

IN THE COURT OF SYED OBAIDULLAH SHAH,
SESSIONS JUDGE, ORAKZAI (AT BABER MELA)

CRIMINAL REVISION NO. : 3/10-R OF 2024
DATE OF INSTITUTION : 03.12.2024
DATE OF DECISION : 20.01.2025

WAHEED ULLAH S/O HADI GUL, R/O CASTE MISHTI, TEHSIL
CENTRAL, DISTRICT ORAKZAI

..... (PETITIONER)

-VERSUS-

1. THE STATE
2. GUL ZALI KHAN, R/O CASTE BEZOT, DISTRICT ORAKZAI

..... (RESPONDENTS)

Present: Khursheed Alam Advocate for petitioner,
Muhammad Irfan Khattak Advocate for respondent no. 2.
DPP, Umar Niaz for the State.

JUDGEMENT
20.01.2025

Impugned herein is the judgment dated 26.11.2024 of learned Senior Civil Judge/Judicial Magistrate, Orakzai vide which the respondent/accused was acquitted of the charges levelled against him. The petitioner, considering himself aggrieved of the judgment, filed the instant revision petition.

(2). Arguments heard and record perused.

(3). Perusal of the case file reveals that the respondent/accused

Gul Zali Khan was charged in case FIR No. 17, Dated 02.05.2023, u/s 381A/411 PPC registered at Police Station Kurez Boya based on the report of the petitioner/complainant alleging theft of his tractor. The respondent/accused underwent trial before the court of learned Senior Civil Judge/Judicial Magistrate, Orakzai; however, the prosecution was unable to

prove any element of the charge, and as a result, the

Syed Obaidullah Shah
20/01/2025
Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela

respondent/accused was acquitted of the charges levelled against him. The case property i.e., tractor was subsequently returned to the respondent/accused through the above-said impugned judgment.

The petitioner contends that the tractor was returned to him pursuant to an order issued by the learned Additional Sessions Judge-II, Orakzai, in Superdari Petition No. 18/4 of 2023. However, the respondent/accused is alleged to have been using the tractor by means of forged documents.

It is pertinent to mention here that the instant petition is filed to challenge the portion of the judgment dealing with the disposal of the case property i.e., tractor, without addressing the fact of acquittal of the respondent/accused which is the linchpin of the instant case. Consequently, it is necessary to examine the impugned judgment in light of Section 417 of the Criminal Procedure Code, 1898, and determine whether this court has jurisdiction to entertain such a petition. As per contents of the ibid section, a person aggrieved by the judgment/order of acquittal passed by any Court, other than a High Court; may file an appeal against such order before the august Peshawar High Court, Peshawar. Section 417 CrPC is reproduced below for ready reference;

"417. Appeal in case of acquittal: (1) Subject to the provisions of sub-section (4); the Provincial Government may in any case, direct the Public

Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

(2) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(2-A) A person aggrieved by the order of acquittal passed by any Court--other than a High Court, may, within thirty days, file an appeal against such order.

(3) No application under sub-section (2) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of sixty days from: the date of that order,

(4) If, in any case, the application under sub-section (2) for the grant of special leave to appeal from an order of acquittal is refused no appeal from that order of acquittal shall lie under sub-section (1)."


Hence, without delving into the merits of the case, it is held that this court lacks jurisdiction to entertain any petition against the judgment rendered by the trial court under section 417

Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela
20/01/2025

CrPC; therefore, the petition in hand is dismissed being non-maintainable. Needless to mention here that the petitioner may approach the proper forum for redressal of his grievance, if desired so.

Judgment announced. File of this court be consigned to record room after its necessary completion and compilation while record be returned.

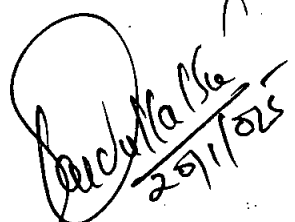
Dated: 20.01.2025


20/01/25
SYED OBAIDULLAH SHAH
Sessions Judge, Orakzai
at Baber Mela

CERTIFICATE

Certified that this judgment consists of four (04) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 20.01.2025


20/1/25
SYED OBAIDULLAH SHAH
Sessions Judge, Orakzai
at Baber Mela

