

(31)

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

CASE NO. : 4/4 OF 2021
DATE OF INSTITUTION : 12.03.2021
DATE OF DECISION : 21.10.2021

STATE THROUGH NASEEM KHAN, SHO, PS: GHILJO, U/ORAKZAI.

------(Complainant)

VS

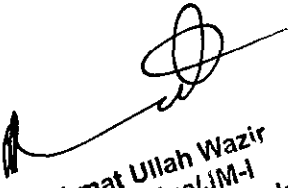
SHAFQAT ULLAH S/O MUHAMMAD KHALIQ, R/O DAWARH,
MALAGAN, MEERALI, DISTRICT NORTH WAZIRISTAN.

------(Accused Facing Trial)

Present: Nisar Ahmad, Assistant Public Prosecutor for state.
: Khursheed Alam advocate, for accused facing trial.

ORDER
21.10.2021

1. Accused facing trial, Shafqat Ullah, present who is charged u/s 468,471 PPC by the complainant Naseem Khan, SHO, PS Ghiljo, U/Orakzai for forgery for the purpose of cheating and using as genuine a forged document which is known to be forged in the shape of affixing forged number plates on the vehicle bearing Chassis No. NZE121-3031193.
2. Briefly stated factual background of the instant case is that the complainant Naseem Khan, SHO Ps Ghiljo reported that the motorcar bearing registration no. DX008/Isbd, white colour, Chassis No. NZE121-3031193 was intercepted at the police barricade. That the driver namely Shafqat Ullah s/o


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

32

Malak Muhammad Khaliq was asked to show the registration documents which he failed to produce. Resultantly, the vehicle in question was taken into custody u/s 523, 550 Cr.P.C as suspected to be stolen. Then, after obtaining permission u/s 156(iii) Cr.P.C from this court, the number plates were sent to the MRA, Islamabad and the vehicle to the FSL Peshawar. Resultantly, the FSL Peshawar reported that no other number has been deciphered in its chassis number while the MRA, Islamabad reported that a one Toyota Prius has been registered in this registration number in the name of the one Dr. Mati Ullah. That after obtaining legal opinion from the quarter concerned, the present complaint.

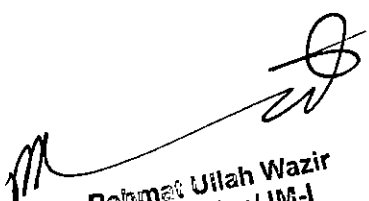
3. Upon which, the instant complaint was registered at this court on 12.03.2021.
4. After completion of the investigation, the final report was submitted on 29.01.2021 to this court. The accused on bail was summoned. The accused on bail appeared and the provisions of 241-A Cr.P.C were duly complied with. The formal charge against the accused on bail was framed on 30.06.2021, to which the accused person pleaded not guilty and claimed trial.
5. Prosecution was given ample opportunity to adduce its


Rehmat Ullah Wazir
Civil Judge/JM-I
Orakzai at (Babar Me'at)

33

evidence as it desired. Prosecution produced the following evidence;

- i. Complaint. **Ex.PW-2/4**
- ii. Application for initiation of inquiry. **Ex.PW-2/9**
- iii. Application for legal opinion to the DPP. **Ex.PW-2/10**
- iv. Final Report **Ex.PW-2/8**
- v. Recovery Memo **Ex.PW-1/1**
- vi. Cards of arrest. **Ex.PW-2/1**
- vii. Application for Issuance of letter to FSL. **Ex.PW-2/6**
- viii. Application for Issuance of letter to All DPOs. **Ex.PW-2/7**
- ix. Application for Issuance of letter to MRA, Islamabad. **Ex.PW-2/5**
- x. Recovery Sketch. **Ex.PW-2/4**
- xi. Application for remand judicial. **Ex.PW-2/2**
- xii. Application for permission u/s 156(iii) Cr.P.C. **Ex.PW-2/3**
- xiii. FSL Report. **Ex.PZ**
- xiv. MRA Report. **Ex.PZ/1**


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

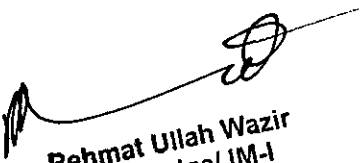
6. Then after, on 07.09.2021, the learned APP for the state closed the evidence on behalf of the prosecution.

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

(34)

in his defence.

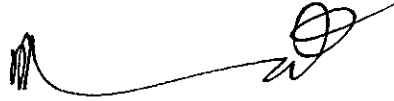
8. After conclusion of trial, arguments of the learned counsel for the accused facing trial and of the APP for the complainant heard and record perused.
9. The accused is charged with the offence u/s 468, 471 PPC. Sec.468 PPC deals with forgery for the purpose of cheating and Sec. 471 deals with using as genuine a forged document which is known to be forged.
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 marginal witness to the recovery memo, which is Ex.PW-1/1, has admitted in his cross examination that we left the PS at 06:00 am and reached the spot at 08.00 am while the PW-02, who is the seizing officer has admitted in this cross examination that I left the PS at 09:00 am and reached the spot at 10:00 am.
12. Thus, there is ambiguity in the case of prosecution as there is contradictions in the exact time of occurrence in the statements of the main and sole 02 witnesses of the prosecution in the shape of a witness to the recovery memo and a seizing officer.


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

35

13. 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.
14. Resultantly, for the above reasons it is clear that prosecution failed to bring home the guilt of the accused. Therefore, the accused namely Shafqat Ullah s/o Muhammad Khaliq 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.
15. The case property in the shape of a motorcar being already handed over to the one Sohail Khan, Pakistan Customs Intelligence Officer, Kohat vide order no. 03, Dated: 19.12.2020, available on case file, by this court under proper receipt for disposal according to law being non-custom paid vehicle, is hereby confiscated to the state.
16. File be consigned to record room after its necessary completion and compilation.

Announced
21.10.2021


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

36

CERTIFICATE

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

Dated: 21.10.2021



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