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

BEFORE THE COURT OF  
ADDITIONAL SESSIONS JUDGE, ORAKZAI

**Cr. Revision No. 2/10 (R) of 2022**

**Date of institution: 10.05.2022**

**Date of decision: 31.05.2022**

Fazal Rafiq son of Fazal Khanan r/o Qaum Shiekhan, District Orakzai.

**(Petitioner/complainant)**

...Versus...

The State through Naqeeb Ullah Khan son of Fazal Janan r/o Section Shiekhan, District Orakzai.

**(Respondents/2<sup>nd</sup> party)**

**Criminal Revision against Order dated 25.04.2020 in Case No. 1/2 of 2022.**

**JUDGMENT**

The petitioner/accused Fazal Rafiq has moved instant Criminal Revision Petition against the Order of learned Senior Civil Judge, Orakzai; whereby, application for acquittal under Section 249-A of Code of Criminal Procedure, 1898 has been dismissed.

2. Naqeeb Ullah and Shams Ur Rehman being available in the Emergency Unit of District Headquarter Hospital Mishti Mela reported incident of firing to the local police. Naqeeb Ullah narrated the story that he while travelling in the vehicle driven by Shams Ur Rehman, the accused Fazal Rafiq and Fazal Karim had opened firing with intention of killing him. Resultantly, he was hit on his backbone and driver Shams Ur Rehman has sustained injury due to pelting of stones. Murasila has been sent to Police Station Mishti Mela and FIR bearing No. 34 dated 02.10.2021 was registered under sections 324/365/511/34 of the Pakistan Panel Code, 1860. Complete

  
**SAYED FAZAL WADOOD**  
Addl. District & Sessions Judge  
Orakzai, District Hangu

(2e)

challan was put in Court and formal charge was framed. During course of prosecution evidence, petitioner moved an application for acquittal under Section 249-A of the Code of Criminal Procedure, 1898 which was dismissed vide impugned Order. Feeling aggrieved, petitioner moved instant Criminal Revision which is under consideration.

3. Learned counsel representing accused/petitioner argued no motive has been disclosed by the complainant. There is material contradiction in the statements of complainant and injured and thus, there is no probability of conviction of accused in future. The Order of learned Trial Judge dismissing the application for acquittal of accused suffers from regularity and illegality needs interference of this Court.


4. Learned Prosecutor assisted by private counsel of complainant are of the stance that there is strong case against the petitioner and his acquittal has premature. They added that co-accused absconding and the petitioner being single person facing trial may be tested for guilt or innocence in the evidence.

5. The perusal of record transpires that the accused has directly been nominated in promptly reported matter. The occurrence is daylight and ocular account of evidence is available recovery of bullet and other material from the spot as well as blood stained clothes are reflecting on recovery memo. The medico legal reports are also available on file and the doctors had yet to be examined. In this scenario, presuming no probability of conviction in future or groundlessness of charge are phenomena which shall lightly be termed premature. The single ground which is pressed hard by the petitioner is compromise but there is no such

record of compromise on file. Mere referring a sentence in evidence regarding compromise; that too, inconsistency with the rest of the statement, cannot be taken into consideration as a sole ground for acquittal. Let the worth of all the accusations of the prosecution including statements, recoveries, medico legal reports and other materials shall be tested in trial.


6. In view of above observations, this Court holds the opinion that there exist no ground for interference in the impugned order. Resultantly, instant Criminal Revision Petition being devoid of merits is hereby dismissed. Requisitioned record be returned back with copy of this Judgement and file of this Court be consigned to District Record Room, Orakzai after necessary completion and compilation within span allowed for.

Announced in the open Court  
31.05.2022

  
Sayed Fazal Wadood,  
AD&SJ, Orakzai at Baber Mela

**CERTIFICATE.**

Certified that this Judgment consists of three (03) pages; each of which has been signed by the undersigned after making necessary corrections therein and read over.

  
Sayed Fazal Wadood,  
AD&SJ, Orakzai at Baber Mela