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

CASE NO. : 12/2 OF 2020  
DATE OF INSTITUTION : 23.06.2020  
DATE OF DECISION : 25.11.2021

STATE THROUGH MST: GUL JAMALA W/O SUCHA GUL, R/O  
QOUM ALI KHEL, TAPPA JASRAT KHEL, DABORI, DISTRICT  
ORAKZAI.

------(Complainant)

VS

1. MAIB ALI S/O GUL AJAB KHAN
2. ISLAM GUL S/O SUCHA GUL
3. MUHAMMAD ASHRAF S/O MASTAN SHAH
4. AKBAR JAN S/O HASSAN SHAH
5. NIAZ MUHAMMAD S/O GUL MUHAMMAD
6. SAID HALIM S/O ABDUL HALIM  
(All R/O Qoum Ali Khel, District Orakzai)

------(Accused Facing Trial)

**Present:** Nisar Ahmad, Assistant Public Prosecutor for complainant.  
: Mudassir Ijaz Advocate, for accused facing trial.

**ORDER**  
25.11.2021

1. Accused facing trial, Maib Ali, Islam Gul, Muhammad Ashraf, Akbar Jan, Niaz Muhammad and Said Halim, present who are charged in case FIR no. 05, Dated: 23.01.2020 U/S 420/468/471 PPC of PS Ghiljo, U/Orakzai for preparing forged death certificate and divorce certificate of the complainant with the intention of cheating and for the purpose of depriving complainant from her pension and used

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the same as genuine.

2. Briefly stated factual background of the instant case is that the complainant Mst: Gul Jamala, reported the matter of forged divorce certificate and death certificate prepared by the above-mentioned accused with the intention of cheating and for the purpose of depriving complainant from her pension and used the same as genuine. That the complainant submitted an application to the DPO Orakzai regarding verification of forged death certificate and the soldier board sent a letter regarding the verification of family pension to PS Ghiljo but the same was stopped without any reason. That the complainant submitted an application to DPO, Orakzai, which was marked to PS Ghiljo and the statement of the complainant was recorded u/s 161 Cr.P.C on 07.02.2021.

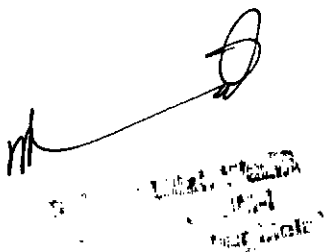
3. Upon which, the instant case was registered at PS: Ghiljo, U/Orakzai on 23.01.2020 vide FIR. 05.

4. After completion of the investigation, the complete challan was submitted on 23.06.2020 to this court. The accused on bail were 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 16.06.2021, to which the accused person pleaded not guilty and claimed trial.

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5. Prosecution was given ample opportunity to adduce its evidence as it desired. Prosecution produced the following evidence;

- i. Copy of FIR. **Ex.PA**
- ii. Complete Challan **Ex.PW-5/1**
- iii. Application regarding verification of death certificate **Ex.PW-3/1**
- iv. Naqal mad **Ex.PW-1/1**
- v. Application for legal opinion **Ex.PW-2/2**
- vi. Application for recording statement u/s 164 Cr.P.C **Ex.PW-4/2**
- vii. Card of arrest of the accused Maib Ali **Ex.PW-4/1**
- viii. Card of arrest of the accused Islam Gul **Ex.PW-4/3**
- ix. Application for recording statement u/s 164/364 Cr.P.C **Ex.PW-4/4**
- x. Application for extending for 15 days **Ex.PW-4/5**
- xi. Final Report **Ex.PW-2/1**
- xii. Application for issuance of letter **Ex.PW-1/2**
- xiii. Application to PRC **Ex.PW-4/6**



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- xiv. Application to DPO, Orakzai **Ex.PW-4/7**
- xv. Application for verification **Ex.PW-4/8**
- xvi. Application to DPO, Orakzai **Ex.PW-4/9**
- xvii. Letter to DC, Orakzai **Ex.PW-4/10**
- xviii. Application to DPO, Orakzai **Ex.CW-1/1**
- xix. Application to DPO, Orakzai **Ex.PW-4/9**
- xx. Appeal on application regarding verification of  
death certificate **Ex.PW-4/8**
- xxi. Death certificate **Ex.PW-3/2**
- xxii. Family registration certificate **Ex.PW-4/11**
- xxiii. Application to DPO, Orakzai **Ex.PW-4/12**
- xxiv. Supplementary challan **Ex.PW-6/1**
- xxv. Card of arrest of the accused Muhammad  
Ashraf, Akbar Jan, Niaz Muhammad and Said  
Halim **Ex.PW-4/13**
- xxvi. Application for police custody **Ex.PW-4/14**

6. Then after, on 06.11.2021, the learned APP for the state closed the evidence on behalf of the prosecution.

7. It is pertinent to mention here that the learned DPP, Orakzai submitted an application for changing the status of the accused Maib Ali s/o Gul Ajab Khan from accused to approver on the basis of application of the learned counsel for the accused Maib Ali, which was accepted and the status

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of the said accused was changed from accused to approver.

8. Statements of accused namely Islam Gul, Muhammad Ashraf, Akbar Jan, Niaz Muhammad and Said Halim, on bail u/s 342 Cr.P.C were recorded wherein they neither opted to be examined on oath u/s 342(2) of the Cr.P.C nor they wanted to produce any defence evidence in his defence.
9. 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.
10. The accused are charged with the offence u/s 420/468/471 PPC. Sec. 420 deals with cheating and dishonestly inducing delivery of property. 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.
11. 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.
12. **PW-03**, who is the complainant in the instant case, has admitted in her cross examination the pension was received by the one Hijab Gul who is the brother of the accused Islam Gul. That the soldier board officials only told her verbally that she has been shown dead in the documents but she was not given any document in this respect. Further, that it is

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correct that the name and signature of the accused Islam Gul are not mentioned in the death certificate. That she has charged only the accused Islam Gul and Maib Ali. That she has not been declared as successor of the deceased Sucha Gul by any court.

13. PW-04, who is the I.O in the instant case has admitted in his cross examination that he has not annexed any proof regarding the fact that the death certificate is prepared by the accused Islam Gul. Further that it is correct that the name and signature of the accused Islam Gul are not mentioned in the death certificate. That the pension was received by the one Hijab Gul and after his death by his sister but I have not indicted the aforesaid persons who were receiving the pension. That as per FRC received from NADRA, the complainant Mst: Gul Jamala is not mentioned as the wife of the deceased Sucha Gul. That it is correct that I have not sent the signature on the death certificate and divorce deed to the handwriting expert for verification and I have not obtained the sample of the signature/thumb impression of the accused. Further that it is correct that I was not provided with the original divorce deed and death certificate. Further that I have not inquired about the scribe of the divorce deed.

14. PW-07, who is the inquiry officer in the instant case has

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admitted in his cross examination that I have not verified the fact that the complainant is the wife of the one Sucha Gul from NADRA.

15. The CW, namely Maib Ali, who is the approver in the instant case, has admitted in his cross examination that he cannot read and write and that he is not the expert of the preparation of the pension cases. That he cannot differentiate between a domicile and a death certificate. That it is correct that he does not properly inquire while signing/attesting any domicile/death certificate. That when he was signing the death certificate of the complainant, she and her family were unknown to him. That he does not remember the exact date of attestation of the death certificate.

M  
Rehmat Ullah  
Civil Judge  
District Court  
Faisalabad

16. Thus, there is ambiguity in the case of prosecution as admittedly the complainant has charged only the accused Islam Gul and the accused Maib Ali but nowhere on either the death certificate or the divorce deed the name and signature of the accused Islam Gul are mentioned while the accused Maib Ali has later on been made approver. All the witnesses of the prosecution are silent regarding the remaining accused. Admittedly, no piece of evidence has been collected by the I.O regarding the involvement of the accused Islam Gul in the present case. The beneficiaries, who

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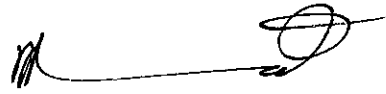
received the pension have not been indicted as accused.

17. 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 are ultimately entitled to the benefits of doubts and are accordingly extended to the accused.

18. Resultantly, for the above reasons it is clear that prosecution failed to bring home the guilt of the accused. Therefore, the accused namely Islam Gul, Muhammad Ashraf, Akbar Jan, Niaz Muhammad and Syed Salim are acquitted of the charges levelled against them. As they are on bail, their bail bonds stand cancelled and sureties are discharged from their liability of bail bonds.

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

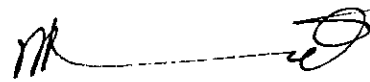
**Announced**  
25.11.2021

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

**CERTIFICATE**

Certified that this order consists of eight (08) pages. Each page has been read, corrected where-ever necessary and signed by me.

**Dated: 25.11.2021.**

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