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

CASE NO. : 3/4 OF 2021
DATE OF INSTITUTION : 12.03.2021
DATE OF DECISION : 19.11.2021

STATE THROUGH SALIM KHAN, ASHO, PS: GHILJO, U/ORAKZAI.

------(Complainant)

VS

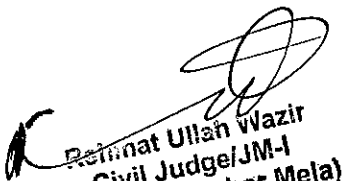
ISRAR ULLAH S/O ABDUL QAYUM R/O ZERAKI, TEHSIL MIR ALI,
DISTRICT NORTH WAZIRISTAN.

------(Accused Facing Trial)

Present: Nisar Ahmad, Assistant Public Prosecutor for state.
: Sana Ullah Khan advocate, for accused facing trial.

ORDER
19.11.2021


1. Accused facing trial, Israr Ullah, present who is charged u/s 468,471 PPC by the complainant Salim Khan, ASHO, 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. SCP130044707.
2. Briefly stated factual background of the instant case is that the complainant Salim Khan, ASHO Ps Ghiljo reported that the motorcar bearing registration No. ANN-355, white colour, Model 2004, Engine No. 47NB, Chassis No. SCP130044707 was intercepted at the police barricade. That


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the driver namely Israr Ullah s/o Abdul Qayum 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, Karachi 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, Karachi reported that no vehicle has been registered in this registration number in its office. 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 11.11.2020 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 04.11.2021, 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


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evidence;

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- i. Complaint. **Ex.PW-1/6**
 - ii. Application for legal opinion to the DPP. **Ex.PW-1/5**
 - iii. Final Report **Ex.PW-1/4**
 - iv. Application for permission u/s 156(iii) Cr.P.C **Ex.PW-3/3**
 - v. Card of arrest. **Ex.PW-3/1**
 - vi. Recovery Memo **Ex.PW-3/2**
 - vii. Recovery Sketch. **Ex.PB**
 - viii. Application for Issuance of letter to FSL. **Ex.PW-3/4**
 - ix. Application for Issuance of letter to Excise and Taxation, Sindh. **Ex.PW-3/5**
 - x. Application for remand judicial. **Ex.PW-3/6**
 - xi. FSL Report. **Ex.PZ**
 - xii. Reminder for Issuance of letter to ETO, Sindh. **Ex.PW-1/1**
 - xiii. Vehicle Registration Detail **Ex.PW-1/3**
 - xiv. MRA Report. **Ex.PW-1/2**

MA
Remand Judicial
Chief Justice
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6. Then after, on 18.11.2021, 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.

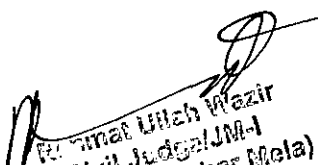
33) 9. The accused is charged with the offence u/s 468, 471 PPC. Sec.468 PPC deals with forgery for the purpose of cheating and Sec. 471 deals with using as genuine a forged document which is known to be forged.

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 inquiry officer has admitted that the vehicle in question is not registered in the name of the present accused. Further, that he does not know that who entrusted him the present inquiry.

12. PW-02, who is the marginal witness to the recovery memo, which is Ex.PW-2/1, has admitted in his cross examination that it is correct that there is no mention of time in the recovery memo. Further, that it is correct that his statement was not recorded by the I.O u/s 161 Cr.P.C. Further, that it is correct that I have signed the recovery memo in the PS. Further, that he does not remember the exact time of occurrence but it was Asar Villa.

13. PW-03, who is the seizing officer has admitted in his cross examination that it is correct that I am complainant in the


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instant case and also I have investigated the same. Further, that later on he handed over the inquiry to the one Salim Khan, SI in his personal capacity. Further, that the vehicle in question arrived at the check-post around 10:00 AM and that he reached the PS at 13:20 hrs.

14. 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. Also, admittedly the complainant has investigated the present case, which is an illegality.

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.

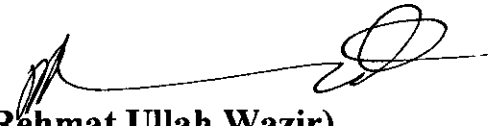
16. Resultantly, for the above reasons it is clear that prosecution failed to bring home the guilt of the accused. Therefore, the accused namely Israr Ullah s/o Abdul Qayum is acquitted of the charges levelled against him. As he is on bail, his bail bonds stand cancelled and sureties are discharged from their liability of bail bonds.

17. 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.

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


Announced
19.11.2021


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

CERTIFICATE

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

Dated: 19.11.2021


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