

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

CRIMINAL APPEAL NO. : 1/10 OF 2023
DATE OF INSTITUTION : 17.05.2023
DATE OF DECISION : 25.05.2023

1. STORI GUL S/O MOEEN GUL
 2. SHANA GUL S/O SHEERAZ GUL
 3. MEHBOOB KHAN S/O MASHAL KHAN,
 4. YOUSAF S/O TAJ MALOOK
- ALL R/O CASTE FERROZ KHEL, TAPA JASAL KHEL, TEHSIL
LOWER, DISTRICT ORAKZAI

..... (APPELLANTS/CONVICTS)

-VERSUS-

STATE THROUGH NASIR KHAN SI, POLICE STATION KALAYA

..... (RESPONDENT)


Present: Sana Ullah Khan Advocate for appellants.
: DPP, Umar Niaz for State.

JUDGMENT
25.05.2023

Impugned herein is the judgment/order dated 12.04.2023 of learned Judicial Magistrate-I, Tehsil Kalaya, District Orakzai vide which appellants/convicts has been convicted and placed on probation for a period of three (03) years.

(2). Today, the case was fixed for order; however, at the very outset learned counsel for appellants/convicts submitted application for reducing the period of probation instead of disposal of the instant appeal on the basis of merits. The same is placed on file.

(3). Perusal of case file shows that the instant case has been registered against the appellants/convicts on 21.05.2021 and the same has been submitted for trial on 17.08.2021 and formal charge has been framed against them on 17.11.2021 to which they had not pleaded guilty and claimed trial.


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Thereafter, the appellant/convicts have gone through the agonies of a long-protracted trial for a period of about more than one and a half year where the prosecution has examined as many as 07 witnesses. The statements of the appellants/convicts have been recorded u/s 342 CrPC wherein none of them has admitted his guilt. Arguments were also heard by learned trial court and the case has been remained adjourned for three times and it was 12.04.2023 on the last date fixed for order where the appellants/convicts have submitted application for disposal of their case on the basis of plead guilty and that too on the basis of getting rid of the protracted trial and the learned trial court without discussing the merits of the case has solely relied upon the application of appellants/convicts for pleading of their guilt. The circumstances of the case clearly necessitate remand of the case back to the learned trial court for recording of judgment by taking into account the merits of the case as well, but again the appellants/convicts in order to get rid of the agonies of trial have submitted the instant application for reduction in the period of probation instead of disposal of appeal on the basis of merits.


(4). Hence, keeping in view the fact that the appellants/convicts have already gone through the agonies of long-protracted trial, the fact that there is nothing available on file showing the previous involvements of appellants/convicts in such like cases and the fact that the


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appellants/convicts are the sole bread earners for their family, the application seems genuine. Hence, on acceptance of the instant appeal the impugned judgment/order of the learned trial court is set aside to the extent of the period of probation which is reduced from three (03) years to one (01) year. The remaining conditions of the probation order will remain intact. Copy of this judgment be sent to the concerned Probation Officer for compliance. Consign. Copy of this judgment also be sent to learned trial court for information.


Pronounced:
25.05.2023


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CERTIFICATE

Certified that this judgement consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 25.05.2023


SHAUKAT AHMAD KHAN
Sessions Judge, Orakzai
at Baber Mela

