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

SESSION CASE NO.	:	6/3 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

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

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

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

FIR No. 28 || **Dated:** 22.05.2024
U/S: 15AA || **Police Station:** Mishti Mela

JUDGEMENT
02.11.2026

This case was registered against the accused **Khan Siddique** S/O Socha Gul vide FIR No. 28, Dated 22.05.2024 registered at Police Station Mishti Mela u/s 15AA.

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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 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 accused was submitted. The 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 relevant 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 accused which is Ex. PW 1/2.

II. 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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III. 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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IV. 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.

V. 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 Khan Siddique and Naveed Ullah, duly armed,

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stepped down from a nearby hill and started firing upon the deceased who received injuries from the firing of accused Naveed Ullah. When the PW along with Sajid Ullah 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 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 accused for the commission of offence.

VI. 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

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the fields. Raid Ullah was ahead at some distance when the accused, duly armed, stepped down from a nearby hill and started firing upon Raid Ullah who got hit from the firing of 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 for the commission of offence.

VII. 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

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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 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 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

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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. He submitted the case file to SHO for submitting complete challan and challan u/s 512 CrPC after completion of the investigation.

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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 during the course of interrogation of the case, the IO recovered a 3x3 bore rifle at the instance of accused vide recovery memo Ex. PW 5/3 resulting into

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addition of section 15AA against the accused and submission of present challan, after completion of investigation. The IO prepared a recovery sketch Ex. PW 5/5 and pointation memo Ex. PW 5/4 in respect of recovery of 3x3 bore rifle on the pointation of accused. The record shows the arrest of accused 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 become doubtful.

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6. The above facts have made the prosecution's case full of doubts with regard to recovery of weapon of offence on the pointation of accused 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

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discharged of the liabilities of bail bonds. The case property be kept intact till the arrest of absconding accused and final conclusion of the trial. File of this Court be consigned to record after its necessary completion and compilation.

Announced:
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CERTIFICATE

Certified that this judgment consists of eleven (11) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 02.11.2026

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Sessions Judge, Orakzai,
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