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IN THE COURT OF REHMAT ULLAH WAZIR,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

CASE NO. : 2/2 OF 2021
DATE OF INSTITUTION : 01.07.2021
DATE OF DECISION : 19.04.2022

STATE THROUGH NASEEB KHAN, SHO, PS GHILJO, DISTRICT
U/ORAKZAI.

------(Complainant)

VS

1. HASHIM GUL S/O WAHID GUL
2. WAHID GUL S/O HAZRAT GUL
(Both R/O Qoum Ali Khel, Lahu Garhi, Ghiljo, District Orakzai)

------(Accused Facing Trial)

Present: Muhammad Zubair Qureshi, Assistant Public Prosecutor for
complainant.

: Malak Muhammad Farooq Khattak for accused facing trial.

ORDER
19.04.2022

1. Accused facing trial, Hashim Gul and Wahid Gul present, who are charged in case FIR no. 12, Dated: 13.03.2021, U/S 216 PPC of PS Ghiljo, U/Orakzai for providing shelter and assistance to absconder accused namely Ihsan Ullah and Najeeb Ullah in case FIR No. 51, Dated: 10.03.2021, u/s 395 PPC, PS Islamabad.
2. Briefly stated factual background of the instant case is that the complainant/SHO, reported the matter of providing shelter and assistance to the accused namely Ihsan Ullah

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and Najeeb Ullah in case FIR No. 51, Dated: 10.03.2021, u/s 395 PPC, PS Islamabad by the accused facing trial.

3. Upon which, the instant case was registered at PS: Ghiljo, U/Orakzai on 13.03.2021 vide FIR. 12.
4. After completion of the investigation, the complete challan was submitted on 01.07.2021 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 16.07.2021, 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 evidence;

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|--------------------------------------|-----------|
| i. Complete Challan | Ex.PW-1/4 |
| ii. Murasila | Ex.PW-1/2 |
| iii. Card of arrest. | Ex.PW-1/1 |
| iv. Application for judicial custody | Ex.PW-1/3 |
| v. Copy of FIR | Ex.PW-2/1 |

6. Then after, on 16.02.2022, the learned APP for the state closed the evidence on behalf of the prosecution.
7. Statements of accused namely Hashim Gul and Wahid Gul,

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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 their defence.

8. After conclusion of trial, arguments of the learned counsel for the accused facing trial and of the APP for the state heard and record perused.
9. The accused are charged with the offence u/s 216 PPC, which deals with the harbouring offender who has escaped from custody or whose apprehension has been ordered.
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 complainant and SHO in the present case, has admitted in his cross-examination that no written order from the concerned PS of Islamabad or my high-ups were communicated to me. Further, that no site plan of the house of the accused was prepared by him. Further that the arrested accused were not produced before the Judicial Magistrate at District Orakzai and that there is no receipt/document available on case file which could show that the accused were handed over by the District Police Orakzai to the Islamabad Police and further that no card of

arrest of the absconding accused is available on the case file.

12. **PW-02**, who is the Muharrir of the concerned PS has admitted in his cross examination that he does not know whether the police officials of Islamabad Police came to the PS or not, on the day of occurrence. Further that the absconding accused wanted to the Islamabad Police were not handed over to him after arrest and that they were not produced at the PS.


13. Thus, there is ambiguity in the case of prosecution as admittedly the alleged absconding accused who were allegedly harboured by the present accused were not produced before the Ilaqa Judicial Magistrate nor there is any piece of document which could show that they were arrested and handed over the Islamabad Police rather the story of prosecution seems to be a myth and concocted one. The prosecution could not produce any solid piece of evidence in support of its stance.

14. 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.

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15. Resultantly, for the above reasons it is clear that prosecution failed to bring home the guilt of the accused. Therefore, the accused namely Hashim Gul s/o Wahid Gul and Wahid Gul s/o Hazrat Gul 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.
16. File be consigned to record room after its necessary completion and compilation.

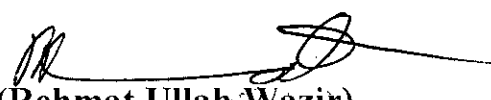
Announced
19.04.2022


(Rehmat Ullah Wazir)
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

Certified that this order consists of Five (05) pages.
Each page has been read, corrected where-ever necessary and signed by me.

Dated: 19.04.2022.


(Rehmat Ullah Wazir)
Senior Civil Judge,
Orakzai (at Baber Mela)