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State vs Luqman etc . U/s 15-AA PS Kalaya

**IN THE COURT OF ZAHIR KHAN JUDICIAL
MAGISTRATE-I, TEHSIL KALAYA, DISTRICT ORAKZAI**

Case No31/3 of 2024.

Date of institution.....01.11.2023.

Date of decision.....16.09.2024.

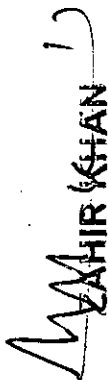
Case FIR No. 68 Dated: 02.07.2023 U/S 15-AA Police Station: Kalaya, Orakzai

State vs Luqman etc

Order No.22
16.09.2024

APP for the state present. Accused Luqman, Muhammad Zahid, on bail along with counsel present. PW, Sub-Inspector Dilbar Khan and PW Constable Muhammad Irshad present. Their statements recorded as PW-02 and PW-03 respectively. Case property produced, exhibited and returned accordingly. Public prosecutor submitted application u/s 4C(II)/5(B) of Prosecution Act, 2005 read with Section 494 Cr. PC for withdrawal of the case for the reasons mentioned therein. Arguments heard and record perused.

Brief facts of the case are that on the day of occurrence, SI Dilbar Khan, ASHO/complainant along with HC Taj Gul No. 310, constable Muhammad Irshad No. 336 along with other police nafri were on area patrol when received information that cross areal firing has taken place between accused party (Tilab Khan) and Luqman Amin party. He rushed to the spot where accused Atta Ullah, Muhammad Ayaz, Luqman Amin (1st party), accused Tilab Khan,


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Muhammad Zahid R/O Qaum Feroz Khel were present there. He arrested them. One pistol 30 bore along with a fixed charger containing 02 cartridges of 30 bore were recovered from possession of accused Muhammad Zahid while one rifle china made along with 02 cartridges of 7.62 bore were recovered from possession of accused Luqman Amin which he took into possession in presence of marginal witnesses. The recovered pistol and rifle were packed and sealed into parcel No. 1 & 2 Ex.P-1 and Ex.P-2 respectively. Accused Atta Ullah was also arrested in another attempted murder case. As accused had quarreled and beaten each other, therefore, he prepared injury sheets of injured Muhammad Zahid and Atta Ullah and dispatched them to THQ Hospital Kalaya under the escort of HC Taj Gul. Murasila was sent to PS through constable Muhammad Irshad No. 336. Recovery memo is Ex.PW-1/1, Murasila is Ex.PW-1/2, card of arrest is Ex.PW-1/3, and injury sheets are Ex.PW-1/4 & Ex.PW-1/5. He has also pointed out the spot to the IO who prepared site plan on his pointation. After completion of investigation, two separate complete challan forms u/s 506, 337-F(ii), 337-A(i), 148, 149 PPC and 15-AA were put in court. Formal charge was framed. Accused pleaded not guilty and claimed trial. So far, 03 PWs have been examined.

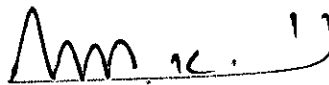
Record further shows that application u/s 249-A Cr.PC was kept pending till statement of complainant, marginal witnesses and production of case property for exhibition.

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Learned APP for the state filed application for withdrawal of the case U/S 5 (B), Prosecution Act, 2005 read with Section 494 Cr. PC. Prosecution has requested for withdrawal of the case on the ground that there are serious contradictions in the statements of PWs. Preparation of injury sheets at the spot and recovery of the arms and ammunitions is doubtful. Source of information regarding the involvement of the accused in the commission of the offence has not been disclosed. That, there is no probability of conviction of accused facing trial. Accused have not confessed their guilt. Complainant has not disclosed source of information. Recovery of arms and ammunitions is very much doubtful. There is no chance of conviction of accused facing trial. Hence, keeping in view, the contents of application submitted by prosecution and available record, the application is allowed and accused facing trial are acquitted from offences u/s 15-AA accordingly. They are on bail. Their sureties stand discharged from their liability. Case property be dealt with in accordance with law.

Case file be consigned to record room after necessary completion and compilation

ANNOUNCED
16.09.2024



Zahir Khan
JMIC-I, Tehsil Kalaya, Orakzai