

**IN THE COURT OF MUHADMMAD IMTIAZ JUDICIAL
MAGISTRATE-II ORAKZAI**

Complaint:

U/S 200 Cr.P.C

Case No.	6/4 of 2019
Offence	u/s 379,427,506 and 341 PPC
Date of institution:	19.08.2019
Date of Transfer:	26.11.2019
Date of Decision:	03.03.2020

Muhammad Hussain S/O Saleem Shah R/O Tribe Rabia Khel
Sub-Tribe Bahram Khel, Village Jeerab, Tehsil Ismail zai, District
Orakzai

.....(Complainant)

VERSUS

Shireen Gul S/O Mehrab Gul R/O Tribe Rabia Khel Sub-Tribe
Bahram Khel, Village Jeerab, Tehsil Ismail zai, District Orakzai

..... (Accused/Respondent)

Mr. Noor Kareem Khan Advocate Complainant in person
Mr. Sifat Ullah Khattak advocate for Accused/Respondent

JUDGMENT

1. Briefly stated factual background of the instant case is that the complainant, Muhammad Hussain submitted a written complaint (application) Dated: 19.08.2019 to learned Judicial Magistrate-I, Orakzai. In his written complaint, complainant accused Shireen Gul for the (1)- allegations of snatching construction materials, (2)- demolishing of the boundary wall of his house, (3)- criminally intimidating of the women folk and kids of the complainant and (4)- restraining him from construction of the house.

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2. After completion of the investigation, report was Submitted. Accused was summoned upon which accused namely Shireen Gul appeared before the Court and the provisions of section 241-A 02 (a)(b) Cr.P.C was duly complied with. Charge was framed against the accused person to which the accused person pleaded not guilty and claim trail.
3. Complainant was given ample opportunity to adduce its evidence as it desired. Complainant produced the following evidence:

PW- NAME	DOCUMENT/S PRODUCED	EXHIBIT
<u>PW-01</u> Muhammad Hussain (Complainant)	Copy of CNIC	Ex.PW 1/1
<u>PW-02</u> Nooran Khan	Copy of CNIC	Ex.PW 2/1
<u>PW-03</u> Jannat Khan	Copy of CNIC	Ex.PW 3/1
<u>PW-04</u> Malak Janan I.O of PS Ghiljo Upper Orakzai	(a) Site plan (b) Investigation Report	(a) Ex. PW-4/1 (b) Ex. PW-4/2

Then after, complainant evidence closed.

4. Statement of the accused u/s 342 of Cr.P.C was recorded wherein they neither opted to be examined as on oath u/s 342 (2) of Cr.P.C nor they wanted to produce any evidence in their defense.

5. After conclusion of Trial, Arguments of the learned counsel for the accused facing trial, accused and APP, and for the parties heard attentively and the available record meticulously perused with their due assistance.

6. Pw-01 who is the complainant in the instant case. His statement was recorded on oath. He admitted that he has not seen the accused demolishing his house nor taking the household items of the complainant house. He also himself not seen the accused for criminally intimidating women. All he said is that he came to know about the occurrence through the women of his house but did not produced any of them to record their/her statement. His words are reproduced as under:

یہ درست ہے کہ جس دن مسول علیہ نے میرا کمرہ مسمار کیا تھا اس دن میں موقع پر موجود نہ تھا۔ یہ درست ہے کہ میں نے مسول علیہ کو خود متذکرہ بالا کمرہ مسمار کرتے ہوئے یا کسی قسم کا سامان مشتمل بر لے جاتے ہوئے دیکھا ہے از خود کہا کہ ہمارے مستورات نے ان کو کمرہ مسمار کرتے ہوئے اور سامان لے جاتے ہوئے دیکھا ہے۔

7. PW-04 who is the I-O recorded his statement on oath. In his statement he narrated a brief of his investigation. But site plan prepared by him is does not supported complainant version. He has not recorded statement of any independent witness. Nothing in criminating was recovered from accused.

8. Going through the evidence recorded by prosecution apart from commission of the offence the very presence of the accused on spot is highly doubtful. And it is the golden

principle of criminal law that benefit of doubts always goes to accused.

9. Taking stock of all the features of the instant case, it is observed that for what is discussed above it is clear that complainant has failed to prove the case against the accused. Even complainant and Prosecution failed to connect the accused with the charges u/s 379,427,506 and 341 PPC. The case of the complainant and prosecution is full of doubts. complainant and Prosecution failed to prove their case beyond the reasonable doubt on the following grounds: -

- i. *There is no independent eye-witness to the occurrence.*
- ii. *Statement of women who were alleged to have seen the occurrence were not recorded.*
- iii. *There is even no circumstantial or chance evidence of the occurrence as per prosecution version.*
- iv. *Site plan is not supported by the contents of the complainant.*
- v. *There is no recovery of any incriminating material from the accused.*
- vi. *complainant and Prosecution failed to connect the accused with the commission of offence through un-broken chain of acts under 379,427,506 and 341 PPC.*

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10. Resultantly for the above reasons it is clear that complainant and prosecution failed to bring home the guilt of the accused. Therefore, accused namely **Shireen Gul S/O Mehrab Gul** is acquitted of the charges levelled against him.

11. File be consigned to record room after its necessary completion.

Announced
03/03/2020

Muhammad Imtiaz
Civil Judge (I)
Orakzai (Lahar Mela)
M. Imtiaz,
JM-II/MTMC, Orakzai

CERTIFICATE:

Certified that the instant Judgment consists of six (05) pages;
Each page has been checked and signed by me.

Muhammad Imtiaz
Civil Judge (I)
Orakzai (Lahar Mela)
M. Imtiaz,
JM-II/MTMC, Orakzai