

Sessions Case No. 01/02 of 2023

Date of Institution: 07-02-2023

Date of decision: 31-10-2023

State vs Shafi Ullah alias Muhammad Shafiq

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order No.25	31/10/2023	<p>Accused Shafi Ullah alias Muhammad Shafiq on bail along with his counsel; complainant in person and DyPP on behalf of the State are present. Documents reflecting the purchase of property by the accused and further transfer in favour of the minors in lieu of payment of Diyyat have been presented.</p> <p>2. Accused is facing trial in the instant case registered vide FIR No.18, dated 07.09.2022, u/s 302 of the Pakistan Penal Code, 1860 and section 15 of the KP Arms Act 2013 registered at Police Station Daboori of District Orakzai.</p> <p>3. The defence counsel took sole ground of compromise. On 20-12-2022, LRs of the deceased appeared before the court and confirmed the factum of compromise in favour of the accused which was based for grant of bail. The relevant part of the bail application bearing No. 112/4 of 2022 disposed of vide Order dated 13-12-2022 is reproduced herein below for ease of reference:</p> <p><i>"Complainant Rafila Jan (widow of deceased), Lal Meena (mother of deceased), Salma Bibi (daughter of deceased), Aisa Bibi and Amina Bibi (minor daughter of deceased), identified by their mother (complainant), Muhammad Mustafa (minor son) identified by real mother and Muhammad Khalid being brother of complainant identified the complainant as well as mother of deceased, are before the Court with the compromise on prescribed proforma.</i></p> <p>4. Joint statement of the legal heirs have been recorded wherein they confirmed the contents of compromise Ex.PA. They exhibited their CNICs as Ex.PB and Ex.PC. They testified that there is no other legal heirs left behind. The list of legal heirs on Police record as well as on proforma for effecting compromise under Qissas and Diyyat Ordinance, are in conformity of each other. The compromise is seemingly genuine and effected with free consent. However, the Diyyat of the minors Aisha and Amina (daughters of deceased) and Muhammad Mustafa son of deceased is required to be paid; therefore, the case is adjourned</p>

SAYED FAZAL WADOO
 District & Sessions Judge
 Orakzai at Hangu

for payment of Diyyat to minors by 15-12-2022."

5. On next date of hearing, the payment of Diyyat was postponed for the reason recorded in Order dated 20-12-2022 which are reflecting below.

"It is not out of place to mention here that the compromise deed on prescribed proforma has been exhibited in joint statement and the case was fixed for payment of Diyyat to the extent of minors namely Aisha and Amina (daughters of deceased) and Mustafa (son of the deceased). But, the counsel representing petitioner requested for postponement of the payment of Diyyat till the commencement of trial on the score that such payment requires the transfer of property which is not possible without the presence of accused behind the bar. As the accused and complainant are real son and mother and similarly, the payee and payer of Diyyat are real siblings; therefore, request for postponement of Diyyat till commencement of trial being justified in the peculiar circumstances of the case, is allowed."

6. Today the case being at stage of trial, joint statement of the complainant and accused recorded. The document Ex.PD is about purchase of landed property at Daboori which his transferred in favor of minor daughters and son vide Deed Ex.PE (both placed on file and original of ownership returned to accused and original of Transfer Deed returned to complainant). The compromise proceedings have been concluded. Similarly, accused has already been acquitted in major offence under Section 302 of the Pakistan Penal Code, 1860 levelled against him in the same FIR.

7. Since, the offences are compoundable, which have accordingly been compounded. I would, therefore, order acquittal of accused Shafi Ullah alias Muhammad Shafiq from the charges leveled against him by accepting compromise between the parties. His bail bonds stand cancelled and the sureties are absolved of the liabilities of bail bonds. Case property, if any, be kept intact till the expiry of period fixed for appeal/revision. This Court file be consigned to District Record Room after necessary completion.

8. Announced


Sayed Fazal Wadood,
AD&S.J. Orakzai at Baber Mela