

**IN THE COURT OF SHAUKAT AHMAD KHAN**  
**SESSIONS JUDGE, ORAKZAI AT BABER MELA**

SESSION CASE NO. : 1/3 OF 2022  
DATE OF INSTITUTION : 05.01.2022  
DATE OF DECISION : 22.03.2022

STATE THROUGH COMPLAINANT NAIMAT ALI SHO, POLICE  
STATION KUREZ BOYA, DISTRICT ORAKZAI

------(Complainant)

VS

GUL REHMAN S/O ABDUL AZIZ, AGED ABOUT 35 YEARS,  
CASTE QAMBER KHEL AFRIDI R/O KUKO DARA

------(Accused facing trial)

**Present:** Umar Niaz, District Public Prosecutor.  
: Kamran Khattak Advocate for accused facing trial.

**FIR No. 19**  
**U/S: 15AA**

**Dated: 05.09.2021**  
**Police Station: Kurez Boya**

**JUDGEMENT**  
**22.03.2022**

The accused named above faced trial for the offence  
u/s 15AA vide FIR no. 19, dated 05.09.2021 of PS Kurez  
Boya.

(2). The case of the prosecution as per contents of Murasila  
Ex. PA converted into FIR is; that on 05.09.2021 the  
complainant alongwith other police officials on receipt of  
information regarding the murder of Khial Jamil s/o Zarif Gul  
having illicit relations with Mst. Waseema Bibi on the pretext  
of honour, reached the spot where he found the dead body of  
Khial Jamil. The complainant charged the accused facing trial  
for the commission of offence. The Murasila Ex. PA was  
drafted by Naimat Ali SHO which was sent to the PS through

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Head Constable Ishaq Ali, on the basis of which FIR was drafted. Meanwhile, he received information regarding the presence of accused near his house. Accordingly, he reached the spot and found the accused present in front of his house. At the time of arrest of accused was armed with Kalashnikov for which he could not produce any permit/ licence. Hence, the present FIR.

(3). After completion of investigation complete challan was submitted for trial.

(4). Upon receipt of case file for the purpose of trial, the accused was summoned, copies of the record were provided to him u/s 265-C Cr.P.C and formal charge was framed against him to which he pleaded not guilty and claimed trial. Accordingly, the witnesses were summoned and the prosecution examined as many as 03 witnesses namely, Hashim Khan SI, Zaman Ali HC and Naimat Ali SHO as PW-1 to PW-3 respectively.

Thereafter, counsel for the accused submitted application for acquittal of the accused u/s 265-K CrPC for the reasons mentioned therein.

(6). I heard arguments and perused the record.

(7). Perusal of case file shows that as per murasila, the case of prosecution is, that after drafting of the Murasila, inquest report and injury sheet in case FIR no. 18, dated 05.09.2021,

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u/s 302/311 PPC of PS Kurez, the complainant on receipt of information regarding presence of accused near his house, reached on the spot, where the accused facing trial was found present. Accordingly, he was arrested and a Kalashnikov bearing no. 8737 was recovered from him. The complainant took into possession the Kalashnikov, vide recovery memo and drafted a Murasila for registration of separate case against the accused u/s 15AA. The complainant reiterated the aforementioned story in his court statement as PW-2. However, when he was cross-examined in this respect, he stated that;

*"I do not remember the exact time of the recovery of weapon of offense from the accused. I do not remember the exact number of alleged recovered weapon of offense. The weapon of offense was taken into possession by the IO on recovery memo. Many people were present at the time of recovery. I have not asked any person to become a witness of recovery. On arrival of the IO, the weapon was sealed in parcel".*

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As evident from the aforementioned extract of the cross examination of complainant, despite availability of the people on the spot no private person has been associated with process of recovery. Besides above the complainant has also negated his version as detailed on case file i.e., as per report and recovery memo the alleged weapon of offense has been

