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IN THE COURT OF REHMAT ULLAH WAZIR,
JM-I/MTMC, ORAKZAI AT BABER MELA

CASE NO. : 24/2 OF 2020
DATE OF INSTITUTION : 07.08.2020
DATE OF DECISION : 27.01.2021

STATE THROUGH KHANA DEEN S/O KOKI KHEL, R/O STORI
KHEL, MALA KHEL, QAMBAR KHWA, LOWER, ORAKZAI.

------(Complainant)

VS

1. SPEEN GUL S/O AMAL KHAN
2. HAYAT ULLAH S/O ITBAR SHAH
3. MUHAMMAD AMEER S/O SPEEN GUL
(All R/O STORI KHEL, MALA KHEL, QAMBAR KHWA,
LOWER, ORAKZAI.

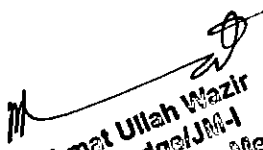
------(Accused Facing Trial)

Present: Nisar Ahmad, Assistant Public Prosecutor for
complainant.
: Sana Ullah Khan Advocate, for accused facing trial.

ORDER
27.01.2021

Accused facing trial, Speen gul S/O Amal khan, Hayat Ullah s/o Itbar shah, Muhammad Ameer s/o Speen Gul present who are charged in case FIR no. 43 Dated 19.05.2020 U/S 506/337-A(i)/34 PPC and 15-AA of PS Lower Orakzai for criminal intimidation and injury to the complainant.

1. Briefly stated factual background of the instant case is that the complainant Khana Deen S/O Koki Khel reported the matter of criminal intimidation and injury to


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him. That the accused attacked the complainant with fists and kicks and hit him with the butt of a rifle, which caused head injury to the complainant. That afterwards the accused made aerial firing for criminally intimidating the complainant.

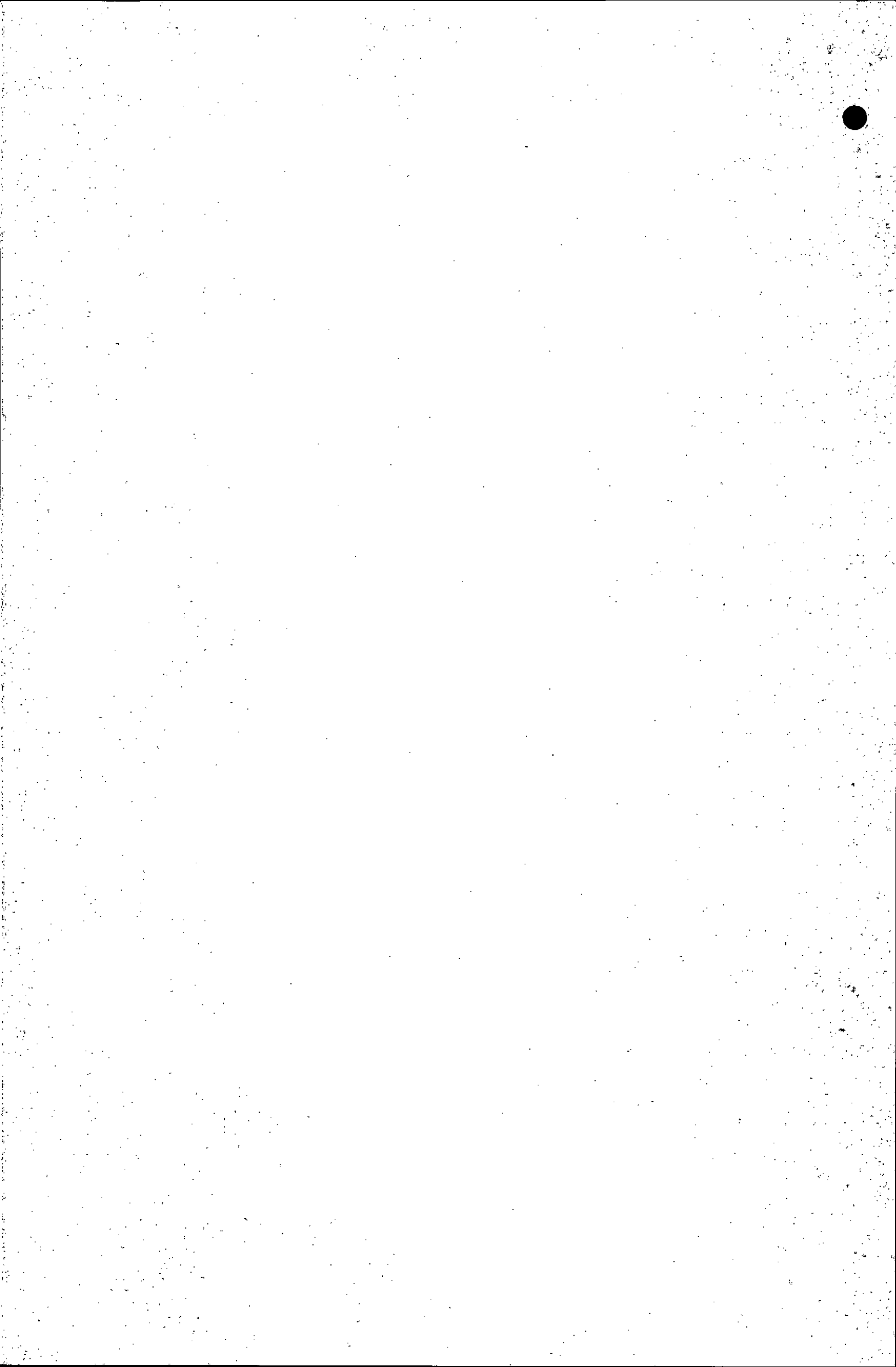
2. Thus, the instant case was registered at PS: L/Orakzai on 19.05.2020 vide FIR. 43.

3. After completion of the investigation, the complete challan was submitted on 07.08.2020 to this court. The accused on bail were summoned. The accused on bail appeared and the provisions of 241-A Cr.P.C were duly complied with. The formal charge against the accused on bail was framed on 29.10.2020, to which the accused persons pleaded not guilty and claimed trial.

4. Prosecution was given ample opportunity to adduce its evidence as it desired. Prosecution produced the following evidence;

- i. Dr. Usman Gul, Medical Officer, THQ Hospital Kalaya, appeared as PW-1.
- ii. Mr. Muhammad Shafiq, SHO, PS: L/Orakzai, who submitted complete challan, as PW-02.
- iii. Mr. Khursheed Anwar ASHO, PS: L/Orakzai, who chalked FIR, as PW-03.

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Civil Judge (M-4)
Orakzai (District Muzaffargarh)

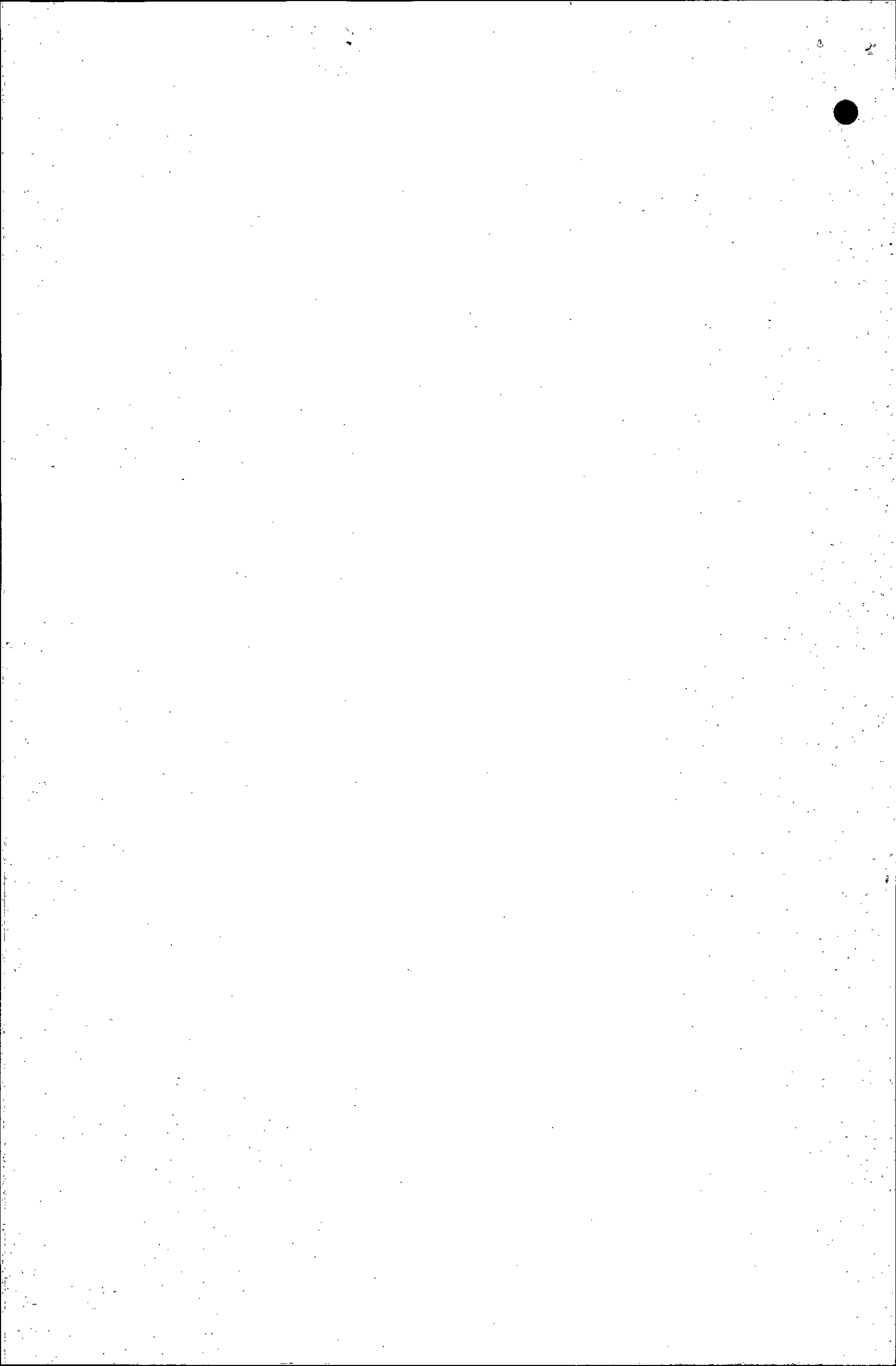


- iv. Mr. Farooq Khan, inspector, PS L/Orakzai, the seizing officer, as PW-04.
- v. Mr. Riwan Gul Constable, PS L/Orakzai, as PW-05.
- vi. Mr. Khanwada Constable, PS L/Orakzai, the marginal witness of the recovery memo, as PW-06.
- vii. Mr. Saif Ullah Constable, PS L/Orakzai, the marginal witness of the recovery memo, as PW-07.
- viii. Mr. Shal Muhammad, SI PS L/Orakzai, IO as PW-08.
- ix. Mr. Khana Deen, the complainant as PW-09.

5. In documentary evidence, prosecution has produced the following;

- i. Copy of FIR. **Ex.PA**
- ii. Site plan. **Ex. PW 5/4**
- iii. Recovery memo. **Ex.PW-7/1**
- iv. Card of arrest of the accused. **Ex.PW-5/3**
- v. Injury Sheet **Ex.PW-1/1**
- vi. Naqsha Zarar **Ex. PW-5/1**
- vii. Murasila **Ex.PA/1**
- viii. Site Plan **Ex.PB**

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Rehmat Ullah Wani
Civil Engineer
Contract No. 123456789



ix. Application for Judicial remand.

Ex.PW-8/1

x. Application for legal opinion to the DPP.

Ex.PW-8/2

xi. Parwana Izadgee Juram

Ex.PW-8/3

xii. Application to the FSL Peshawar.

Ex.PW-8/4

xiii. Road Certificate

Ex.PW-8/6

xiv. Application to the Arms Expert FSL
Peshawar.

Ex.PW-8/5

xv. FSL Report

Ex.P2

xvi. Report of fire arms experts

Ex.P2-1

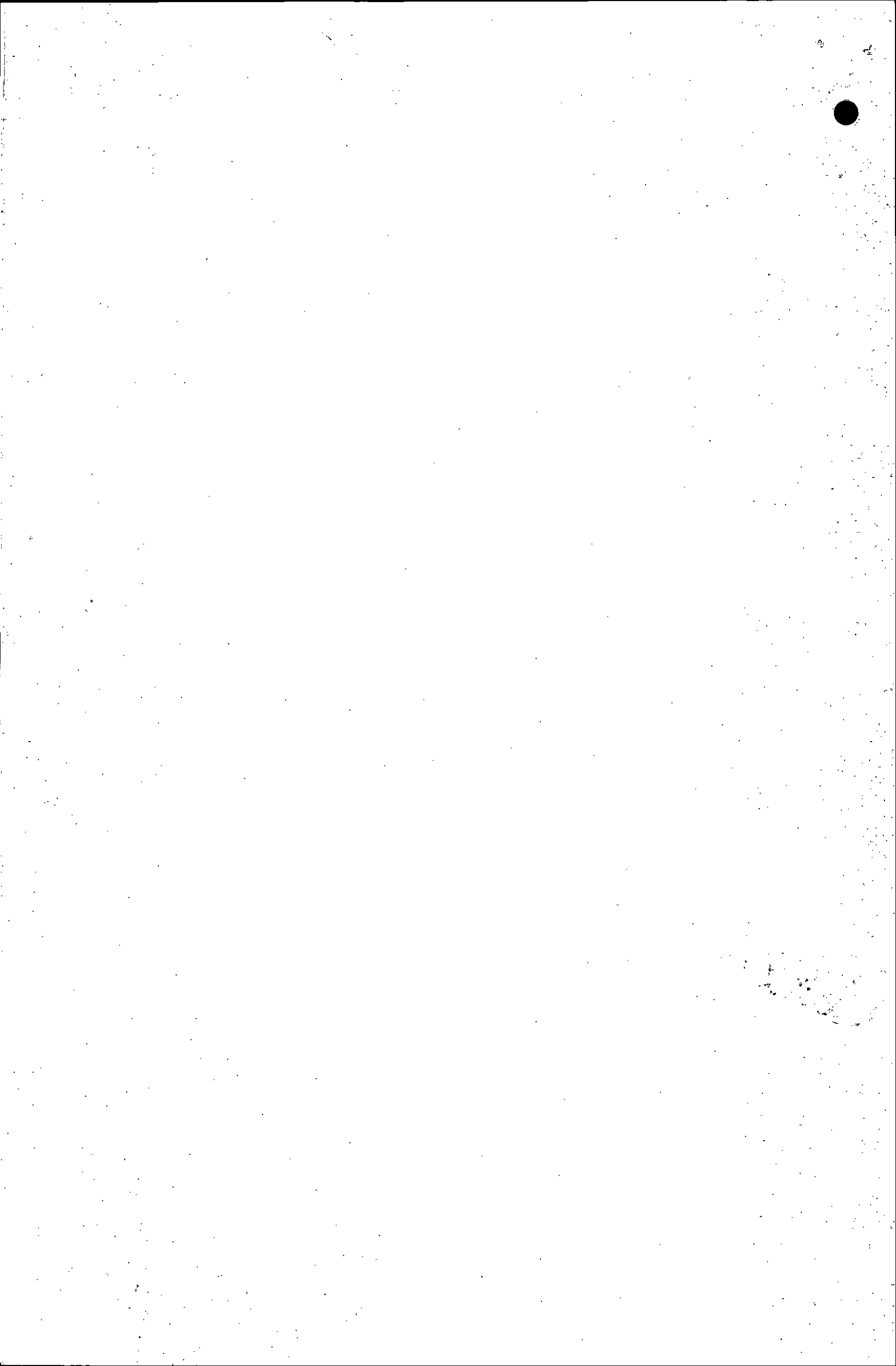
6. Then after, on 25.01.2021, the learned APP for the state closed the evidence on behalf of the prosecution.

7. Statements of all the accused on bail u/s 342 Cr.P.C were recorded wherein they neither opted to be examined on oath u/s 342(2) of the Cr.P.C nor they wanted to produce any defence evidence in their defence.

8. All of the accused in reply of the question that you people criminally intimidated the complainant and caused injury to him, submitted that;

"They are innocent and falsely charged"


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9. After conclusion of trial, arguments of the learned counsel for the accused facing trial and of the APP heard and record perused.

10. All of the accused are charged with the offence u/s 506/337-A(i)/34 PPC and 15-AA. Sec. 506 PPC deals with punishment of criminal intimidation while sec. 337-A(i) PPC deals with punishment for hurt, while sec. 34 PPC deals with the acts done by several persons in furtherance of common intention of all, each of such person is liable for that act in the same manner as if it were done by him alone. Where there was a common intention or not is a question of fact to be determined in the circumstances of each case. 15-AA deals with the possession of Arms without licence.

11. Keeping in view, the record on file and the depositions of PWs, it is observed the complainant has charged the accused persons for criminal intimidation and causing hurt to him. The prosecution is required to prove its case against the accused beyond reasonable doubts.

12. PW-04, who is the seizing officer in the instant case, has stated that the IO prepared the sketch at my instance. Further he stated that the Murasila is in his own hand writhing but when he was asked to write down the same in

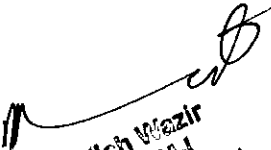

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the court, he could not write the same as he claimed above, meaning thereby that he was not present on the spot and he has not written the Murasila, recovery memo and card of arrest.

13. PW-08, who is the I.O in the instant case, has admitted that he did not secure blood nor any empties from the spot during the spot inspection.

14. The PW-09, he is complainant in the instant case, firstly, stated that the one Constable Riwaj took him to the hospital from the spot in injured condition and that we went from the spot to the main road through feet but later on stated that after beating by the accused, I was unconscious for an hour and that he was taken to home in unconscious condition. Further, he admitted that the IO visited the place of occurrence on the next day morning, meaning there by that the statement of the IO that he visited the place of occurrence on the same day is false and all the proceedings conducted by the IO are false and concocted.

15. Thus, the entire evidence of prosecution is a jumble of broken pieces. No two witnesses second each other. Neither the seizing officer could establish his presence at the place of the occurrence, nor the IO could establish the


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fact that he visited the spot on the same day. The complainant has stated that he was unconscious and was taken from the spot to the home. The case of prosecution is full of doubts, to the benefits of which the accused are entitled and are accordingly extended to the accused.

16. Resultantly, for the above reasons it is clear that prosecution failed to bring home the guilt of the accused. Therefore, the accused namely Speen Gul S/O Amal Khan, Hayat Ullah S/O Itbar Shah and Muhammad Ameer S/O Speen Gul are **acquitted** of the charges levelled against them. As they are on bail, their bail bonds stand cancelled and sureties are discharged from their liability of bail bonds.

17. As the recovered 07 mm rifle along with 02 bullets is an unlicensed one and no one till date has claimed its ownership, therefore, the same is confiscated to the state and be dealt in accordance with the law after expiry of the period for revision/appeal.

18. File be consigned to record room after its necessary completion and compilation.

Announced
27.01.2021

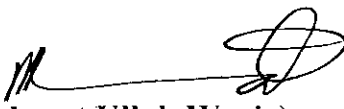

(Rehmat Ullah Wazir)
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CERTIFICATE

Certified that this order consists of four (08) pages.
Each page has been read, corrected where-ever necessary and signed
by me.

Dated: 27.01.2021.


(Rehmat Ullah Wazir)
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