

INQUIRY REPORT U/S 176 CR.P.C

IN THE COURT OF SENIOR CIVIL JUDGE/JUDICIAL MAGISTRATE,
ORAKZAI

Inquiry No..... 02/9 of 2024.


Date of institution.....23.05.2024

Date of decision.....15.07.2024

Order No. 09
15.07.2024

1) Instant Inquiry was marked to this court by the learned District and Sessions Judge, Orakzai vide order, dated: 21.05.2024 in order to determine the cause of death of the accused/deceased namely Khushal Khan s/o Sameer Khan; Caste: Malak Din Khel, Umar Khel, District Khyber, presently residing in Lerhi, District Orakzai, who was charged in case FIR No. 07, dated: 17.05.2024, u/s 15AA, PS Dabori, District Orakzai.

2) Brief facts of the case as per record are that, the accused Khushal Khan s/o Sameer Khan was arrested by the local police of PS Dabori on 17.05.2024 in the above-mentioned FIR and he was kept in the lock-up of the police station. After sometime constable Mati Ullah No. 2046 informed the SHO that the accused is lying unconscious on the floor of the lock-up. SHO along with Muharrir rushed to the lock-up and took him to Type-D hospital for medical check-up and treatment.


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The doctors after examination disclosed that he was already dead. The dead body was taken to THQ hospital Ghiljo for post-mortem. After post-mortem, the dead body was handed over to legal heirs of the deceased. DPO Orakzai has requested for inquiry vide letter No. 320

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PA/DPO/OKZ, dated: 20.05.2024, which is marked to the undersigned by the Hon'ble D&SJ Orakzai to conduct inquiry u/s 176 Cr.P.C to determine the cause of death of the accused/deceased.

3) CW-01 is the statement of Safeer Khan s/o (accused/deceased) Khushal Khan aged about 25 years. He stated that on 17.05.2024 at about 03:00 PM, he was informed by co-villagers namely Zeenat Mula and Haji Akbar that his father is seriously ill and admitted at THQ Ghiljo. He immediately left for the hospital and on reaching there he found the dead body of his father lying on bed at the hospital. He disclosed that he was informed by someone that his father has died in police custody after arrest in case FIR No. 07, dated: 17.05.2024, u/s 15AA of PS Dabori. He stated that during "Ghusal" (bath) of dead body, no marks of violence were found on the body of the deceased and that he being poor person, does not want to charge anyone. He stated that he has no proof regarding any torture or violence on my father by the police during custody.

4) CW-02 is the statement of Dr. Hassan Ullah, MO, THQ hospital Ghiljo. He has examined the dead body of the accused/deceased. He stated that he has not noticed any mark of ligature, no wound, no bruises on the dead body. He has mentioned the cause of death as "cardiac arrest" in his report Ex.CW-2/1.

5) CW-03 is the statement of Maroof Khan s/o Abdullah. He stated that he along with one Rafique gave "Ghusal" (bath) to the dead body of Khushal Khan and that he has not noticed any sign of violence/torture i.e bruises, injuries etc on his dead body. He further

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stated that in his opinion, the accused/deceased was not subjected to any kind of torture/violence before death.

6) CW-04 is the statement of Muhammad Rafique s/o Mula Khel. He also stated that he has not noticed any mark of violence/torture on the body of deceased during "Ghusal"(bath). According to him, the deceased was not subjected to any kind of torture/violence before death.

7) CW-05 is the statement of Naseeb Khan, the then SHO PS Dabori. He was posted as SHO PS Dabori at the relevant time. He stated that on 17.05.2024 at 13:00 hours, he along with constables Asad Ullah No. 902 and Ajmal Khan No. 1664 and driver Muhammad Shah No. 914 were present on naqabandi near Arhanga area of PS Dabori, meanwhile a person coming from Dabori side was stopped in suspicious condition and during his body search, one 30 bore pistol (without number) along with fixed magazine and 15 live rounds were recovered from his shalwar folding. The person disclosed his name as Khushal Khan s/o Sameer Khan. He was arrested and after fulfilment of legal formalities, he was shifted to PS. The accused was handed over to Waqas AMHC who put him in the lock-up. He further stated that constable Mati Ullah No. 2046 was sent to arrange lunch for the accused in the lock-up who returned back immediately and informed him that the accused is lying unconscious on the floor of the lock-up. He along with Muharrir rushed to the lock-up where they found the accused in unconscious condition lying on the floor of the lock-up. He was immediately shifted to Type-D hospital Dabori where the doctor

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declared him dead. The dead body of the accused/deceased was shifted to THQ hospital Ghiljo for post-mortem and after fulfilment of legal formalities, the dead body was handed over to Safeer Khan who is son of the deceased.

8) CW-06 is the statement of constable Asad Ullah No. 902 PS Dabori. He stated that he was accompanied with the SHO at the time of arrest of the accused/deceased. The accused was handed over to AMHC Waqas Khan. That in his presence neither the accused was beaten nor physically or mentally tortured by the complainant or any other police official.

9) CW-07 is the statement of constable Ajmal Khan No. 1664 of PS Dabori. He stated that he was present with the SHO at the time of arrest of the accused/deceased Khushal Khan. Murasila was taken by one Asad Ullah No. 902 to the PS for registration of FIR. He further stated that he along with SHO and driver were present at the place of occurrence. Later on, the accused was shifted to the PS and that neither the SHO nor any other police official have tortured or beaten the accused/deceased Khushal Khan in his presence.


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10) CW-08 is the statement of Waqas Khan, AMHC, PS Dabori. He stated that the **accused** Khushal Khan was handed over to him by the SHO and that he was closed in the lock-up after proper body search. That after 5/10 minutes, he was informed by constable Mati Ullah that accused/deceased is lying unconscious on the floor of the lock-up. He was shifted to Type-D hospital Dabori in the official vehicle where it

was disclosed by the doctor that the accused has died due to *cardiac arrest*.

11) CW-09 is the statement of Mati Ullah No. 2046. He stated that on 17.05.2024 at 03:00 PM, he was present on his duty at PS Ghiljo. That SHO directed him to arrange lunch for the accused/deceased Khushal Khan who was behind the bars in the lock-up of the PS. That he visited the lock-up and found the accused Khushal Khan lying on the floor in unconscious condition. He further stated that he immediately informed the SHO about the condition of the accused who took the accused to THQ hospital Dabori where the doctor disclosed that he is already dead.

FINDINGS OF THE COURT AND CAUSE OF THE DEATH OF ACCUSED/DECEASED KHUSHAL KHAN.

12) The evidence recorded by this court is self-explanatory. According to the police officials who were present at the time of arrest and till shifting of the accused from PS to hospital, accused Khushal Khan passed away his natural death when he was inside the lock-up at PS Dabori. His death was initially confirmed by the doctor at Type-D hospital Dabori; whereafter his dead body was shifted to THQ hospital Ghiljo. The medical reports of THQ hospital, Ghiljo and post-mortem report particularly the statement of Dr. Hassan Ullah who conducted the post-mortem of the dead body has confirmed that the accused passed away his natural death due to cardiac arrest. The Post-Mortem report, Ex.CW-2/1 is self-explanatory and it is reported that neither any mark of ligature, no wounds or bruises nor any mark of violence

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were found on the dead body. Sameer Khan S/O deceased Khushal Khan has recorded his statement as CW-01, wherein he has categorically stated that he himself has examined the body of his father and there were no marks of violence on his body. He also disclosed that one Maroof Khan and Muhammad Rafique have given "Ghusal" (bath) to the dead body of his father. In order to further confirm, the factum of violence or torture, statements of both Maroof Khan and Muhammad Rafiq were recorded as CW-03 and CW-04 respectively, who also confirmed that they have given "Ghusal" (bath) to the dead body of the accused/deceased and that they have not noticed any signs of torture/ violence on the dead body of the accused/deceased. Neither any symptoms of poisoning nor signs of any kind of tortures had been detected in Post-Mortem report. The statement of SHO Naseeb Khan recorded as CW-05 is fully in line with the statements of the son of the accused/deceased and other relatives of the deceased who have given bath to the dead body of the deceased. None of the legal heirs of the accused/deceased has turn up before the court or before the local police to charge any body for death of the accused/deceased Khushal Khan. Through evidence recorded during the course of inquiry, this fact has clearly been established that the cause of death of the accused/deceased Khushal Khan s/o Sameer Khan charged in case FIR No. 07, dated: 17.05.2024, u/s 15AA of PS Dabori, District Orakzai, was due to cardiac arrest and he passed away his natural death on 17.05.2024 in the custody of the police inside the lock-up at PS Dabori, District Orakzai.

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RECOMMENDATIONS:

13) As the cause of death of accused Khushal Khan s/o Sameer Khan charged in case FIR No. 07, dated: 17.05.2024, u/s 15AA of PS Dabori, District Orakzai is determined as *Cardiac Arrest* and he has passed away his natural death inside the lock-up of PS Dabori, District Orakzai; therefore, it is recommended that the instant inquiry may kindly be filed without proceeding further in the matter:

14) Inquiry report is hereby forwarded to the Hon'ble District and Sessions Judge, Orakzai.

15) Copy of the whole case inquiry be kept for office record and consigned.

Dated: 15.07.2024



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CERTIFICATE

Certified that this inquiry report consists of seven (07) pages. Each page has been checked and signed after necessary correction wherever deems it proper.



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