

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE-II ORAKZAI AT
BABER MELA**

Sessions Case No. 5/2 of 2021

Date of institution: 10-02-2021

Date of decision: 22-04-2021

State vs Abdul Raziq etc.

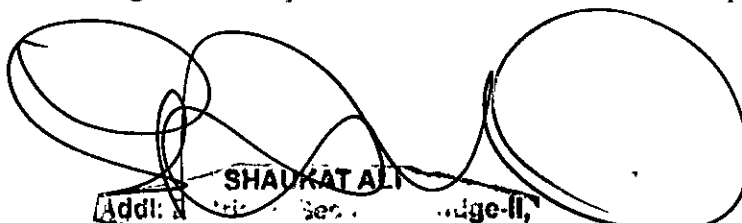
FIR No. 116 Dated 01/11/2020 u/s 302/324/457/34 PPC PS Lower Orakzai.

**Order
22/04/2021**

Accused Abdul Raziq, Muhammad Khaliq and Abdul Sadiq produced in custody. Mr. Mudassir Ijaz Advocate counsel for accused facing trial present. Syed Amir Shah APP for the state present. Mst Jarana Bibi (Mother of deceased) and Mr. Sherullah (Father of deceased) present. Mr. Noor Khaliq and Abdur Rehman (sureties) present.

The accused facing trial are charged in the case registered against them by complainant Makhmil Khan for the murder of deceased Mst Famina Bibi daughter of Sherullah by firing through fire armed weapons. The case was investigated, after the registration of FIR on the bases of Murasila. On completion of investigation the case file was received by this court on 10-02-2021 for trial against the accused. The accused in custody were summoned through Zamima Bay who produced in custody before the court on 12-02-2021 and provision of 265-C Cr.PC were complied with. The charge against accused was framed on 17-02-2021. During the trial of the case, compromise was affected between the accused and legal heir of deceased.

On 13-04-2021 Mst Jarana Bibi (Mother of deceased) and Mr. Sherullah (father of deceased) along with complainant Makhmil Khan appeared before the court and submitted that they have affected compromise with the accused facing trial and produced the affidavit of compromise along


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with proforma of compromise. The joint statement of both the father and mother of deceased and complainant was recorded wherein they stated that accused facing trial Abdul Raziq, Sadiq and Muhammad Khaliq are charged for the murder of Mst Famina Bibi, that they are the legal heirs of deceased, now they have patched up the matter with all the accused facing trial and affected compromise with them, that they have pardoned all the accused facing trial in the name of Almighty Allah and have waived of their right of Qisas and diyat. They further stated that the deceased was also survived by 02 minor sons namely Aqib Ullah aged about 08 years and Suliman aged about 05 years and they namely Mst Jarana Bibi and Sherullah being the Wali of minors have also affected compromise on behalf of the minors and have compounded the right of Qisas on behalf of the minors, that they have affected compromise with their free will and consent without any fear and coercion. The compromise is in their best interest which will bring peace and harmony among them being relative inter se, that they have got no objection if the accused facing trial are acquitted in the instant case. They produced affidavit of compromise and proforma of compromise and stated that it is correct and correctly bears their thumb impression.

Keeping in view the factum of compromise by the legal heirs of deceased their joint statement were recorded in respect of compromise in the presence of elders namely Adil Mehmood and Hazrat Khaliq. The affidavit of compromise was placed on file as Ex. PA and proforma of compromise is Ex.PB consist of 03 sheets and the copies of their CNIC are placed on file as Ex.PC to PE.

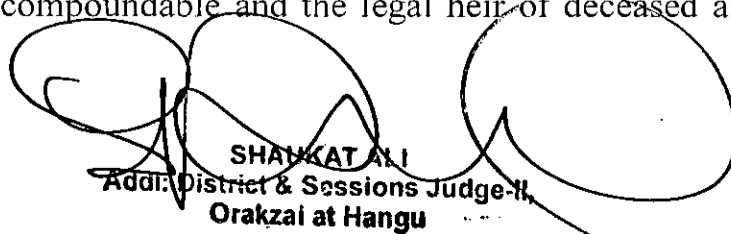
Furthermore the joint statement of Adil Mehmood and Hazrat Khaliq who were the elders of the locality also recorded and confirmed the factum of compromise and verified that Mst Jarana Bibi and Sherullah are


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legal heirs of deceased and to this effect submitted certificate Ex.PZ duly signed by them.

The counsel for accused on 13-04-2021 sought time for arrangement of diyat amount for the minor legal heirs of deceased which was granted however today on 22-04-2021 the counsel for accused and the legal heirs of deceased being Wali of the minors appeared before the court and stated that the financial position of accused facing trial is weak and they are unable to pay the share of minors and the diyat amount due to which they being the Wali of minors entered into an agreement with the accused facing trial and stated that the accused facing trial shall pay the diyat amount within four years from today. They produced the agreement deed consist of 02 sheets which is placed on file as Ex.PZ. Both the accused facing trial and legal heirs of deceased are agreed on the terms and conditions of agreement Ex.PZ. In this respect the statement of legal heirs of deceased and accused facing trial recorded. Besides the joint statement of Noor Khaliq and Abdur Rehman who stood sureties for the payment of shares of minors amounting to Rs. 1,851,568/- and stated that they both sureties shall be responsible for the payment of the said amount and produced surety bond Ex.PZ/1.

The legal heir of deceased stated that they have affected compromise with their free will and consent which will bring peace and harmony between them being relative inter se. The legal heir of deceased affected compromise with the accused with their free will and consent and they are satisfied with the compromise. The legal heirs of deceased/Wali of minors are also satisfied with the terms and conditions of agreement Ex.PZ. The parties are relative inter se and the compromise will bring peace and harmony among them. Furthermore, the offence for which the accused are charged is also compoundable and the legal heir of deceased are no more


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interested to proceed with the trial of the case against the accused. Furthermore the rights of the minors in respect of their shares in the diyat amount is also protected by the agreement deed Ex.PZ and statement of sureties who submitted the surety bond. u/s 310 (5) of PPC Badal-i-sulh may be paid or given on demand or on a deferred date as may be agreed upon between the offender and the Wali, therefore keeping in view the compromise statement of legal heirs of deceased and agreement deed for the payment of diyat amount to the minors, the compromise is accepted and the accused facing trial are acquitted on the basis of compromise in the instant case from the charges leveled against them. The accused facing trial are in custody, they be released forthwith if not required in any other case. The accused are directed to ensure the payment of shares of minors in the diyat amount, amounting Rs. 1,851,568/- to the Wali of minors namely Mst Jarana Bibi (Maternal Grandmother) and Mr. Sherullah (Maternal Grandfather) of minors as agreed upon between them within the stipulated period and in case of failure the amount shall be recovered from the accused facing trial in accordance with law. Reliance is placed on 2013 YLR 1787.

Case property be dealt with in accordance with law. File be consigned to District Record Room Orakzai after necessary completion and compilation.

Announced
22/04/2021



(SHAUKAT ALI)
Additional Sessions Judge-II,
Orakzai at Babar Mela