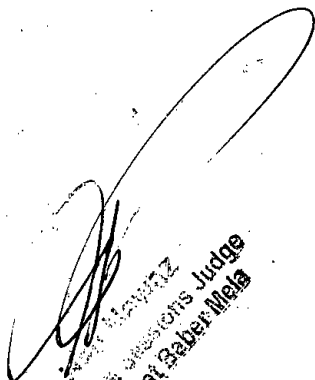
IV. The injured/complainant, Mehboob Ali, stood in the witness box as PW-4. He stated that he had a land dispute with the accused party on 06.04.2021. He reported the matter


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Qazal at Bahar Mins

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to the local police that the accused were working in his fields while in possession of deadly weapon. The local police went to the spot and stopped the accused from working in the fields. A jirga was convened on 10.04.2021 and he along with his brother and other jirga members went to Kalaya Bazar from school. The complainant asked that the jirga may be started as soon as possible as they are getting late for school duty; upon which, the jirga member Khialmeen and his son along with the accused started quarrel with the complainant and attacked them with bricks. Diyar Ali got injured on his head while the complainant received injury on his face and other parts of his body. He charged the accused for the commission of offence. He also pointed out the spot to the IO who prepared the site plan on his pointation on 27.04.2021.


District Sessions Judge
Orakzai at Kalaya Bazar

- V. The injured, Diyar Ali, is PW-5. He stated that a jirga was convened between the parties on 10.04.2021. He along with his brother and other jirga members went to Kalaya Bazar from the school. They asked

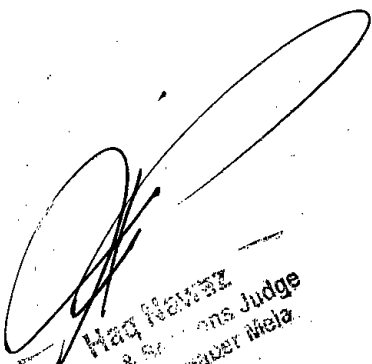
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that the jirga may be started as soon as possible as they are getting late for school duty; upon which, the jirga member Khialmeen and his son along with the accused started quarrel with the complainant and attacked them with bricks. The PW sustained injury on his forehead while his brother got injuries on his face and his 03 teeth were broken. His brother reported the matter to the local police and the PW verified it by signing the same.

VI. Muhammad Ishaq OII appeared before the Court as PW-6. He stated that after entrustment of the investigation to him in the instant case, he visited the spot where the occurrence was taken place. He prepared the site plan Ex. PB on the pointation of complainant. The PW raided the house of accused but they were not found. He recorded the statement of PWs u/s 161 CrPC. He arrested the accused on 27.05.2021 vide card of arrest Ex. PW 6/1, after cancellation of their Bail Before Arrest Application. The PW produced the accused before the Court of Judicial Magistrate vide



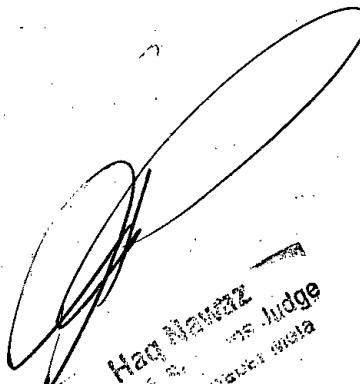
Magistrate
District & Sessions Judge
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application Ex. PW 6/2 for obtaining their physical custody on 28.05.2021 and one-day custody was granted. He again produced the accused before the Court of Judicial Magistrate vide application Ex. PW 6/3 for 14-days judicial remand which was accepted and the accused were sent to judicial lock-up. The PW received the report regarding innocence of the accused Khialmeen and Waiz Hussain on 02.05.2021 after inquiry conducted by the SDPO. The PW stated that he re-produced the inquiry report Ex. PW 6/4 in a Daily Diary. The accused Qadam Hussain was also declared innocent after inquiry conducted by the SP, Investigation vide his report Ex. PW 6/5. He handed over the case file to SHO for submission of complete challan.


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District Judge
Orakzai District Court

VII. Dr. Farooq Azam appeared before the Court as PW-7. He stated that he examined the injured Diyar Ali on 10.04.2021 at 10:40 am and found the following injuries and external appearance of the injured body;

- i. Lacerated wound on forehead about 5-7 cm in length.

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- ii. Flesh cut and bone exposed.
- iii. X-ray had shown no fracture.
- iv. Patient was stable and oriented (GCS-15/15).
- v. No history of vomiting.
- vi. No history of unconsciousness.

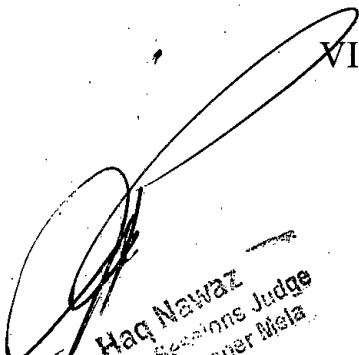
Impressions: Shajjah-Mudhiha.

Kind of weapon used: Blunt object

Nature of injury: Grievous.

The PW verified the MLC report Ex. PW 7/1 which was prepared by him and he stated that the same is correct and correctly bears his signature.

VIII. Wali Ullah, Reader to District Police Officer, Orakzai appeared before the Court and recorded his statement as PW-8. He stated that he incorporated the contents of the report of complainant into Mad No. 05 which is Ex. 8/1 on 10.04.2021. He handed over its copy to Wasil Khan SI who prepared injury sheets of the complainant and his brother/verifier and sent the same to hospital through constable Muhammad Alam. The PW verified the report and stated


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that the same is correct and correctly bears

his signature.

5. After hearing both the parties and perusal of the record it was found that according to Mad Report No. 5 dated 10.04.2021 Ex. PW 8/1, the occurrence was taken place during the course of jirga at Kalaya Bazar when the complainant party demanded initiation of jirga proceedings which infuriated the jirga members as well as opposite party, resulting into a quarrel between them. The jirga members Khialmeen and his son Waiz Hussain were also charged for the commission of offence. But the SDPO conducted an inquiry on their application in which they were found innocent and were placed at column No. 2 of the complete challan. They were subsequently acquitted u/s 249-A CrPC by the Court of Judicial Magistrate before the transfer of the case to this Court on 20.09.2025. The said order of acquittal was not challenged. Another accused Qadam Hussain was also placed at column No. 2 of the complete challan by the investigating officer; however, his similar application was turned down.
6. During the course of evidence, both the injured PW-4 and PW-5 charged the present as well as the acquitted accused for the commission of offence with no specific role attributed to any of them. The PW-5, in his cross

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examination, while admitting the fact that he has not assigned specific role to any of the accused in his report, nominated accused Manan Ali for inflicting injury to him in his voluntary statement. According to **2003 YLR 406**, *“voluntary statement by a witness in cross examination has no legal evidentiary value”*. Furthermore, both the injured in their statements have shown their ignorance about the acquittal of accused Khialmeen and Waiz Hussain in their cross examinations showing that they were not deposing truthfully before the Court in spite of the fact that both the said accused were acquitted before the recording of their cross examinations.

7. It is interesting to note that according to medical report Ex PW 3/1 as well as statement of the injured Diar Ali/PW-5, the complainant/PW-4 got broken his teeth in the incident, but he did not utter a single word in this respect in his statement before the Court except that he sustained injury on his face and other body.

8. Secondly, the opposite party had also lodged Daily Diary No. 4 against the complainant and three others in respect of the same incident which was converted into cross FIR No. 53 of 10.04.2021 regarding sustaining injuries by accused Halim Khan and Manan Ali. The accused in the said FIR were acquitted on 20.09.2025 u/s 249-A CrPC by the Court of Judicial Magistrate. It has thus been

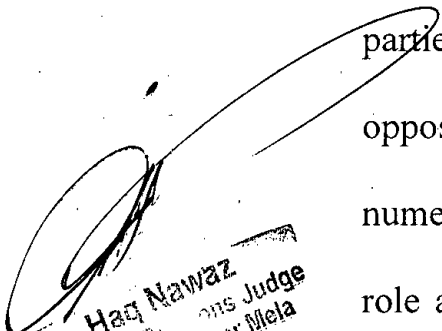

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established that both the parties attributed the role of assault to the adversarial party while concealing the real facts and attempting to cover-up their own role in causing injuries to members of the rival party. In a similar case, the Hon'ble Peshawar High Court, Peshawar in its judgment reported in **2025 YLR 1284** has held that, *"The case indeed was of cross version. However, the question fundamental to the fate of the case as to which party was the aggressor and which was aggressed upon remained unanswered."*

9. In view of the above facts and circumstances, it is held that it was a sudden quarrel between the parties which was taken place due to delay in initiation of jirga proceedings regarding a property dispute on the fateful day. Both the parties concealed the fact of sustaining injuries by the opposite party in their reports. Both have charged numerous members of the opposite party with no specific role attributed to any of them. Hence, the question as to which of the party was the aggressor and which was aggressed upon could not be answered. The application u/s 540 CrPC to summon Qayyum Ali and Sher Ali was rightly dismissed by the Court of Judicial Magistrate in the present circumstances of the case when there is no likelihood of conviction of the accused even if the said witnesses are summoned. The Criminal Revision Petition


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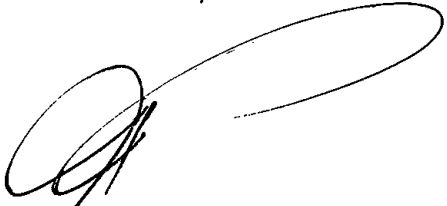
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No. 10/10 of 2026 is, therefore, dismissed and the accused Qadam Hussain S/O Alam Khan, Akram Hussain S/O Alam Khan, Manan Ali S/O Saqi Ghulam Meeran Ali S/O Saqi Ghulam and Halim Ali S/O Muhammad Janan, Caste Mani Khel are acquitted from the charges levelled against them by extending the benefit of doubt in their favour. They are on bail. Their bail bonds stand cancelled and the sureties stand discharge of the liabilities of bail bonds. The case property be destroyed after the period provided for appeal/revision. File of this Court be consigned to record room after its necessary completion and compilation.

Announced:
26.10.2026

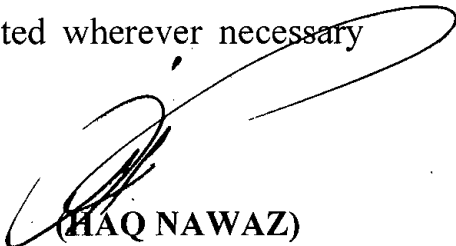

(HAQ NAWAZ)
Sessions Judge, Orakzai,
at Baber Mela

CERTIFICATE

Certified that this judgment consists of twelve (12) pages.

Each page has been read, corrected wherever necessary and signed by me.

Dated: 26.10.2026


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