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

CASE NO. : 16/2 OF 2020
DATE OF INSTITUTION : 02.07.2020
DATE OF DECISION : 04.03.2021

STATE THROUGH JABBAR ALI S/O DIDAR ALI, R/O QOUM BAR.
MUHAMMAD KHEL, TAPPA TERAI, DISTRICT L/ORAKZAI.

------(Complainant)

VS

1. Syed Muhammad S/O Gul Anwar
2. Syed Muhammad Baqir S/O Syed Hassan Abbas

(Both R/O Abudag Lower Orakzai)

------(Accused Facing Trial)

Present: Aamir Shah, Assistant Public Prosecutor and Fawad Hussain
Advocate for complainant.
: Abid Ali Advocate, for accused facing trial.

ORDER
04.03.2021


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

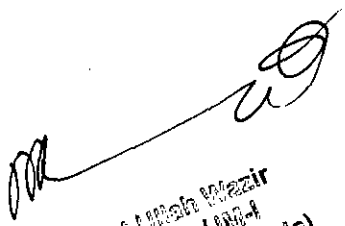
1. Accused facing trial, Syed Muhammad and Syed Muhammad Baqir present who are charged in case FIR No. 13, Dated 15/03/2020, U/S 341/347/34 PPC of PS Lower Orakzai for wrongfully restraining and wrongfully confining the one Mubashir Ali for the purpose of extorting his property in the shape of goats.
2. Briefly stated factual background of the instant case is that the complainant Jabbar Ali, reported the matter of

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wrongfully restraining and wrongfully confining the one Mubashir Ali for the purpose of extorting property in the shape of goats.

3. Upon which, the instant case was registered at PS: L/Orakzai on 15.03.2020 vide FIR. 13.
4. After completion of the investigation, the complete challan was submitted on 02.07.2020 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 13.10.2020, 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. Application for legal opinion. | Ex.PW 4/2 |
| iii. Site Plan. | Ex.PB |
| iv. Cards of arrest. | Ex.PW-2/1 |
| v. Final Report | Ex-PW- 4/1 |
| vi. Naqal mad | Ex-PW-2/3 |
| vii. Remand Judicial | Ex-PW-2/2 |


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viii. Complete Challan **Ex-PW-4/3**

Prosecution Witnesses

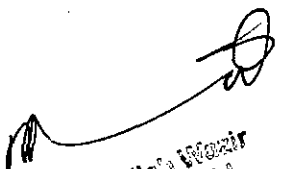
1. Khurshid Anwar, ASHO, PS Kalaya,
L/Orakzai. **PW-01**
2. Shal Muhammad, SI, PS Kalaya, L/Orakzai.
PW-02
3. Jabbar Ali, Complainant. **PW-03**
4. Muhammad Shafiq, SHO, PS Kalaya,
L/Orakzai. **PW-04**
5. Mubashir Ali **PW-05**

6. Then after, on 11.02.2021, 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 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. After conclusion of trial, arguments of the learned counsel for the accused facing trial and of the APP for the complainant along with his private counsel heard and record perused.

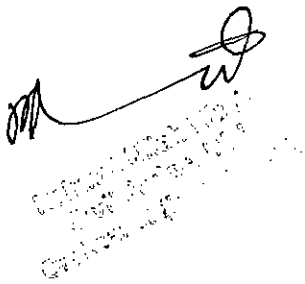
9. The accused is charged with the offence U/S 341,347,34 PPC. Sec.341 PPC deals with the wrongfully


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restraining any person, Sec.347 PPC deals with wrongful confinement for the purpose of extorting property or constraining to an illegal act etc, section 34 PPC deals with acts done by several persons in furtherance of common intention.

10. 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.
11. PW-02, who is the IO in the instant case has admitted that it is correct that the application of the complainant which was submitted to the SHO is not available on file. Further that it is correct that the occurrence took place on 23.02.2020 at about 15:00 hours while the FIR was chalked on 15.03.2020 at about 18:15 hours. That he recorded the statements of both the accused U/S 161 Cr.PC in the PS, however, he does not remember the exact time.
12. PW-03, who is the complainant in the instant case has admitted that it is correct that he was not present on the spot and he got information of the occurrence from a deaf person namely Aamir through his signs and reported the same to the nearest police check post. That the names of the accused were told to him by the local police. That he did not accompanied the local police to the spot. That the goats themselves arrived



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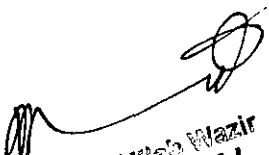
at his house on the second day.

13. PW-05, who is the abductee in the instant case has admitted that there is no eye witness of the occurrence except my deaf cousin. Further that I have not mentioned in my any statement that in whose house I was confined.

Thus, there is unexplained delay of 21 days in the chalking of FIR. The eye witness is admittedly deaf and also not produced as a witness. The complainant has admitted that he was not present on the spot. Further, there is contradiction in the statement of the complainant, firstly he says that he got the knowledge of the involvement of the accused in the instant case through his deaf cousin but later on he says that the names of the accused were told to him by the police. He says that the Naqalmdad was recorded at 04:00 PM but the Naqalmdad bears the time as 18:00 hours.

14. 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.

15. Resultantly, for the above reasons it is clear that prosecution failed to bring home the guilt of the accused. Therefore, the accused namely Syed Muhammad S/O Gul Anwar and Syed Muhammad Baqir S/O Syed Hassan Abbas are **acquitted** of


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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.

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

Announced
04.03.2021



(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: 04.03.2021.