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

CASE NO. : 25/2 OF 2020

DATE OF INSTITUTION : 07.08.2020

DATE OF DECISION : 10.02.2021

STATE THROUGH ASHO SALEEM KHAN, PS GHILJO,
U/ORAKZAI

------(Complainant)

VS

1. AZIZ UR REHMAN S/O ABDUL AZIZ
(All R/O Qoum Akhel, Tehsil Upper Orakzai, District Orakzai

------(Accused Facing Trial)

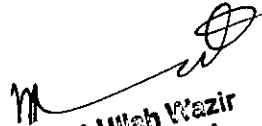
Present: Nisar Ahmad, Assistant Public Prosecutor for
complainant.

: Muhammad Shaheen Advocate, for accused facing trial.

ORDER

10.02.2021

1. Accused facing trial, Mr. Aziz Ur Rehman present who is charged in case FIR no. 26 Dated 09.07.2020 U/S 353/506/186/189 PPC of PS Upper Orakzai for assault or criminal force to deter public servant from discharge of his duty, criminal intimidation, obstructing public servant in discharge of public functions and threat of injury to public servant.
2. Briefly stated factual background of the instant case is that the complainant Saleem Khan ASHO, PS


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Civil Judge/JM-I
Orakzai at (Baber Mela)

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Upper Orakzai, reported the matter of assault or criminal force to deter the complainant from discharge of his duty, criminal intimidation, obstructing the complainant in discharge of public functions and threat of injury to the complainant. That the complainant was purchasing medicine at Ghiljo Bazar, in the meanwhile, the accused Aziz Ur Rehman scuffled with him and torn his uniform and broken his badge and threatened him for dire consequences.

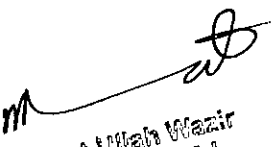
3. Upon which, the instant case was registered at PS: U/Orakzai on 09.07.2020 vide FIR. 26.

4. After completion of the investigation, the complete challan was submitted on 07.08.2020 to this court. The accused on bail was 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 26.09.2020, to which the accused person pleaded not guilty and claimed trial.

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

i. Copy of FIR. **Ex.PA**

ii. Challan Form. **Ex.PW 1/2**


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iii. Application for police custody.

Ex.PW 4/3

iv. Application for Legal Opinion.

Ex.PW 1/1

v. Site Plan.

Ex.PB

vi. Card of arrest.

Ex.PW-4/2

vii. Recovery Memo

Ex.PW-4/1


6. Then after, on 06.02.2021, the learned APP for the state closed the evidence on behalf of the prosecution.

7. Statement of accused on bail u/s 342 Cr.P.C was recorded wherein he neither opted to be examined on oath u/s 342(2) of the Cr.P.C nor he wanted to produce any defence evidence in his defence.

8. The accused in reply of the question that you accused on 06-07-2020 at about 14:20 hours you threatened Saleem Khan ASHO with intent to cause harm and squabble with him due to which his uniform torn and also broke his badge submitted that;

"It is incorrect"

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


M. A. Khan
Counsel for Accused
C-10, Block 10, Sector 10
Gurgaon, Haryana

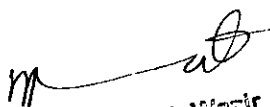
10. The accused is charged with the offence u/s 353,506,186,189 PPC. Sec.353 PPC deals with the assault or criminal force to deter the Public Servant from discharge of his duty, Sec.506 PPC deals with criminal intimidation, Sec.186 PPC deals with obstructing the Public Servant in discharge of public functions, Sec.189 PPC deals with the threat of injury to the Public Servant.

11. Keeping in view, the record on file and the depositions of PWs, the prosecution is required to prove its case against the accused beyond reasonable doubts.

12. PW-01, who chalked FIR in the instant case has admitted that the occurrence took place on 06-07-2020 while the FIR was chalked out on 09-07-2020. Further that it is correct that no officials were accompanying the complainant.

13. PW-02, who is the complainant in the instant case has admitted that the occurrence took place on 06-07-2020 while the FIR was chalked out on 09-07-2020. Further that it is correct that I have not mentioned the names of the police officials in my report.

14. PW-04, who is the IO in the instant case has admitted that the statements of Muhammad Idrees and Zahid Rehman were recorded by me as eye witnesses but


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 Civil Judge/JJ-1
 Orakzai (Babgar Mola)

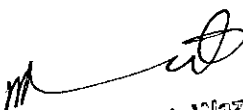
their names are not mentioned in the FIR. Further that the occurrence took place in the main Ghiljo Bazar but I have not recorded the statement of any independent witness. Further that it is correct that I have not given specific place in the site plan to the eye witnesses.

15. PW-05, who is the witness of the recovery memo has admitted that the recovery has been effected on 09-07-2020 while the occurrence took place on 06-07-2020. Further that it is correct that it is not mentioned in the FIR that I was present with the complainant at the time of occurrence.

16. Thus, there is unexplained delay in the chalking of FIR. The eye witnesses are not mentioned in the FIR. The recovery is effected after delay of 03 days, which is fatal for the case of prosecution.

17. In the light of the above discussion, it is clear that the case of prosecution is full of contradictions. There are doubts in the evidence of prosecution and the accused is ultimately entitled to the benefits of doubts and are accordingly extended to the accused.

18. Resultantly, for the above reasons it is clear that prosecution failed to bring home the guilt of the accused. Therefore, the accused namely Aziz Ur Rehman S/O

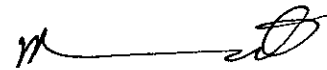

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Abdul Aziz is **acquitted** of the charges levelled against him. As he is on bail, his bail bonds stand cancelled and sureties are discharged from their liability of bail bonds.

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

Announced

10.02.2021



(Rehmat Ullah Wazir)
JM-I/MTMC,
Orakzai (at Baber Mela)

CERTIFICATE

Certified that this order consists of Six (06) pages.
Each page has been read, corrected where-ever necessary and signed by me.

Dated: 10.02.2021.