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STATE VS KHAN SIDDIQUE ETC.
FIR No. 28, Dated 22.05.2024, u/s 302/324/34 PPC
Police Station: Mishti Mela

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

SESSION CASE NO.	:	12/2 OF 2025
DATE OF INSTITUTION	:	15.08.2024
DATE OF TRANSFER-IN	:	29.05.2025
DATE OF DECISION	:	02.11.2026

STATE THROUGH SAID HABIB S/O KHAN SAID, CASTE MISHTI, TAPA MAMIZAI, R/O VILLAGE SERONEY

----------(Complainant)

VS

1. KHAN SIDDIQUE S/O SOCHA GUL, CASTE MISHTI, TAPA MAMIZAI, VILLAGE SERONEY, DISTRICT ORAKZAI

----------(Accused facing trial)

2. NAVEED ULLAH S/O KHAN SIDDIQUE, CASTE MISHTI, TAPA MAMIZAI, VILLAGE SERONEY, DISTRICT ORAKZAI

----------(Absconding accused)

Present: Abul Qasim, Senior Public Prosecutor for the State.
: Shabbir Ahmad Khan Advocate for accused.

FIR No. 28 || **Dated:** 22.05.2024
U/S: 302/324/34 PPC || **Police Station:** Mishti Mela

JUDGEMENT
02.11.2026

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This case was registered against the accused facing trial **Khan Siddique** S/O Socha Gul and absconding accused **Naveed Ullah** S/O Khan Siddique vide FIR No. 28, Dated 22.05.2024 registered at Police Station Mishti Mela u/s 302/324/34 PPC.

2. According to the prosecution's case, the local police, while responding to information about the occurrence, reached DHQ Hospital Mishti Mela on 22.05.2024 where they found the dead body of Raid Ullah in the emergency room. The brother of deceased namely Said Habib

reported the matter to the local police at 1010 hours that he along with his brother were ploughing their fields near their house with a tractor on the day of occurrence when the accused Mujahid Khan and Wajid Ullah started firing upon them to criminally intimidate them from a nearby hill. The complainant further reported that his brother Sajid Ullah went to the local police station for lodging report, at which the ASHO arrested Mujahid Khan and Wajid Ullah. On the return of police officials, Raid Ullah, the brother of complainant went to the fields at 09:45 hours when the accused Khan Siddique and Naveed Ullah, duly armed, stepped down from a nearby mountain and made firing upon Raid Ullah with the intention to kill him. Resultantly, the brother of complainant got hit from the fire of absconding accused Naveed Ullah and fell down. When the complainant along with Sajid Ullah rushed towards Raid Ullah, the accused also made firing upon them with the intention to kill, but they luckily escaped unhurt. Motive behind the occurrence was dispute over the landed property.

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3. After completion of investigation, complete challan against the present accused and challan U/S 512 CrPC against the absconding accused was submitted. Statement of the SW was recorded and proceedings U/S 512 CrPC were initiated against the absconding accused. The

present accused was summoned and copies were provided to him under Section 265-C CrPC. He was formally charged, but the accused pleaded not guilty and claimed trial. The prosecution produced a total of 09 witnesses before the Court. A brief resume of the depositions of the prosecution's witnesses is as under;

I. SHO, Muhammad Younas appeared before the Court as PW-1. He stated that he arrested the accused facing trial on 22.05.2024 vide card of arrest Ex. PW 1/1. The PW submitted complete challan against the present accused and challan u/s 512 CrPC against the absconding accused which is Ex. PW 1/2.

II. Dr. Muhammad Tariq, Medical Officer, stood in the witness box as PW-2. He stated that he examined the dead body of Raid Ullah on 22.05.2024 at 10:00 AM. During the post-mortem examination, the PW found the following external appearance and injuries on the dead body;

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External appearance:

Condition of subject stout, emaciated, decomposed etc, clothing: No stiffness developed, fresh body, blood-stained body and clothes/no rigor mortis developed.

Wounds, bruises, position, size, nature: A case of firearm injury having entry and exit firearm wound.

Wounds details: Entry wound one in number on left shoulder measuring 1x1 cm. Exit wound on right posterior axillary region measuring 2x2 cm.

Cranium and Spinal Cord: Thorax, plurea, larynx and trachea, right lung, left lung, pericardium, heard and blood vessels were damaged.

Abdomen: All organs were intact except pharynx and oesophagus.

According to opinion of the Medical Officer, the cause of death was excessive bleeding and vital organ damaged due to firearm injuries.

Probable time:

Between injury and death: 20-30 minutes.

Between death and post mortem: 01 hour and 10 minutes.

The PW-3 produced the post-mortem report as Ex. PM. He also deposed that the injury sheet and inquest report bear his endorsement.

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III. Shakeel Khan appeared before the Court and recorded his statement as PW-3. He stated that

he escorted the dead body along with relevant documents to the doctor on 22.05.2024. He also received blood-stained garments of the deceased from the doctor which was handed over by him to the IO. His statement was recorded by the IO u/s 161 CrPC.

IV. Saeed Moharrir recorded his statement as PW-4. He deposed that the Murasila was received by him through constable Saeed Gul which was incorporated into FIR Ex. PA. He handed over its copy to Incharge Investigation. He also received parcels No. 1 to 3 from the IO which was kept by him safely in Malkhana after making its entries in register No. 19 Ex. PW 4/1. He also received parcel No. 4, containing the weapon of offence, from the IO on 24.05.2024 and kept it in Malkhana and made its entry in register No. 19. He handed over these parcels to IO for sending it to FSL on 27.05.2024. The PW produced copies of the Daily Diaries as Ex. PW 4/2. His statements u/s 161 CrPC were recorded by the IO.

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V. Constable Saeed Khan appeared before the Court as PW-5. He deposed that he was present with the IO on the spot on 22.05.2024.

The IO recovered blood-stains through cotton from the place of deceased and three crime empties of 3x3 bore from the place of accused through recovery memo Ex. PW 5/1. The IO packed and sealed the same into parcels No. 1 and 2. He prepared the site plan on the pointation of complainant in presence of the PW-5. He is also witness to the recovery memo Ex. PW 5/2 through which the IO took into possession blood-stained garments of the deceased brought to police station by Constable Shakeel which was packed and sealed by the IO in parcel No. 3. The PW also witnessed the recovery of crime weapon by the IO on the pointation of accused vide recovery memo Ex. PW 5/3 which was packed and sealed into parcel No. 4. The IO also prepared pointation memo Ex. PW 5/4 and recovery sketch Ex. PW 5/5 in presence of the PW. He received parcels No. 1 to 4 from the IO and took it to FSL on 27.05.2024. The PW along with constable Khaleel raided the house of accused on 04.06.2024. The IO recorded his statement u/s 161 CrPC.

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VI. SI, Akhtar Munir, appeared before the Court and recorded his statement as PW-6. He stated that he rushed to DHQ Hospital Mishti Mela on receiving information about the incident on 22.05.2024. He drafted Murasila Ex. PW 6/1 upon the report of complainant. The PW prepared injury sheet and inquest report of the deceased which are Ex. PW 6/2 and 6/3. He sent the dead body to the doctor for PM examination and the Murasila to police station for registration of FIR.

VII. The complainant, Said Habib, appeared before the Court and recorded his statement as PW-7. He stated that he along with Sajid Ullah were ploughing the fields with the help of tractor at morning time on 22.05.2024 when Mujahid Khan and Wajid Ullah made firing upon them to criminally intimidate them from a nearby hill. Sajid Ullah proceeded to the Police Station Mishti Mela for lodging report whereafter the said Wajid Ullah and Mujahid Khan were arrested. The complainant along with Sajid Ullah and deceased Raid Ullah went to their fields at 09:45 hours when the accused facing trial Khan Siddique and absconding

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accused Naveed Ullah, duly armed, stepped down from a nearby hill and started firing upon the deceased who received injuries from the firing of absconding accused Naveed Ullah. When the PW along with Sajid Ullah rushed towards Raid Ullah, who was died, the accused facing trial and absconding accused also made firing upon them but they escaped unhurt. Motive behind the occurrence was dispute over the landed property. They took the dead body to Mishti Mela Hospital where the complainant lodged his report. The complainant and Sajid Ullah thumb impressed the Murasila. The IO prepared site plan on the pointation of complainant and PW Sajid Ullah. He charged the present accused Khan Siddique and absconding accused Naveed Ullah for the commission of offence.

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VIII. Sajid Ullah stood in the witness box as PW-8. He stated that he along with complainant were ploughing the fields with the help of tractor on 22.05.2024 at morning time when Mujahid Khan and Wajid Ullah made firing upon them from a nearby hill. The PW went to the Police Station Mishti Mela for lodging report

whereafter the police arrived and arrested Wajid Ullah and Mujahid Khan. He along with complainant and deceased Raid Ullah went to the fields. Raid Ullah was ahead at some distance when the accused facing trial Khan Siddique and absconding accused Naveed Ullah, duly armed, stepped down from a nearby hill and started firing upon Raid Ullah who got hit from the firing of absconding accused Naveed Ullah. When the PW along with the complainant rushed towards Raid Ullah, who was died, the accused also made firing upon them but they escaped unhurt. Motive behind the occurrence was dispute over the landed property. They took the dead body to Mishti Mela Hospital where the complainant made the report to the police which was verified by the PW. He along with complainant pointed out the place of occurrence to the IO who prepared the site plan. The PW charged the accused namely Khan Siddique and absconding accused Naveed Ullah for the commission of offence.

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IX. Muhammad Hanif IO appeared before the Court as PW-9. He stated that after

entrustment of the investigation in the instant case, he visited the spot and prepared the site plan Ex. PW 9/2 on the pointation of complainant and eyewitness. The IO took into possession blood through cotton from the place of deceased which was packed and sealed by him into parcel No. 01 (Ex. P1). He also took into possession three crime empties of 3x3 bore from the place of accused and packed and sealed the same into parcel No. 2 (Ex. P2) through recovery memo Ex. PW 5/1. He recorded the statements of PWs u/s 161 CrPC. The IO took into possession blood-stained garments of the deceased which were sent by the doctor through constable Shakeel Khan vide recovery memo Ex. PW 5/2 and packed and sealed the same into parcel No. 03 (Ex. P3). He produced the present accused before the Area Judicial Magistrate for obtaining physical custody on 23.05.2024 and two days custody was obtained. The IO interrogated the accused. He recovered 3x3 bore rifle at the instance of accused during investigation vide recovery memo Ex. PW 5/3 which was packed and sealed into parcel No. 04 (Ex. P4). He also

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prepared the recovery sketch Ex. PW 5/5 and pointation memo Ex. PW 5/4 at the instance of accused. The IO again produced the accused before the Judicial Magistrate vide application Ex. PW 9/4 for recording his confessional statement on 25.05.2024, but he refused to confess his guilt and was sent to Judicial lock-up. The PW issued parwana Ex. PW 9/5 for addition of Section 15AA against the accused in the instant case. He sent parcels No. 1 to 4 to FSL through Constable Saeed Khan on 27.05.2024 vide applications Ex. PW 9/6 and Ex. PW 9/7 and route certificates Ex. PW 5/6 and Ex. PW 5/7. He produced the FSL report regarding blood-stained articles and recovered crime empties and rifle as Ex. PW 9/8 and Ex. PW 9/9. He also prepared the list of legal heirs of the deceased which is Ex. PW 9/10. The IO conducted house search of the absconding accused Naveed Ullah on 04.06.2024 but he was not found; therefore, the IO proceeded against him u/s 204 and 87 CrPC vide applications Ex. PW 9/11 and Ex. PW 9/12. He submitted the case file to SHO for submitting complete challan and challan u/s

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512 CrPC after completion of the investigation.

4. After completion of prosecution's 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. I have heard learned Sr. PP and counsel for the accused.

5. After hearing both the parties and perusal of the record, it was found that according to the initial report as well as the statements of complainant/PW-7 and eyewitness/PW-8, the present accused was charged for ineffective firing upon the complainant and eyewitness. This fact was also admitted by the other PWs. The Investigation Officer has given the distance between the present as well as the absconding accused at points 4 and 5 in the site plan Ex. PW 9/2 and the deceased and complainant as well as eyewitness at points 1, 2 and 3 of the site plan as 226 paces which comes out to be about 621 feet. The said fact was admitted by the complainant in his statement before the Court as well. He further admitted that there were trees and bushes in the hill wherefrom the firing was being made. On the other hand, the eyewitness submitted in his cross examination that the distance between the accused and deceased was 25 paces and there were no

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trees and bushes at the place from where the firing was made, showing that the eyewitness was unaware about the place and mode and manner in which the occurrence was taken place. Furthermore, the IO recovered three empty shells of 3x3 bore from the place of occurrence at the time of pointation of the spot by the complainant, but the complainant shown his ignorance about the recovery of empties from the spot by the police in his cross examination as PW-7. Similarly, the IO deposed as PW-9 that during the course of interrogation of accused, he recovered a 3x3 bore rifle at his instance vide recovery memo Ex. PW 5/3. The IO prepared a recovery sketch Ex. PW 5/5 and pointation memo Ex. PW 5/4 in this respect. The record shows the arrest of accused on the day of occurrence on 22.05.2024 vide card of arrest Ex. PW 1/1 and the recovery memo Ex. PW 5/3, the recovery sketch Ex. PW 5/5 and pointation memo Ex. PW 5/4 bear the date as 24.05.2024. But the marginal witness to the said documents, who appeared before the Court as PW-5, submitted in his cross examination that the IO recovered the rifle on 22.05.2024. He again negated the suggestion that the rifle was not recovered on 22.05.2024. He also not mentioned any date of recovery of rifle in his examination in chief. Hence, the recovery of rifle on the pointation of accused on 24.05.2024 has also become

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doubtful. Though according to the FSL report Ex. PW 9/9, the three 3x3 bore crime empties were fired from the 3x3 bore rifle, allegedly recovered on the pointation of present accused, but he is not charged for effective firing upon the deceased, but was given the role of ineffective firing upon the complainant and eyewitness; therefore, the positive FSL report is not beneficial for the prosecution.

6. The above facts have made the prosecution's case full of doubts at least to the extent of present of accused with regard to his involvement in the commission of offence as well as the recovery of crime weapon on his pointation on 24.05.2024. Resultantly, the accused **Khan Siddique** S/O Socha Gul, Caste Mishti, Tapa Mamizai, Village Seroney, District Orakzai, is acquitted of the charges levelled against him by extending the benefit of doubt in his favour. The accused is on bail. His bail bonds stand cancelled and the sureties are discharged of the liabilities of bail bonds. The record and evidence prima facie connect the accused **Naveed Ullah** S/O Khan Siddique, Caste Mishti, Tapa Mamizai, Village Seroney, District Orakzai with the commission of offence. He is, therefore, declared as proclaimed offender. Perpetual warrant of arrest be issued against him and his name be entered on the roll of register maintained for the purpose. The case property be kept intact till arrest of the absconding

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accused and final disposal of the case. File of this Court be consigned to record after its necessary completion and compilation.

Announced:
02.11.2026

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

CERTIFICATE

Certified that this judgment consists of fifteen (15) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 02.11.2026

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Sessions Judge, Orakzai,
at Baber Mela