

In the name of almighty Allah who has got unlimited jurisdiction over and beyond the universe.

BEFORE THE COURT OF
ADDITIONAL SESSIONS JUDGE, ORAKZAI

Case No.10/2 of 2021

Date of institution: 17.12.2020

Date of decision: 11.01.2022

The State through Naseem Khan SHO, Police Station Ghiljo, Orakzai
.....(Complainant)

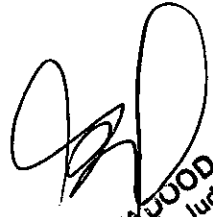
...Versus...

Rasheed Gul son of Muhammad Raheem, aged about 36/37 years, resident of Gori Chak, tribe Ali Khel Tappa Sher Khel, Tehsil upper, District Orakzai
.....(accused facing trial)

Case FIR No.48, Dated 27.09.2020 u/s 302/311 of the Pakistan Penal Code, 1860 read with Section-15 of KP Arms Act, 2013; registered at Police Station Ghiljo, District Orakzai.

JUDGMENT

The Police party while patrolling in the area has received information regarding murder of Muhammad Zubair son of Noor Shah and Mst Sadina Bibi wife of Muhammad Rasheed, allegedly committed by Muhammad Rasheed. The Local Police rushed towards Civil Hospital Mishti Mela where dead bodies of both the deceased were lying. Noor Shah being father of male deceased and Nawaz being uncle of lady deceased, available in Hospital, have confirmed the incident as honor killing. The male and female deceased have been termed in illicit relationship and reportedly killed by the accused who happened to be the husband of lady deceased. Murasila was drafted by the additional SHO leading the Police party and was accordingly sent to the Police Station. Consequently, the SHO of Police Station Ghiljo Orakzai has registered the captioned FIR on his own as no one from the legal heirs and relatives of the deceased was ready to bring criminal law into motion. Initially, sections 302 and 311 of the Pakistan


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Penal Code 1860 have been inserted but later on, on recovery of weapon, Section 15 of the KP Arms Act, 2013 was added.

2. On conclusion of the investigation, complete challan was routed to the Court of Hon'ble, the District & Sessions Judge, Orakzai, which was entrusted to this Court. The then learned Trial Judge has examined the record and found sufficient material to proceed with the case for trial.

3. Rasheed Gul being behind the bar was summoned through "*Zamima Bay*"; whereas, notices have been issued to the Prosecution and Complainant. On production, he was supplied statements and documents prescribed in Section 265-C (1) of the Code of Criminal Procedure-1898. Charge against the accused was framed to which he pleaded not guilty and claimed trial.

4. Prosecution was directed to produce evidence. The Prosecution in order to prove its case against the accused, produced as many as ten (10) witnesses. The prosecution evidence is reproduced below for ease of reference and determination of guilt or innocence of the accused:

(i). Abdul Malak ASI, PS Ghiljo Orakzai, was examined as PW-1, who stated that "*the accused on 28-09-2020 confessed his guilt before the police. The accused was then boarded in the official vehicle pick-up and was taken to the spot. When we reached to the spot the accused de-boarded from the vehicle and was going ahead of us and taken us to his own baitak. The accused pointed out his own place in the baitak and also pointed out the place of deceased Muhammad Zubair. The accused then lead the police party to the room inside the house of accused where the deceased Mst; Sadina Bibi was murdered by the accused. the accused in the room inside the house pointed out his own place from where he made firing on the decease and the place of deceased Mst; Sadina Bibi. The IO took into*

possession one riffle marked 4 along with an empty which was in the chamber of said riffle from the charpai laying in the residential room of deceased Mst; Sadina Bibi. Similarly the IO also took into possession one pistol 30 bore without No. form the residential room of deceased MSt; Sadina Bibi. The IO sealed into parcels the riffle, 30 bore pistol and empty round of marked 4. In my presence as well as in the presence of other marginal witnesses the IO prepared recovery memo and pointation memo Ex.PW-1/2 and Ex.PW-1/2 respectively and I signed the same. We then returned to the PS after spot proceedings where my statement was recorded by the IO u/s 161 Cr.PC.

(ii). PW-2 is the statement of Gul Asghar ASI of Police Station Ghiljo Orakzai, who deposed that "during the days of occurrence I was posted as Muharrir of PS Upper Orakzai. On 27-09-2020 I received Murasila through constable Arman sent by SHO Nasim Khan. I incorporated the contents of Murasila into FIR which is Ex,PA. Today I have seen the FIR which is correct and correctly bears my signature. After registration of the FIR I handed over the Murasila and copy of FIR to the investigation staff for investigation. My statement was recorded by the IO u/s 161 Cr.PC."

(iii). Muhammad Naseem, SI Police Line Orakzai Headquarter Baber Mela Hangu, was examined as PW-3, stated that "during the days of occurrence I was posted as SHO PS Upper Orakzai. On 27-09-2020 I received information during gasht that the dead bodies of Mst; Sadina Bibi and Muhammad Zubair are laying at Civil Hospital Mishti Mela. On that information I reached to civil hospital Mishti Mela where I found in emergency room the dead bodies of deceased Muhammad Zubair and Mst;

Sadina Bibi. With the dead body of Muhammad Zubair his father Noor Shah whereas with the dead body of Mst; Sadina Bibi her uncle Nawaz was

present who confirmed the occurrence and reported that the occurrence took place on account of honor as the deceased Muhammad Zubair had illicit relationship with Mst; Sadina Bibi and I was informed that both the deceased were murdered by accused facing trial Rasheed. I prepared the inquest report and injury sheets of both the deceased. The deceased Mst; Sadina Bibi was referred to the doctor for PM examination under the escort of constable Zareef Hussain whereas the deceased Zubair was referred to doctor under the escort of Muhammad Shah HC for PM examination. I drafted the Murasila and sent the same through countable Arman Khan for registration of FIR to the PS. On 27-09-2020 I arrested accused Rasheed facing trial and handed over to the investigation staff. Today I have seen the Murasila which is Ex.PA, inquest report and injury sheet of deceased Sadina Bibi Ex.PW-3/1 and Ex.PW-3/2 and inquest report and injury sheet of Muhammad Zubair Ex.PW-3/3 and Ex.PW-3/4 respectively. The card of arrest of accused is Ex.PW-3/5. On completion of investigation I submitted complete challan which is Ex.PW-3/6. Today I have seen the above documents which are correct and correctly bears my signature."

(iv). PW-4 is the statement of Ashraf Ali constable of Police Station Ghiljo, who deposed that "the IO during spot inspection on 27-09-2020 took into possession from the place of deceased Muhammad Zubair a piece of cloth blood stained from his bed and sealed into parcel No. 1. Similarly the IO also taken into possession blood stained earth from the place of deceased Mst; Sadina and sealed into parcel No.2. The IO also recovered one empty of 30 bore and sealed into parcel No. 3. The monogram of GJ were affixed on the parcels. Then I along with the IO returned to the PS. in the PS Muhammad Shah HC took the blood stained Qamees Shalwar kaliji color along with banyan white color blood stained of deceased Sadina and

handed over the same to the IO which was sealed into parcel No. 4. Similarly the blood stained garments of deceased Muhammad Zubair consist of Qamees Shalwar black, white color banyan blood stained sealed into parcel No. 5 by affixing monogram GJ. The IO took my signature on the recovery memos. Today I have seen the recovery memos Ex.PW-4/1 and Ex.PW-4/2 which are correct and correctly bears my signature.”

(v). Rehmat Ullah Wazir, Judicial Magistrate-I Orakzai, was examined as PW-5; stated that “on 29.09.2020, accused Rasheed Gul s/o Muhammad Raheem was produced by IO before me for recording his confessional statement u/s 164/364 Cr.P.C. Handcuffs of the accused were removed. All the codal formalities complied with and sufficient time was given to accused. Accused was ready to confess his guilt before me without any duress or coercion. Thereafter, the true confessional statement of the accused was recorded with his free will which was thumb impressed by him. After recording the confessional statement, original statement was handed over to IO while photo copy of the same was retained within the court in safe custody. Then after accused was handed over to Naib Court namely Mr. Hajid to take him to the judicial lock-up/ sub-jail Orakzai at Baber Mela, Hangu which is at the walking distance from the Court. Today I have seen the confessional statement consist of 05 pages which is correct and correctly signed by me. The questionnaire consists of 02 pages Ex. PW 5/1, confessional statement of accused Ex. PW 5/2 while certificate is Ex. PW 5/3.”

(vi). PW-6 is the statement of Dr. Asif Khan, Medical Officer, Civil Hospital, Mishti Mela Orakzai, who deposed that “on 27/09/2020 I have conducted post mortem examination of deceased Muhammad Zubair s/o Noor Shah aged about 20 years’ r/o caste Ali Khel, village Gul Chak

District Orakzai brought by police identified by Noor Shah and Mujahid Khan and on examination of the dead body I found the following;

I. External Appearance:

There is no mark of the ligature on the neck.

Condition of subject stout emaciated, decomposed etc, clothing:

A fresh body and blood stained clothes brought by Police for post mortem examination.

Wounds, bruises, position, size and nature:

A case of fire arm injury Wounds Detail;

1. An entry fire arm wound about 1x1 cm in the left thorax region at the level of mid axillary at lower ribs.
2. An exit fire arm wound about 2 X 2 cm on right side of thorax/chest in the interior axillary line.
3. An other exist wound about 4 X 4 cm with bone fracture of ribs fragments.

II. Cranium and Spinal Cord:

Intact

III. Thorax:

Larynx and trachea, pericardium and heart intact and rest of the thorax damaged.

IV. Abdomen:


Diaphragm damaged and the rest of abdomen intact.

V. Muscles, bones and joints:

Right side ribs fractured.

VI. Remarks of the medical officer:

In my opinion the case is of fire arm injury. Wounds nature and sites are mentioned in post mortem report. Blood stained clothes are handed over to


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police constable Muhammad Shah. Cause of death: fire arm injury and excessive bleeding, vital organ damaged.

Probable time that elapse.....

a) Between injury and death; -----

b) Between death and Post Mortem; About 02 to 03 hours.

Today I have seen the PM report prepared by me consist of 06 sheets including the factorial which is Ex.PM which correctly bears my signature. Similarly inquest report also correctly bears my endorsement which are Ex.PM/1.”

(vii). Noor Shah son of Zar Khan, was examined as PW-7, stated that “deceased Muhammad Zubair was my son. I accompanied the dead body of my deceased son Muhamamd Zubair to the hospital and I identified the dead body of my son to the police and to the doctor. My statement was recorded by the IO u/s 161 Cr.PC”

(viii). PW-8 is the statement of Nawaz Gul son of Meen Askar, who deposed that “deceased Mst Sadina Bibi was my niece. I identified the dead body of Mst Sadina Bibi before the police and before the doctor. My statement was recorded u/s 161 Cr.PC”

(ix). Dr. Zainab Medical Officer Civil Hospital Mishti Mela Orakzai, was examined as PW-9, who stated that “During relevant days I was posted as Female Medical Officer Civil hospital Mishti Mela Stated that on 27/09/2020 I have conducted post mortem examination of deceased Sadina Bibi d/o Rasheed aged about 22 years’ r/o caste Ali Khel, Zanka Khel District Orakzai identified by Nawaz Gul and Mujahid Khan and on examination of the dead body I found the following;

VII. External Appearance:

There was no mark of the ligature on the neck.

Condition of subject stout emaciated, decomposed etc, clothing:

A fresh body with black Shalwar Qamees and blood stained.

Wounds, bruises, position, size and nature:

A body brought by Police and ER. She was dressed in blood stained black Shalwar and Qamees. A case of fire arm injury. On exposing body it was found that there was a gravid uterus scan of dead body done immediately which shows BPD = 29W + OD, EDD = 13/12/2020, FSA = absent, Placenta = eat.

Wounds Detail:

- 1. In entry fire arm wound about 1 x 1 cm seen on right of left Scapula.*
- 2. An exit fire arm wound about 2 x 2 cm at the upper border of sternum.*

VIII. Cranium and Spinal Cord:

Intact

IX. Thorax:

- Walls pierced by bullet.*
- Pleurae Damaged*
- Left lung Damaged*
- Pericardium Damaged*
- Blood Vessel Damaged*

Abdomen:

Mouth, Pharynx, Esophagus Damaged while mouth and Pharynx intact.

X. Muscles, bones and joints:

Thoracic muscles damaged and bone intact.

XI. Remarks of the medical officer:

In my opinion this case is fire arm injury. There was a gravid uterus which was confirmed by the scan, scan showed 29 weeks + 0 day of gestation with no fetal cardiac activity.

Fire arm wounds nature and site are mentioned in the sketch and specific portion.

Cause of death:

Fire Arm injury, excessive bleeding, vital organ damaged.

Probable time that elapse.....

c) Between death and Post Mortem; About 02 to 03 hours.

Today I have seen the PM report prepared by me consist of 06 sheets including the factorial which is Ex.PM which correctly bears my signature. Similarly injury sheet also correctly bears my endorsement which are Ex.PM/1”

(x). PW-10 is the statement of Muhammad Ishaq SI/IO, Police Station Ghiljo, who deposed that “during the days of the occurrence I was posted as SI PS upper Orakzai in investigation staff. After registration of the instant case, its investigation was entrusted to me. After receiving the relevant documents, I visited the spot of occurrence where the dead body Zubair was lying. I prepared site plan Ex.PB on the pointation of Stoori Khan (the brother of the deceased). I took into possession a piece of cloth (چادر) of grey colour (ختر) which was blood stained. I cut the blood stained piece from the said cloth and sealed the same into parcel No.1 Ex.P-1. Similarly, I also took into possession blood stained earth from the place of deceased Mst Sadina Bibi and sealed the same into parcel No.2 Ex.P-2 and also took into possession one empty shell of 30-bore which was lying at some distance and sealed the same into parcel No.3 Ex.P-3. One monogram in the name of GJ were put inside the parcels while 3/3 monogram in the name of GJ were affixed on each parcel vide recovery memo already Ex.PW-4/1 in the presence of marginal witness. I also prepared the site plan of the spot of the deceased Mst Sadina, which is Ex. PB-1. I recorded

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the statement of PWs under section 161 Cr.PC. On my returned back to the PS, the HC Muhammad Shah brought the blood stained garments of Mst Sadina which containing Qamees Shalwar of black color and blood stained garments containing of Kaleeji colour and one banyan of white color belonging to the deceased Muhammad Zubair. I sealed the same into parcel No.4 and 5 Ex.P-4 and P-5 vide recovery memo already Ex.PW-4/2 in the presence of marginal witnesses. I recorded the statements of witnesses of the recovery memo. The accused was arrested by the SHO who was handed over to me for investigation. I interrogated the accused cursorily. He admitted his guilt before me. I produced the accused on 28-09-2020 before the Court for obtaining 07 days Police custody vide my application Ex.PW-10/1. One day custody was granted. The accused already admitted his guilt during investigation. He led the police party to the spot and rightly pointed out the place of occurrence wherein he shown his point as well as the points of deceased Muhammad Zubair and deceased Mst Sadina. In the presence of marginal witnesses I prepared the pointation memo already Ex.PW-1/2. I made addition to the site plan Ex.PB and PB-1 on the pointation of the accused. I also recovered one rifle mark-4 without No. containing one empty shell in its chamber which was lying on the bed in the corner of his residential room, I extracted empty shell from the chamber of said rifle and also recovered one 30-bore pistol without No. on the pointation of the accused. I sealed the rifle into parcel No.6, Ex.P-6 empty shell into parcel No.7 Ex.P-7 and pistol into parcel No.8 Ex.P-8 respectively vide recovery memo already Ex.PW-1/1. I recorded the statement of accused under section 161 Cr.PC and produced him before the Illaqa Magistrate for confessional statement under section 164-364 Cr.PC vide my application Ex.PW-10/2. The accused confessed his guilt before the Illaqa Magistrate




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and after recording his confession statement he was sent to the Judicial Lockup. I add section 15-AA in the instant case and issued parwana in this respect which Ex.PW-10/3. I took the case property to the FSL vide my application Ex.PW-10/3 and 10/4 respectively and road certificates Ex.PW-10/5 and 10/6 respectively and also received the FSL results Ex.PZ and PZ-1. I have annexed attested copy of register No.19 regarding the case property which is Ex.PW-10/7 (STO, the Ex.PW-10/7 is photocopy and cannot be exhibited). I have prepared the legal heirs list of the deceased which are Ex.PW-10/8 and 10/9 respectively. I recorded the statements of PWs under section 161 Cr.PC. Today I have seen all the relevant documents which are correct and correctly bear my signatures."

5. On closure of prosecution evidence, statement of accused was recorded u/s 342 of the Code of Criminal Procedure-1898; wherein, accused professed innocence and did not opt to produce defense evidence or to be examined on oath.


6. Learned APP for the State argued that accused is directly charged in the contents of FIR; that too, with specific role of committing murder of both the deceased. Motive for the commission of offence is available in shape of honor killing. Confessional statement of accused followed by circumstantial evidence as well as the scientific evidence and other corroborating evidence available on the file is sufficient to establish the guilt of accused. The accused was specifically charged for the murder of both the accused and that the matter has promptly been reported. He added that the offence is heinous in nature and prosecution has proved its case beyond doubt entailing conviction of the accused.


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7. On the contrary, learned counsel for the accused Mr. Hamid Sarfaraz Advocate contended that there is no ocular evidence of the incident. The legal heirs and the relatives of both the deceased had not lodged the report against anybody. The accused has been charged by the SHO on his own. The confessional statement is defective as legal formalities have not been fulfilled. The incident is unseen and the circumstantial evidence is full of contradiction that is not confidence inspiring. The father of one deceased and uncle of other deceased have categorically testified the good character of the accused. Evidence available on the file is deficient and the story advanced by the prosecution is not appealable to prudent mind. It was added that there is no independent witness of the occurrence and the story has been concocted. He concluded that prosecution has not been able to prove the case beyond shadow of doubt and requested for acquittal of the accused.

9. The guilt or innocence of accused facing trial on the basis of all types of evidence available on file; duly assessed and appreciated in light of the professional assistance rendered by learned the prosecutor and counsel representing accused, is being determined as follows.

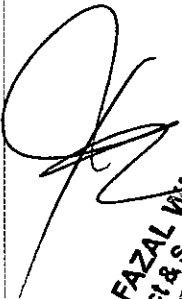
a). Accused facing trial is single accused who has directly been charged by the Local Police in the contents of Murasila Ex.PA, followed by FIR Ex.PA/1, for murder of his wife Mst Sadina Bibi (female deceased) and Muhammad Zubair (Male deceased). The reporting of matter and registration of case are obviously prompt as the Local Police has registered the case on its own for being the relatives and legal heirs of both the deceased were not willing to register case. Information of occurrence have been obtained the father of male deceased and uncle of female deceased available with the dead bodies in the premises of Civil Hospital Mishti


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Mela. A single accused has directly been charged in double murder case in the contents of FIR.


b. Motive is energetic source of mind which provides propelling force and gives impetus to perform any action or to do any act. Emotions are found concealed in the thoughts and mind of an accused, which remain secret and concealed till their exposure through spoken words or actions and can be adjudged from events occurred or to have taken place of going to happen at a relevant time. Motive is the cause, manner and method of thoughts in the mind of a person for performing action which is hidden in the mind of accused. In this legal background, the factual situation of present case is that husband has been charged for Qatl-e-Amd of his wife with a stranger on account of illicit relationship and thus motive of honor killing is existing.

c. Promptness in reporting the incident to police is another area which is required to be focused after discussing nomination and identification of accused; especially, where there is motive existing. Under Section-154 of the Code of Criminal Procedure, 1898, it is the responsibility and obligation of the Police Officer to immediately record the statement of person reporting any incident but at the same time, it is also the responsibility of every citizen to immediately lodge the FIR for every cognizable offence so that the Law may be set into motion and timely action could be taken against the criminals. Promptness in reporting the matter is encouraged with the object to obtain first hand spontaneous information of the occurrence in order to exclude the possibility of fabrication of story or consultation and deliberation. The instant FIR has been lodged without any delay despite the fact that no one was ready to register the case for being matter of honor


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killing that has got social recognition in the locality where the occurrence had taken place.


d. The mode and manner in which crime is committed is the next question to be discussed as identification, nomination of accused, existence of motive in shape of honor killing and promptness of report have already been discussed above. It is the case of prosecution that the Police party while patrolling in the area has received information regarding murder of Muhammad Zubair son of Noor Shah and Mst Sadina Bibi wife of Muhammad Rasheed allegedly committed by Muhammad Rasheed. The Local Police rushed towards Civil Hospital Mishti Mela where dead bodies of both the deceased were lying. Noor Shah being father of male deceased and Nawaz being uncle of lady deceased, available in Hospital, have confirmed the incident as honor killing. The male and female deceased have been termed in illicit relation and reportedly killed by the accused who happened to be the husband of lady deceased. Murasila was drafted by the additional SHO leading the Police party and was accordingly sent to the Police Station. Consequently, the SHO of Police Station Ghiljo Orakzai has registered the captioned FIR on his own as no one from the legal heirs and relatives of the deceased was ready to bring criminal law into motion. Accused was arrested by the SHO of the Police Station concerned vide card of arrest Ex.PW-3/5. He was remanded to Police for a single day and was produced before the learned Magistrate for recording his confessional statement vide application Ex.PW-10/2. Accused has confessed his guilt before learned the Magistrate which is Ex.PW-5/1 to Ex.PW-5/2. Learned Judicial Magistrate had confirmed the statement of the accused confessing his guilt as voluntary and true while deposing as PW-5. The confessional


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statement of accused is reproduced herein below for ease of reference and comprehension.

بیان کیا کہ تقریباً 7 بجے میں نے اپنی بیوی مسماۃ سدیدہ بی بی اور زبیر کو مشکوک حالت میں دیکھ لیا۔ میں نے دونوں کو پکڑ کر زبیر کو پیٹھک میں بند کیا اور بندوق لاکر زبیر کو قتل کیا اور اسکے بعد پستول لاکر اپنی بیوی سدیدہ بی بی کو بھی قتل کیا۔ یہ میرے غیرت کا مسئلہ تھا۔ دونوں کو میں نے خود قتل کیا ہے۔ ان دونوں کو مارنے کا ذمہ دار میں ہوں۔

It has categorically been stated by PW-5 (Judicial Magistrate) that he has ensured that the statement is voluntary and true. For accepting a confession, two essential requirements must be fulfilled as ordained by august the Supreme Court of Pakistan in Judgement reported as 2017 SCMR 986; first, that the confession was made voluntarily and was based on true account of facts leading to the crime and second, the same was proved at the trial. As far as first element of being voluntary has already been testified; whereas, second part of being proved in trial is yet to be discussed. But before discussion its being proved or otherwise, the objections of learned counsel for accused are necessary to be determined. The identity of accused at the time of recording confessional statement has been questioned at the very earliest. PW-5 (Judicial Magistrate) has stated during cross examination that he has identified that accused from his Computerized National Identity Card (CNIC). It is further in objections over the confession that the signature of the accused has not been obtained on the confessional statement. This matter has been clarified by the Area Magistrate that he has obtained thumb impression of accused on questionnaire as well as on certificate. To my comprehension, questionnaire and certificate are integral parts of the confessional statement and obtaining signature over any part of the prescribed format of the confessional statement shall be deemed as signature or thumb impression over the entire confession. Now coming to



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the second part of the guidelines mentioned in the above referred Judgement speaking about the proving or otherwise of confession. The circumstantial evidence, the Post-Mortem report, FSL reports and recoveries etc are tools available on record which prove the confession in instant trial; the detail of which will separately be discussed.

e. Corroboratory evidence of the incident when consulted reveals that female deceased and male deceased have been killed in the vicinity of single dwelling house owned and possessed by the accused. Site plan Ex. PB and Ex. PB/1 shows the presence of the accused at the spot. It was 28.09.2020 when the addition was carried out with red ink in the site plan on pointation of accused which is within the natural course of things.

f. Blood-stained piece of cloth of deceased Muhammad Zubair have been sealed in parcel no. 1 Ex. P1 and blood-stained earth pertaining to deceased Mst. Sadeena have been sealed in parcel no. 2 Ex. P2. Similarly, blood-stained garments of both the deceased have been sealed in parcel no. 4 Ex. P4 and parcel no. 5 Ex. P5. The investigation Officer had recovered one Rifle Mark-4 which was sealed in parcel no. 6 Ex. P6 alongwith empty shell sealed in parcel no. 7 Ex. P7; whereas, pistol recovered from the place of occurrence was sealed in parcel no. 8 Ex. P8 vide recovery memo Ex. PW-1/1. All the recoveries have been seen by the marginal witnesses and one of them had testified the proceedings while deposing as PW-04. The case properties have been transmitted to FSL vide application Ex. PW-10/3 and Ex. PW-10/4. Road certificates have been exhibited as Ex. PW-10/5

and Ex. PW-10/6. The report of FSL Ex. PZ opined regarding parcel no. 1, 2, 4 and 5 that blood-stains on these articles were human blood of the same groups. Similarly, FSL report Ex. PZ/1 is of the opinion that 302 bore crime

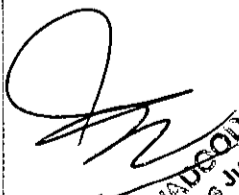

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empty was fired from 303 bore Rifle. All these recoveries and positive reports of FSL corroborate the confession.

g. Injury sheets and inquest reports of both the deceased are available on file is Ex. PW-3/1 to Ex. PW-3/4 which speak about the un-natural death of both the deceased. Dr. Asif Khan was examined as PW-06 who produced the Post-Mortem report of the deceased Muhammad Zubair as Ex. PM. He testified the inquest report Ex. PM1 as well. He categorically stated that, this is a case of firearm injury and cause of death was excessive bleeding and damage of vital organs. His report is in consonance with the injury sheet. Dr. Zainab testified the Post-Mortem report Ex. PM as well as endorsement on injury sheet Ex. PM1. She also opined that, this is case of firearm injury that caused excessive bleeding and damaged the vital organs of female deceased led to her death. The medical evidence is fully supported the prosecution case as well as the Judicial confession of the accused. Objecting the medical evidence on the score of not mentioning the time between injury and death has already been clarified by both the Doctors examined in the Court.

h. Protective custody is another ground that is of much importance; particularly when the murder of a female is involved. The accused is husband and one of the deceased is his wife. Wife is always presumed in the protective custody of her husband and when she was murdered, the accused being husband was duty bound to furnish explanation regarding un-natural death of his wife. The accused being husband of deceased wife could not explain the murder except clean breast admission of Qatl-e-Amd.

i. Prime objection of the accused party is that neither the relatives nor the legal heirs of the deceased have charged him for commission of the


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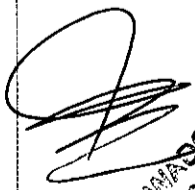
offense and it is the local police that has brought law into motion on his own. The cross examination of PW-07 (the father of male deceased) and PW-08 (uncle of female deceased) have been designed in a manner to prove that accused is religious person and that they being elders and immediate consanguine of both the deceased are not charging accused. Both these witnesses are just identifiers of the dead bodies being relatives who brought them to the hospital. They are neither exclusive sole legal heirs of the deceased nor their not charging the accused may be treated as sole ground for acquittal of the accused. The police were bound by law to bring the law into motion when found two persons died with the un-natural death of firearm injury and nothing illegal had happened which could benefit the accused party.

10. The direct nomination of accused with no chance of misidentification; promptly reporting the incident and lodging FIR; recoveries of blood stained garments and weapon of offense with shell; establishing motive of honor killing; connected circumstantial evidence; corroboration through post mortem reports; FSL reports and evidence in shape of voluntary and true Judicial confession have proved the mode and manner of the offence committed by the accused facing trial.

11. For what has been discussed above, the prosecution has been able to bring home charge against the accused facing trial beyond any shadow of doubts; that too, through cogent, concrete and tangible evidence that shall lead to conviction. It has been proved that the offences of murder of Mst. Sadina Bibi (female deceased) and Muhammad Zubair (male deceased) have been committed by accused on trial namely Rasheed Gul. Resultantly, in case FIR bearing No. 48 dated 27-09-2020, registered under section

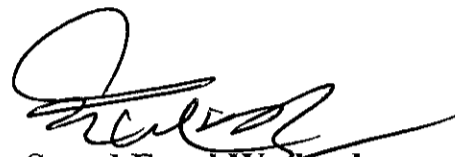

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302/311 Pakistan Penal Code, 1860 and Section 15 of the KP Arms Act, 2013 at Police Station Ghiljo Orakzai, for the murder/Qatl-e-amad of deceased Mst Sadina Bibi, the accused facing trial Rasheed Gul son of Muhammad Raheem, is hereby convicted and sentenced under Section 302 of the Pakistan Penal Code-1860 to life imprisonment (25 years) rigorous imprisonment as Tazir and the accused/convict shall also pay an amount of Rupees one Million (1,000,000) as compensation to the legal heirs of deceased within the meaning of Section-544(a) of the Code of Criminal Procedure-1898 and in default of payment of the same amount, he shall further undergo six months simple imprisonment while the amount shall be recovered as land revenue under the provision of West Pakistan Land Revenue Act-1967. The benefit of section 382(b) of the Code of Criminal Procedure-1898 is also extended in favour of the convict. The accused facing trial is also convicted under section 15-AA for imprisonment of 05 years and fine of Rs. 50,000. Furthermore, in the same case, for the murder/Qatl-e-amad of deceased Muhammad Zubair, the accused facing trial Rasheed Gul son of Muhammad Raheem, is hereby convicted and sentenced under section 302 of the Pakistan Penal Code-1860 to life imprisonment (25 years) rigorous imprisonment as Tazir and the accused/convict shall also pay an amount of Rupees one Million (1,000,000) as compensation to the legal heirs of deceased within the meaning of Section-544(a) of the Code of Criminal Procedure-1898 and in default of payment of the same amount, he shall further undergo six months simple imprisonment while the amount shall be recovered as land revenue under the provision of West Pakistan Land Revenue Act-1967. The benefit of section 382(b) of the Code of Criminal Procedure-1898 is also extended in favour of the convict. The convict/accused is already in custody; hence,


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he is being sent to Jail through conviction warrant. Attested copy of this judgement be sent to District Public Prosecutor within the meaning of section-373; whereas, attested copy of this judgement be supplied to convict in term of section-371 of the Code of Criminal Procedure-1898. All the punishments pertaining to imprisonment shall run concurrently. Case property be dealt with as per law after expiry of period of appeal/revision. File be consigned to District Record Room, Orakzai after its necessary completion and compilation within the span allowed for.

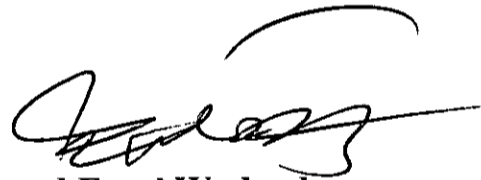
ANNOUNCED
11.01.2022



Sayed Fazal Wadood
Additional Sessions Judge Orakzai

CERTIFICATE:

Certified that this Judgment consists of twenty (20) pages; each page has been read over and signed by me after making necessary corrections therein.



Sayed Fazal Wadood
Additional Sessions Judge Orakzai