

Order No. 06
28.01.2021

DPP, Umar Niaz for the State present.
Supplementary challan against the accused already received and placed on file.

- (2). The case in hand was registered against the accused Khan Karim s/o Itbar Khan through case FIR no. 95 dated 14.08.2020 u/s 9 (d) CNSA of PS Kalaya Lower Orakzai. The local police as per contents of the Murasila on 14.08.2020 were present at naka bandi of police post Syed Khalil Baba when meanwhile they received spy information regarding the smuggling of chars by the above-named accused. It was about 07:00 am when the said accused was seen at some distance coming towards the naka bandi having a plastic shoper in his hand. Upon the call of local police, the accused while throwing the plastic shoper successfully decamped from the spot. The search of the plastic shoper by the local police lead to the recovery of 03 packets chars, which each packet upon weighment through digital scale came out 1250 grams each (total 3750 grams). The local police separated samples from each packet for FSL, prepared recovery memo, drafted Murasila and sent the same to the PS and accordingly the FIR in question was registered against the above-named accused.

- (3). The local police despite proceedings u/s 204 and 87 Cr.P.C could not procure the attendance of accused; hence

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Orakzai at Hangu

the challan was submitted before the present court u/s 512 Cr.P.C. However, later on the accused was arrested and was released on bail, hence his supplementary challan was requisitioned which is received and placed on file.

(4). The perusal of supplementary challan would reveal that the learned DPP Umar Niaz alongwith supplementary challan requested through written application for the discharge of accused u/s 4-C (ii) and 5 (b) of The Khyber Pakhtunkhwa Prosecution Act, 2005 on the basis of weak evidence.

(5). After hearing the arguments and perusal of the case file, it reveals that admittedly the recovery of chars was neither effected from the immediate possession of the accused or upon his pointation. The local police despite prior information could not arrest the accused nor they have mentioned the feature of the accused in the initial report. Moreover, even after the arrest of the accused, no identification parade through PWs present on the spot was conducted in order to identify him to be same accused who allegedly thrown away the plastic shoper and decamped therefrom. The record is also silent with regard to the previous history of the accused regarding involvement in such like cases in the past. During the investigation, the accused remained in custody of local police for sufficient time but neither he owned the recovered chars nor any

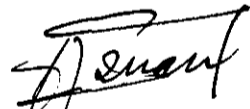
Umar Niaz
District & Sessions Judge
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connection of the accused was proved with the same. The case in hand on the basis of said evidence, if proceeded, would bear no fruit except acquittal. Therefore, the learned DPP for the State has very rightly requested for the discharge of accused on the strength of weak evidence. The application of the DPP is accordingly accepted and above-named accused is accordingly discharged from the case through the allegations levelled against him via FIR in question. Accused is on bail, his bail bonds stand cancelled and his sureties stand discharged from the liabilities of bail bonds. The recovered chars be destroyed in accordance with law but after the period provided for appeal/revision.

- (6). File be consigned to Session record room after its necessary completion and compilation.

Announced:

28.01.2021



(ASGHAR SHAH)

Sessions Judge/Judge Special
Court, Orakzai at Baber Mela