

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

CRIMINAL APPEAL NO. : 2/10 OF 2026  
DATE OF INSTITUTION : 30.06.2026  
DATE OF DECISION : 24.10.2026

ABID ULLAH S/O AZIZ MANAN, CASTE MISHTI, NAWI MELA,  
DISTRICT ORAKZAI

..... (APPELLANT/CONVICT)

-VERSUS-

1. AIN ULLAH S/O KHAMEEN GUL, CASTE MISHTI, NAWI MELA,  
DISTRICT ORAKZAI
2. THE STATE

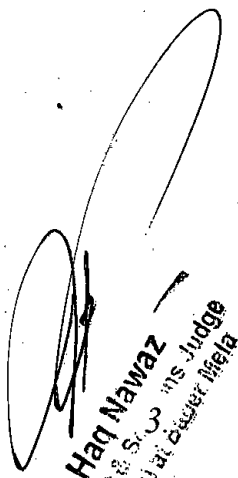
..... (RESPONDENTS)

JUDGEMENT  
24.10.2026

This Criminal Appeal was preferred against the judgment dated 11.06.2026 passed by the Court of learned Judicial Magistrate, Tehsil Courts Kalaya, District Orakzai in case No. 1/2 of 2025 whereby the appellant was convicted in case FIR No. 52, Dated 08.09.2024, registered at Police Station Mishti Mela and sentenced to 01 year and 02 months rigorous imprisonment with fine of Rs. 30,000/- u/s 324 PPC. In default of payment of fine, he was directed to undergo 03-months and 05-days simple imprisonment. He was also convicted and sentenced to 01-year rigorous imprisonment each under Sections 337-A(v) and 337-F(iii) PPC with payment of Arsh amounting to one-third of the Diyat and Daman at the rate of Rs. 100,000/-. The benefit of Section 382-B CrPC was extended to the appellant.

2. According to averments of the FIR, the local police, while responding to the information regarding the incident, rushed to DHQ Hospital Hangu on 07.09.2024 and found the injured

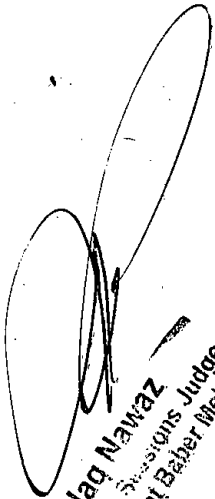
Khameen Gul in the emergency room in unconscious condition. The son of the injured namely Ain Ullah reported the matter at 2120 hours that he along with his father were going to their house at 2035 hours from Masjid Abu Bakar Siddique in their village after offering *Isha* prayer on the eventful day. When they reached to the place of occurrence, the accused Abid Ullah was present there duly armed. The accused, on seeing the complainant and his father, started firing; as a result, his father sustained injuries on his head and shoulder while the complainant escaped unharmed. He further reported that the injured was taken to DHQ Hospital with the assistance of family inmates.

  
Haq Nawaz  
District & Sessions Judge  
Orakzai District, Paktia

After completion of investigation, complete challan was put in Court. The accused was summoned. Copies were provided to him u/s 241-A CrPC. He was formally charged, but the accused pleaded not guilty and claimed trial. The prosecution produced a total of ten (10) witnesses before the Court of Judicial Magistrate whereafter statement of the accused was recorded. The accused claimed innocence but he neither recorded his statement on oath nor opted to produce evidence in defence. The learned Trial Court, after hearing both the parties, convicted and sentenced the appellant as mentioned above; hence, this appeal was preferred.

4. After hearing both the parties and perusal of the record, it was found that according to the initial report, the complainant and his father were going to their home from the village masjid

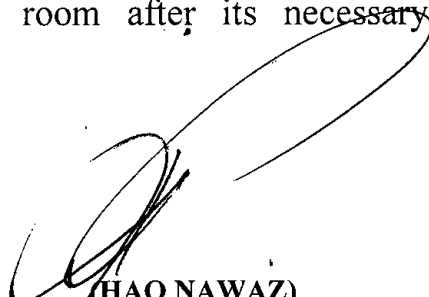
after offering Isha prayer when the accused was present armed at the place of occurrence. The place of occurrence is mentioned as Nawey Mela Shahu Khel in the Murasila Ex. PW 3/1 without any mention of masjid. The Investigating Officer prepared the site plan Ex. PB on the pointation of complainant depicting the place of occurrence inside the boundary wall of the masjid in question where the eyewitness (PW-9) was present at point No. '1' while the complainant (PW-10) was present at point No. '2' of Ex. PB. The blood was recovered from point 'A' which is too inside the boundary wall of the masjid. The accused was shown at point No. '3' of Ex. PB on the roof top of veranda of the masjid. In their statements before the Court, both the PW-9 and PW-10 deposed that they were present inside the boundary wall of the masjid at the relevant time when the accused fired upon father of the complainant from the roof of masjid veranda. In his cross examination, the complainant admitted that in his report he did not mention that they were inside the masjid. He also admitted that they were going to home from masjid at the relevant time. He further admitted that it was not mentioned in the report that the accused fired upon them from the roof top of the veranda of the masjid. No motive was reported by the complainant behind the occurrence nor the IO recovered any empty shell from the place of occurrence. In his cross examination, the Investigating Officer admitted that according to contents of the FIR the occurrence was taken place at night time and no

  
**Haq Nawaz**  
District & Sessions Judge  
Orakzai at Baber Mela

source of light was shown to him nor he mentioned any source of light in the site plan. The date of preparation of site plan is the date of occurrence i.e., 08.09.2024 and the occurrence was taken place at 2040 hours after Isha prayer, but the IO stated that he visited the spot at 06:00 am. Hence, the date of preparation of site plan Ex. PB is not only mentioned incorrectly but the IO contradicted his examination in chief by stating that he visited the spot on 08.09.2024.

5. In view of the above facts and circumstances, the prosecution remained failed to substantiate their case as reported in the Murasila and FIR through confidence inspiring evidence. The impugned judgment was, therefore, not based on correct appreciation of evidence. It is set aside and the accused is acquitted from the charges levelled against him. File of this court be consigned to record room after its necessary completion and compilation.

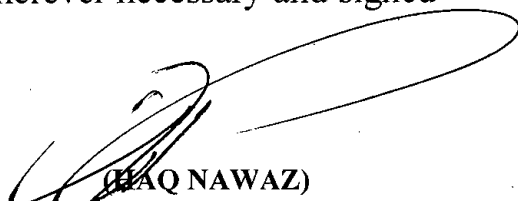
**Announced:**  
24.10.2026

  
(HAQ NAWAZ)  
Sessions Judge, Orakzai  
at Baber Mela

**CERTIFICATE**

Certified that this judgment consists of four (04) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 24.10.2026

  
(HAQ NAWAZ)  
Sessions Judge, Orakzai  
at Baber Mela