

Order No. 03
20.10.2020

DPP, Umar Niaz for the State present. Sami Ullah ASI, incharge police post Syed Khalil Baba present and his statement recorded as CW-1. The DPP for the state by recording his statement requested for the discharge of the accused on the strength of deficient and weak evidence.

As per brief facts of the case, on 16.06.2020, at about 11:00 am, local police were present on naka-bandi when a person was focused having a plastic sack on his shoulders coming from Utman Khel side on kacha road but on seeing the police personnel, the said person while throwing the plastic sack, successfully decamped from the spot. The search of the plastic sack lead to the recovery of 13 packets chars weighing 1200 grams each (total 15600 grams). The samples were separated for chemical analysis and thereafter, the parcels and remaining case property was sealed in separate parcels. The recovery memo Ex. CW 1/1 was drafted and upon inquiry, accused Abdullah s/o Muhammad was nominated in the Murasila Ex. CW 1/2. On the strength of Murasila, FIR was registered.

After completion of investigation, the learned District Public Prosecutor submitted the case for discharge of the accused within the meanings of section 4-C (II) and 5-B of the Khyber Pakhtunkhwa Prosecution Act, 2005 and requested for the withdrawal of the case u/s 494 Cr.P.C on the strength of deficient and weak evidence.

In order to ascertain the facts, complainant, Sami Ullah SI was summoned and examined as CW-1. The complainant

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admitted in his statement that the accused was not identified either by him or his accompanied officials and that the name of the accused was confirmed from the people of the locality but the witness was unable to name the people of the locality either to the court or to the investigating officer. The learned DPP beneath the statement of the complainant recorded his statement requested for the discharge of the accused. As such, there is nothing to proceed further because neither the accused was arrested at the spot nor the star witness of the prosecution is able to identify the accused besides neither his features are mentioned in the initial report nor any identification parade was conducted during the investigation to determine as to whether the accused facing trial was the real culprit or otherwise. The recording of evidence would be a futile exercise, therefore, the application of the learned DPP is accepted and above-named accused stand discharged from the instant case whereas the case stand dismissed as withdrawn. Bail bonds of the accused stand cancelled and his sureties stand absolved from the liabilities of bail bonds. Case property be disposed of in accordance with law.

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

Announced:
20.10.2020



(ASGHAR SHAH)
Sessions Judge/Judge Special
Court, Orakzai at Baber Mela