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

CASE NO. : 18/2 OF 2020

DATE OF INSTITUTION : 10.07.2020

DATE OF DECISION : 11.06.2021

STATE THROUGH KHADIM GUL S/O BADSHAH GUL, R/O QOUM
SADA KHEL, GHUNDA KARH, GHILJO, DISTRICT ORAKZAI.

------(Complainant)

VS

1. ZALIMAN SHAH S/O GULMAN SHAH, R/O QOUM RABIA KHEL,
TAPA AYAZ KHEL, KHANDPUR, GHILJO, DISTRICT ORAKZAI, ||

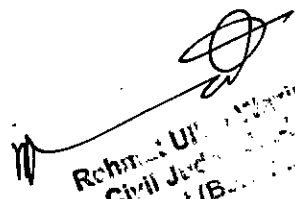
------(Accused Facing Trial)

Present: Nisar Ahmad. Assistant Public Prosecutor for complainant.
: Noor Karim Orakzai Advocate, for accused facing trial.

ORDER

11.06.2021

1. Accused facing trial, Zaliman Shah, present who is charged ||
in case FIR no. 19, Dated: 11.05.2020 U/S 506/447 PPC of
PS Ghiljo, U/Orakzai for criminal intimidation, and criminal
trespass.
2. Briefly stated factual background of the instant case is that
the complainant Khadim Gul, reported the matter of criminal
intimidation and criminal trespass. That the accused
criminally intimidated the complainant by entering into his
landed property and threatened the complainant and all the


Rehmat Ullah Wazir
Civil Judge
Orakzai at (Bar...)

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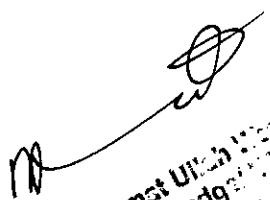
co-villagers neither to plough the fields nor to obtain the same on lease as well as extended threats to tenant of the complainant. That the complainant submitted an application to the local police on 06.04.2020 but of no use. Consequently, the complainant filed a 22-A Cr.P.C petition before the Worthy D&SJ, Orakzai, which was accordingly accepted vide order Dated: 30.04.2020.

3. Upon which, the instant case was registered at PS: Ghiljo, U/Orakzai on 11.05.2020 vide FIR. 19.
4. After completion of the investigation, the complete challan was submitted on 10.07.2020 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 21.09.2020, 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;

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|------|------------------|------------------|
| i. | Copy of FIR. | Ex.PA |
| ii. | Complete Challan | Ex.PW-2/1 |
| iii. | Cards of arrest. | Ex.PW-1/1 |
| iv. | Site Plan. | Ex.PB |


Civil Judge
Orakzai at (Baz...)

6. Then after, on 09.06.2021, 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. 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.
9. The accused is charged with the offence u/s 506, 447 PPC. Sec.506 PPC deals with the criminal intimidation, Sec 447 PPC deals criminal trespass.
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-01, who is the I.O in the instant case, has stated in his examination in chief that he proceeded to the spot on 14.05.2020 and prepared site plan on the same day. He has admitted in his cross examination that it is correct that as per the contents of FIR, neither the time of alleged occurrence has been mentioned in the FIR nor the month of the alleged occurrence has not been mentioned in the contents of FIR. That it is correct that the complainant was not present when


 Rohmat Ullah
 Civil Judge
 Orakzai (Balochistan)

I reached the spot.

12. PW-04, who is the eye-witness in the instant case, has admitted in his cross examination that it is correct that the alleged application Dated: 06.04.2020, submitted to DPO, Orakzai, is not available on judicial file. Further, that it is correct that according to 22-A Cr.P.C petition, the date of alleged occurrence is 15.04.2020.

13. PW-05, who is the complainant in the instant case, has admitted that it is correct that prior to 15.04.2020, he has never visited the police station in connection of this case. Further, that the accused was accompanied by his son and 02 other persons at the time of the commission of the offence but I have not charged them. Further, that it is correct that I have not mentioned the exact time of occurrence either in the FIR or in my today's statement. Further, that it is correct that there is no mention of the exact month of occurrence in the FIR. That in the contents of the FIR, the date of the alleged occurrence is mentioned as 19. At the end admitted that the accused facing trial restrained my tenant by sending message through Rehman Shah and Feroz Shah but it is correct that I have not mentioned the said fact and persons in my 22-A Cr.P.C petition.

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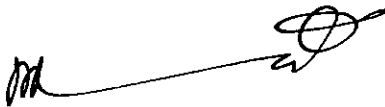
14. Thus, there is ambiguity in the case of prosecution as there is contradictions in the exact time, date and the exact month of the occurrence both in the statements of the complainant, eye-witness and the I.O. It is not clear that in which month, date and on what time the alleged occurrence has taken place.

15. 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.

16. Resultantly, for the above reasons it is clear that prosecution failed to bring home the guilt of the accused. Therefore, the accused namely Zaliman Shah s/o Gulman Shah 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.

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

Announced
11.06.2021


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

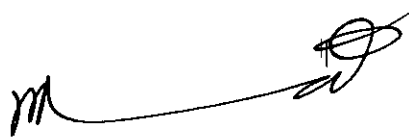
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CERTIFICATE

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

Dated: 11.06.2021.


(Rehmat Ullah Wazir)
JM-1/MTMC,
Orakzai (at Baber Mela)

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