

IN THE COURT OF ASGHAR SHAH *J.S. court*
SESSIONS JUDGE, ORAKZAI (AT BABER MELA)

CNSA CASE NO. : 3/19 OF 2019
DATE OF INSTITUTION : 13.07.2018
DATE OF TRANSFER : 01.04.2019
DATE OF DECISION : 26.06.2019

STATE THROUGH ORAKZAI SCOUTS 232 WING

.....(COMPLAINANT)

-VERSUS-

IBRAHIM KHAN S/O ABDUL SAOOD R/O FERAZ KHEL
LOWER DISTRICT ORAKZAI

..... (ACCUSED)

JUDGEMENT
26.06.2019

Reportedly the accused facing trial was arrested by the Orakzai Scouts 232 Wing on 01.07.2018 at unknown time at Hassan check post along with Thirteen packets of Chars (15.1kg) and thereafter accused was handed over to the Ex-Political Administration for trial on 15.07.2018 without any case property.

2. After the abolishment of FCR and establishment of regular courts, the case in hand was sent to this court for the purpose of trial.

3. Upon the receipt of case file, notice was issued to accused facing trial as he was on bail and upon his appearance the proceedings were initiated and he was charge sheeted to

Asghar
26.6.19

which he pleaded not guilty and claimed trial and accordingly the witnesses were summoned. Out of the witnesses PW-1 Rasool Gul S.I received the accused from the Orakzai Scouts whereas the other witness PW-2 Habib Ullah Khan is the elder of the locality and was nominated by the Ex-Political Administration for convening the Jirga to determine the guilt or otherwise of the accused facing trial but however no Jirga was held. Thereafter, continues correspondence were made with the Orakzai Scouts to produce the case property and the recovery witnesses but of no use. Accordingly, counsel for the accused facing trial submitted an application U/S-265-K Cr.P.C for the acquittal of the accused. Notice of the application given to the DPP for the state.

Handwritten signature and date:
 28/08/19

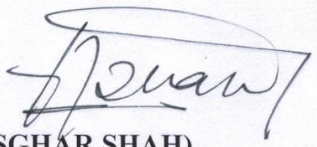
3. Hence, arguments heard record perused.
4. From the arguments and record available on file, it reveals that in the whole case file the name of the complainant and the recovery witnesses are not mentioned besides even after the alleged recovery of contraband, the same were neither sent to FSL nor any samples from the same were separated or sealed at the spot. Hence, in the absence of the same the nature of recovered items could not be determined to be the Chars as alleged in the initial report. Moreover, the DPP through his letter dated 04.04.2019 requested the Commandant Orakzai Scouts for production of witnesses and case property but it was replied by the Orakzai Scouts through their letter dated

31.05.2019 that they have burnt the alleged recovered Chars during Central Drugs burning ceremony in the Headquarter Frontier Crops KP (North) however the letter is silent with regard to the witnesses. The learned DPP has placed on file the copy of the said letter. When admittedly there is no witness ready to depose out of the Orakzai Scouts regarding alleged recovery of alleged Chars against the accused facing trial besides the case property been burnt by the Orakzai Scouts illegally without the permission of the court, there is nothing available to proceed against the accused facing trial and even if the remaining witnesses are examined, there is no probability of the accused being convicted for the offence charged for.

5. Therefore, in the light of above, application U/S-265-K Cr.P.C is accepted and accused facing trial, Ibrahim Khan is hereby acquitted from the charges levelled against him through the case in hand. His sureties stand discharged from the liability of bail bonds. The personal belongings of the accused i.e cash of Rs. 30/-, his CNIC and CNIC of his father, one wrist watch and one wallet be returned to him forthwith.

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

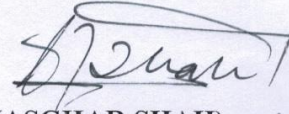
Announced
26.06.2019


(ASGHAR SHAH)
Sessions Judge, Orakzai,
at Baber Mela J.S.c
26.6.19

CERTIFICATE

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

Dated: 26.06.2019.



(ASGHAR SHAH)
Sessions Judge, Orakzai, JSC
at Baber Mela

26.6.19