

IN THE COURT OF ASGHAR SHAH
SESSIONS JUDGE, ORAKZAI (AT HANGU)

SESSIONS CASE NO. : 3/19 OF 2019
DATE OF INSTITUTION : 29.11.2017
DATE OF TRANSFER : 15.05.2019
DATE OF DECISION : 25.05.2019

STATE

.....(COMPLAINANT)

-VERSUS-

KHAN HUSSAIN S/O SHEIKH MUHAMMAD CASTE ALI KHEL LOWER
ORAKZAI

.....(ACCUSED)

JUDGEMENT
25.05.2019

Reportedly the accused facing trial was arrested by the security forces of Orakzai scouts on the allegations of being an informer/facilitator of Tehreek Taliban Pakistan (TTP), a defunct organization involved in killing of security forces and civilians.

2. Thereafter Orakzai Scouts through their letter dated 20/11/2017 handed over the accused facing trial to the erstwhile Assistant Political Agent (APA) Upper Orakzai for purpose of trial under section 121-A/122/123 PPC. The Court of then APA Upper Orakzai communicated several times with the security forces for conducting joint investigation report (JIT) but having received no response, the case was referred to the council of elders for decision of the matter under the

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FCR (Frontier Crimes Regulations) but however no decision was made by the said council of elders. After the abolishment of FCR and establishment of regular courts, the case was initially sent to the Judge anti-terrorism court Kohat but the same was returned to this court for the purpose of trial on account of same being case of ordinary jurisdiction.

3. Upon the receipt of case file, notice was issued to accused facing trial as he was on bail from the court of anti-terrorism Kohat. On the last date when the case file got perused, it transpired that allegations against the accused facing trial are general in nature as there was no material available on the case file to show the specific act/ offence committed by him. Hence show cause notice was issued to the prosecution to explain the availability of material with them for charge sheeting and proceeding against the accused facing trial. Accordingly, today the learned District Public Prosecutor Orakzai submitted written reply to the show cause notice by submitting that neither the JIT was conducted to determine the guilt/ offence of the accused nor the council of elders was able to render any decision regarding the allegations levelled against the accused facing trial. It was further submitted that neither the security forces nor the Ex-Political administration brought any reliable or tangible evidence in pursuance of the allegations. It was also submitted that neither the accused facing trial confessed his

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guilt nor anything incriminating recovered either from or upon his pointation besides no specific incident was quoted which resulted in facilitation of the TTP. Hence with these submissions, the learned District Public Prosecutor requested the court that since they have got no sufficient evidence against the accused facing trial therefore neither charge can be framed nor evidence could be recorded to substantiate the allegations levelled against him and accordingly the accused facing trial was recommended for discharge/ acquittal.

Khan Hussain
25/05/19

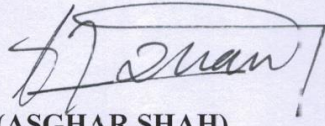
4. After going through the case file and submissions of learned District Public Prosecutor, this court reaches to the conclusion that opinion of the present court is not different from the one drawn by the learned counsel for the state. Admittedly, the accused remained behind the bar for sufficient time but no evidence/ material was brought on record to proceed against the accused facing trial. Even after passing almost 2 years in jail, the allegations against the accused remained allegations without any proof and at the moment except the charging of accused for the allegations of informer/ facilitator of TTP no other material is available on the record to charge sheet and proceed against the accused facing trial.

5. Therefore, in the light of above, accused facing trial, Khan Hussain is hereby discharged from the charges levelled against him. His sureties stand discharged from the liability of

bail bonds. The personal belongings of the accused i.e cash of Rs. 9500/-, his CNIC and Mobile set Nokia with Sim Card be returned to him forthwith.

6. File be consigned to Sessions Record Room after its completion and compilation.

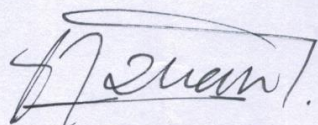
Announced
25.05.2019


(ASGHAR SHAH)
Sessions Judge,
Orakzai (at Hangu)
25/05/19

CERTIFICATE

Certified that this judgment consists upon four (04) pages. Each page has been read, corrected where-ever necessary and signed by me.

Dated: 25.05.2019.


(ASGHAR SHAH)
Sessions Judge,
Orakzai (at Hangu)
25/05/19