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STATE VS AJMIR KHAN ETC.  
FIR No. 24 Dated: 02.07.2022 U/S: 302/109/148/149/404 PPC  
Police Station: Mishti Mela

**IN THE COURT OF SHAUKAT AHMAD KHAN**  
**SESSIONS JUDGE, ORAKZAI AT BABER MELA**

SESSION CASE NO. : 9/2 OF 2022  
DATE OF INSTITUTION : 05.10.2022  
DATE OF DECISION : 22.12.2022

STATE THROUGH COMPLAINANT TAJ WALI KHAN S/O  
DEEWAN SHAH, AGED ABOUT 38 YEARS, R/O CASTE MISHTI,  
TAPA HAIDER KHEL, VILLAGE MISHTI BAZAR, ORAKZAI

------(Complainant)

VS

1. AJMIR KHAN S/O DAULAT SHAH, AGED ABOUT 20 YEARS, R/O  
TRIBE MISHTI TAPA HAIDER KHEL, PO MISHTI, MISHTI BAZAR,  
TEHSIL CENTRAL, DISTRICT ORAKZAI
2. DAULAT SHAH S/O ZAR BADSHAH, AGED ABOUT 66 YEARS,  
R/O TRIBE MISHTI TAPA HAIDER KHEL, PO MISHTI, MISHTI  
BAZAR, TEHSIL CENTRAL, DISTRICT ORAKZAI

------(Accused facing trial)

**Present** : Umar Niaz, District Public Prosecutor.  
: Jamal Hussain Advocate for accused facing trial.  
: Bakhtiar Muhammad Advocate for complainant.

**FIR No. 24**  
U/S: 302/109/148/149/404 PPC

**Dated: 02.07.2022**  
**Police Station: Mishti Mela**

**ORDER**  
22.12.2022

The accused named above are charged for the  
offence u/s 302/109/148/149/404 PPC vide FIR no. 24,  
dated 02.07.2022 of Police Station Mishti Mela.

- (2). The case of the prosecution as per Murasila based  
FIR is; that the local police acting on information regarding  
the occurrence reached Seroni mountains Asghardag where  
they found a dead body which was shifted to DHQ hospital  
where the complainant Taj Wali Khan on 02.07.2022 at  
2010 hours made a report to the police to the fact that his  
son aged about 13/14 years was a student of madrassah who  
was on leave on 01.07.2022, a day before the day of report.

Shaukat Ahmad Khan  
District & Sessions Judge  
Orakzai at Baber Mela  
27/12/22

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That on 01.07.2022 at about 1000 hours, he had left the house and when he did not return till evening, he (the complainant) searched him in the houses of his relatives and that now he found him dead in the hospital. The complainant charged unknown accused for commission of the offence.

(3). After registration of FIR, it was handed over to Investigating Officer for investigation. Accordingly, after receipt of FIR, he reached the spot. He took into possession some grass and blood-stained pebble from the place of deceased vide recovery memo Ex. PC, sealed the same into parcel No. 1. He also recovered 02 empties of 30 bore pistol near the place of deceased and sealed the same into parcel no. 4. He prepared site plan on the pointation of SHO and later on made addition in the site plan on the pointation of accused after their arrest. He also took into possession blood-stained Shalwar and Kamees of the deceased vide recovery memo, sealed the same into parcel no. 2 followed by sending parcels no. 1 & 2 to FSL on 04.07.2022 through constable Abdullah vide road permit certificate and application addressed to the incharge FSL.

Shaukat Ahmad Khan  
District & Sessions Judge,  
Orakzai at Baber Mela

22/1/22

On 06.07.2022, the complainant in his statement recorded u/s 164 CrPC before the court of Judicial Magistrate, charged the accused facing trial Ajmir Khan and Daulat Shah along with co-accused Muhammad Siraj, Azi

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Ullah, Jahanzeb, Shahid and Zakir Ullah for the commission of offence.

(4). Upon receipt of case file for the purpose of trial, the accused were summoned, copies of the record were provided to them u/s 265-C CrPC and formal charge was framed against them to which they pleaded not guilty and claimed trial. Accordingly, the witnesses were summoned but so far, the prosecution examined as many as 04 witnesses namely, Muhammad Younas SHO, constable Khalil Ullah, Dr. Muhammad Ameer and constable Naveed Ullah as PW-1 to PW-4 respectively.

(5). Counsel for the accused submitted application for acquittal of the accused u/s 265-K CrPC for the reasons mentioned therein.

(6). I heard arguments and perused the record.

(7). Perusal of the case file shows that the occurrence is unseen and unwitnessed. The accused facing trial are not directly nominated in the FIR rather they have been charged by complainant in his statement u/s 164 CrPC recorded after 06 days of the occurrence and that too on the basis of his information and satisfaction without disclosing the source of his information and satisfaction. There is nothing available on file except the statement of complainant, who too despite being given repeated opportunities, failed to give evidence in the court.

  
Shaukat Ahmad Khan  
District & Sessions Judge,  
Oratza at Baber Mela

(8). Hence, in view of what is discussed above, it is held that there is no probability of the conviction of accused facing trial, even if the prosecution is given further opportunity to produce the remaining witnesses; therefore, accused namely, **Ajmir Khan and Daulat Khan**, on acceptance of their application, are acquitted from the charges levelled against them u/s 265-K CrPC. The accused are on bail. Their bail bonds stand cancelled and their sureties are discharged of the liabilities of their bail bonds. The case property be destroyed after the period provided for appeal/revision. Consign.

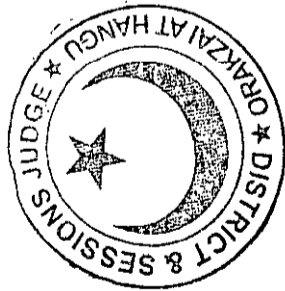
**Pronounced**  
22.12.2022


  
**(SHAUKAT AHMAD KHAN)**  
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: 22.12.2022



  
**(SHAUKAT AHMAD KHAN)**  
Sessions Judge, Orakzai,  
at Baber Mela