

**PESHAWAR HIGH COURT, MINGORA BEHCH  
(Darul-Qaza) Swat  
JUDICIAL DEPARTMENT**

## Rahmat Bar Khan Vs Daulat Khan etc

Respondents by Mr. Asghar Ali Advocate  
alongwith Sabir Shah AAG.

**IKRAMULLAH KHAN, J.-** Through the instant petition, petitioner Rahmat Bar Khan, seeks quashment of order dated 21.3.2016 rendered by learned Judicial Magistrate Timergara, whereby in light of application u/s 4C(1) of KPK Prosecution Services (Constitution, Functions and Powers) Act, 2005 (Act) submitted by District Public Prosecutor Dir Lower, at Timergara, the respondents involved in case FIR No.350 dated 10.7.2015 u/s 337-A(ii), F(iv)/34 PPC, Khall, were discharged by learned Judicial Magistrate, Timergara.

2. In essence, respondents were charged by complainant for causing injuries to him and his son Jehanzeb by giving them

sharp edged article/weapon blows as well as hitting them with stones.

3. I have heard arguments of learned counsel for the parties and gone through the record.

4. Perusal of record reveals that during pendency of bail before arrest application of respondents, in the Court of learned Sessions Judge/Zilla Qazi, Dir lower, the complainant Rehmat Bar Khan and his son Jehanzeb (injured) had submitted a deed Ex.PA in respect of compromise with the respondents and on the back of the same, their joint statement was also recorded wherein they had stated that the matter between the parties has been patched up through elders of locality and that they have got no objection on confirmation of ad interim pre-arrest bail of respondents as well as their acquittal during trial, so on the basis of said compromise, the learned Sessions Judge, had confirmed the bail before arrest of respondents.

5. Since the matter had been patched up between the parties and the offences were compoundable in nature therefore, the District Public Prosecutor Dir Lower at Timergara, withheld the prosecution on the basis of compromise by exercising his powers under Section 4-C(i) of KPK Prosecution Service (Constitution, function and powers)

Act 2005, who also submitted application before the learned trial Court for discharging the respondents. The learned Judicial Magistrate, being agree with the opinion of District Public Prosecutor while allowing application u/s 4-C(i) of the Act ibid, discharged the respondents from the charges leveled against them. Being dissatisfied from the same, petitioner/complainant has preferred the instant quashment petition.

6. Admittedly, the matter had been patched up between the parties through elders of locality and to this effect joint statement of complainant and injured Jehanzeb is available on file, according to which, they had expressed their no objection on the confirmation of bail before arrest of respondents as well as their acquittal during trial. The offence is compoundable in nature and once a compromise always a compromise unless it is brought on record that the same was effected through any influence, coercion or force. If the petitioner/complainant was aggrieved from the said compromise being not effected with his consent, then he should have filed a bail cancellation application against the said order but no such application has been moved nor the complainant pointed out any illegality or irregularity in the impugned order of learned Judicial Magistrate, Timergara, thereby allowing the application u/s 4-

C(i) of the Act, filed by learned District Public Prosecutor.  
 Section 4-C(i) of KPK Prosecution Service (Constitution, Function and Powers) Act, 2005, reads as under:-

*4(c) in respect of compoundable offences, other than those which are punishable by death or life imprisonment, the Director General Prosecution, and in respect of compoundable offences punishable with imprisonment for seven years or less, the District Public Prosecutor, may-*  
*(i) withhold prosecution if reasonable ground exists to believe that the offence is compoundable; provided that if the offence is not compounded within a period of one month, a report shall be lodged in the court of competent jurisdiction for prosecution and trial; or”*

7. In view of contents of above provisions of law, it is clear that the District Public Prosecutor has been empowered to withhold the prosecution if the offence is compoundable, carrying punishment upto 7 years, who may also apply to the Court for discharge of such accused. Moreover, when the complainant party had expressed their no objection on the acquittal of respondents on the basis of compromise effected between the parties, then they cannot resile from their such deposition, who failed to point out any coercion, influence or force used by respondents for compelling them to compromise

the matter with the respondents. Hence, the learned District Public Prosecutor has rightly withheld the prosecution followed by learned Judicial Magistrate, by discharging the respondents, which needs no interference by this Court. Consequently, the instant petition being devoid of any merit is dismissed.

Announced  
10.02.2017.

***J U D G E***

*"A.Qayum".*