

Selections from the record of Archives Library
Directorate of Archives Khyber Puktunkhwa, Peshawar.

Maulana Abdur Rahim Popalzai

Selected speeches, prosecutions
and judgements. 1929 to 1940



Abdur Rahim Popalzai elected by the Congress Committee (Peshawar) for Lahore Session 1929 where for the first time resolution for complete independence was passed on the bank of Ravi.

Reference : Paragraph 1014 Peshawar, 7-12-29 , North West Frontier Province Police Abstract of Intelligence. Serial No. of Copy 38 secret North West Frontier Province Police Abstract of Intelligence.

Vol. XXV. Peshawar (from Saturday, 14 SEPTEMBER 1929) [No.37

1014. Peshawar, 7-12-29.--- The following persons have been elected delegates to the forth coming Congress Session AT Lahore :--

Ghulam Rabbani Sethi

Abdur Rehman Nadvi

Ali Gul

Maulvi Abdur Rahim

Agha Qasim Jan

Amar Singh of Sadr Bazar PeshawarAbdur Rab Nishtar

Syed Mir Badshah of Musazai

Musammat Niko Devi of Karimpura

Speeches by Abdur Rahim Popalzai and Kaka Jee Sanober Hussain in Lahore Session on 27-12-29

Second sitting of Kirty Kisan Conference in Lahore Session on 27-12-1929.

Reference: Paragraph # 168. I.B., NWFP, 28-1-30

Index to Vol. XXVI Of the North West Frontier Province Police Abstract Of Intelligence for the year ending 31 December 1930.

Paragraph # 168. I.B., NWFP, 28-1-30:- Information has been received from the C.I.D., Punjab, that speeches were made by Sanober Hussain Khan, Secretary of the Zamindars' Association, Peshawar and Maulvi Abdur Rahim, son of Maulvi Abdul Hakim, political agitator, at the second sitting of the " Kirty Kisan Conference" held in Lajpat Rau Nagar, Lahore On 27December 1929. While seconding the resolution requesting establishment of Workers' Republic Sanober Hussain remarked that the strength of the workers and the peasants had overthrown the government of a tyrant like the Czar. They should not therefore, beg. Every thing belonged to them. They were the owners of the land and they should occupy it. They should organize themselves and show to the world that no power could subdue them. He proposed that the present system of land revenue be replaced by a scheme based on the income-tax plan. The man who earns money has to pay the tax on an income of over two thousand but the peasant is required to pay land revenue although he may earn only two seers of corn. Moreover the man who pays the income tax has lighting ,hospitals, schools and colleges at his disposal

and the Police at his door. The law of nature does not permit such an anomaly. It requires an equal distribution of the world's food produce. All Government law is tyrannical unless it is framed by the public. Sanober Hussain moved another resolution strongly protesting against the tyrannical treatment meted out by the Frontier Government to the poor peasants under the cover of the various Frontier Regulations. The Frontier Province, he said, has become the seat of Martial Law. There the Deputy Commissioner is God and the Naib Tahsildar, a demi-God. No evidence or witness is required to decide a case. If a repressive law like the I.P.C. cannot prove a person guilty he is handed over to the Jiga, a set of wolves, who act at the instance of the Deputy Commissioner and against whose findings no appeal can be heard even by God.

Maulvi Abdur Rahim explaining the aim of Sanober Hussain's resolution said that if the workers and the peasants want to establish a complete

democracy in India, their foremost duty should be to wipe out the Frontier

Regulations which resemble a strong fortress designed to keep the roots of

slavery and capitalism firm in India. The regulations are an example of the worst barbarity and the object underlying them is to trample upon and nullify the rights of the poor and oppressed workers and peasants.

1930 Presidential speech of Maula Abdur Rahim Popalzai on 31-3 -1930 at Chowk Yadgar.

On March 31,1930 at 5.00 p.m a common Public meeting of Muslims ,Hindus and Sikhs held at Hasting Memorial to celebrate the “Kakori, Babar Akali and Jallianwala Martyrs Day.

The MEETING WAS HELD UNDER THE PRESIDENCY OF MAULANA ABDUL RAHIM POPALZAI.

Maulana Abdur Rahim Popalzai made a speech referring to the alleged tyrannies of the British in Egypt, Persia, Mecca etc,and remarked that the policy of the Government was to suck the blood of their bodies.In the Frontier Province 95% of the population were laboureres and farmers whose daily income was not more than -/1/6, while 56 crores per anum were being wasted on maintaining the British Army. The Indians were dying of hunger,” Long Live Revolution”.

The same speech as reported in his prosecution of Qissa Khawani Tagedy:-

Maulvi Abdul Rahim did on 31-3-30 at a public meeting at Peshawar delivered a speech and thus gave utterrances to the following words or words to the following effect:-

“ It is on account of existing Government that our existence accounts for nothing, IT IS THE CAUSE OF AILMENT THAT HAS COME UPON US. It has reduced to slavery Iraq,Egypt and the Muslims of the world. This is the calamity which threw bombs on the sacred places of the Muslims at Mecca. What is this calamity? It is the existing Government. This was the calamity that opened fire on the unarmed, oppressed people in Jillianwala Bagh with Machine guns”..He continued saying, You will learn that the Government is sucking the blood of our

pressed and helpless Indians. It is therefore essential that the Government should create all sorts of difficulties for the subjects. He continued saying that the daily income per head in The Frontier Province is 2 pice per day. The Government depends on the wealth of the peasants but the peasants get only a share of 2 pice.

Government spends 55crores per anum on the army and sends 5 crores for the “ Gora “ pensioners who go away from India so that they may enjoy toasts and butter but the labourers are dying of hunger (He was President of the meeting).

2) Allama Abdur Rahim Popalzai's SPEECH on 11-4-1930 at Chowk Yadgar

Paira Khan General Secretary Frontier Provincial Congress Committee moved the following resolution.

“1. That this meeting of the citizens of Peshawar offers its heartiest congratulations to all those patriots which had fallen a victim to the repressive policy of the tyrant Government and says that the people of the Frontier Province will participate in the Civil Disobedience Campaign with sufficient zeal and maintain the good name of the Province.

2. That this meeting congratulates Sardar Ram Singh of Bannu on his arrest and condemns repressive policy of the Government.

He remarked that the people had resorted to Civil Disobedience having become tired of it (the administration). Their fight was non violent. The land without laws should have taken part in the Civil Disobedience first of all as the Agha Sahib has said that there is no DaILL (reason) or appeal here. The jirga members are at liberty to decide cases as they like. There is no appeal against the verdict .The Government thinks this law suitable for the people as they all are war liking people. The Province rendered considerable help with its men during the great war and the result was that they are called quarrelsome war liking and perpetual Martial Law has been imposed upon them. .The F.C.R is just like Rowlatt act as according to Sir George Roos Keppele, these are just like machine guns. They should start Civil Disobedience at once..He ridiculed the idea of Hindus saying that as the Muslim numbered 95% of the

population, they should first agitate. But he would ask them that in case the Muslims remained quite, should they do nothing. The Mahatma has come out only with the name of God (on his lips). Their children would call them 'Baighairat' and say where were their elders then, when the Government practice oppression upon them and what they did.. This movement will not be stopped. It is a blessing and any Province that lagged behind would not be able to show its face later as he who remained outside, would see evil days. If the people want that an administration on the lines of other provinces should be established here. They should work side by side in the present struggle. Mahatma has launched Civil Disobedience campaign against Salt. This Daku Shahi Government allows to pass any law, when it stands in need of money. They should get themselves prepared against these dacoits. Only 7 pices of their income has been left. The gold of India is no longer left. If they want to earn good name, they should turn over the present system of Government and they will then be at ease. (shouts Long Live Inqilab). Practical work was the need of hour. It is not time for speeches but for work, so that this curse could be removed. The Government derived 20 crores from the Excise Duties. It has disallowed the use of tobacco in Railway compartments but these are sold at railway stations. His heart has been lacerated, and did not know what to say. Get yourselves enrolled, so as to start picketing work and do away with this evil and take a step further.

Maulvi Abdul Rahim (Popalzai) said:

He would say some thing about the resolution which has been put forward by Paira Khan and heard. Their congratulations to those who have taken a part in the Civil Disobedience Campaign would only be justified when they follow them with firm determination in the

struggle for independence and they would be congratulated as well. They should know that Jathas were proceeding for Civil Disobedience from each and every corner of India. What was that which had

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prepared them for Civil Disobedience? They know that ever since the present Government had placed their foot in India, 150 years ago, India has been dragged down to the daily increasing degradations, casualties, starvation and hardships. They should study the black history of English rule from its very beginning up to the present. They would see each of the words the most worst of its kind. The most degrading slavery was that of the Indians. The East India Company ruled India before 1857. They ruined India's industry, trade and business gradually and rendered the Indians to poverty and starvation. After that in 1857, murders and bloodshed reigned supreme. That was the worst type of blot on the Indian history. In the 1857 war, which was for liberty, this Daku Shahi Government opened fire on the un armed subjects and murdered them mercilessly. When the mutiny ended, India was handed over to Britain by the Company for 51 crores and since then they were in bandage. Various promises were made, declarations have been made, all sorts of tricks have been played and their roots are cut. The tyrannies of rule over the subjects are not such as to be described at present. It requires a lot of time. The worst type of slavery is that of India. She is in the most oppressed conditions. It is chained and fettered like a slave. It requires of them to cut off these chains. Unless they participate with perseverance and courage in the struggle for independence, it will not be possible to get rid of it. They should take part in the war of independence which has been launched forth by Mahatma Gandhi and get themselves freed from this slavery. With these words he supported the resolution.

3) Speech of Allama Abdur Rahim Popalzai on 15-4-1930 at Shahi Bagh public meeting

Maulvi Abdul Rahim:

In expressing the object of convening the meeting moved the following resolution.

That this meeting sincerely congratulates Pandit Jawahir Lal Nehru, President all india Congress Committee, on his arrest and conviction and Mr. Gupta on his arrest, and expresses its pleasure that the Government is prepared to come out in its naked condition(in its true colors).

He made a speech saying that ever since this “Daku, autocratic and despotic “ Government had laid its foot in India, it had sucked their blood and rendered Indians half dead. The present system of administration was just like phthisis and consumption for the Indians and unless these germs were extirpated, there was no hope what so ever of the recovery of the patient. He referred to the origin of the East India Company in 1600 A.D IN England and its subsequent establishment in Calcutta (India) during 1600 A.D and described how it spread the poisonous germs of capitalism and imperialism and took over the possession of the whole of India and its wealth.

He wanted to overthrow the British Imperialism, so that these Khans should be trampled under feet. May the curses of God be on those accursed chiefs etc, who did not require reforms and called this a revolutionary movement They were the people who called themselves the representatives of the nation. When They would smash the British Government, they should then blacken the faces of these Khans as well under his own orders. They

should not use pistols and daggers but should blacken their faces only.

He advocated the use of Swadeshi cloth and deprecated those college students who used foreign cloth and remarked that they were responsible for the poverty of Indian weavers. If 91 crores of Indian's wealth which was being poured in the England annually, had remained in India, it could make the lives of Indians comfortable. He appealed for Congress funds as it was money which could cut chains and fetters of the Indians in this war of independence. Continuing he said that their opposition was to the extent of overthrowing the British Government in India and establishing a system of their own unity had been advocated on various occasions. He would not advocate the use of force but in case they were united, the present system would be paralysed automatically. They should do their own work and let the Government carry on its own work.

Reference: Deputy Commissioner Office record, bundle No.1, file serial No.17 Record section, Archives Department Library, Peshawar.

4) Allama Abdur Rahim Popalzai's speech on 21 -4-1930 at Shahi Bagh Public Meeting. Maulvi Abdul Rahim (Popalzai) moved the resolution.

“This meeting of the Frontier people expresses its hatred against the repressive policy of the Frontier Government in Prohibiting the Congress Frontier Enquiry Committee members to visit the Province, who had been appointed to conduct an enquiry about the autocratic laws that were in force in the Province. It expects of the Frontier people in general and the members of the Bar in particular to send in their written statements to the Frontier Provincial Congress Committee against the Frontier Regulations and to carry on a peaceful struggle to get these laws repealed . This meeting also requests the All India Congress Committee to give its due attention to this matter.”

The speaker said that they would have considered over the emergency of a resolution of this sort at this time. The All India Congress Committee had in its annual session at Lahore appointed an Enquiry Committee at the request of the Frontier Provincial Congress Committee to visit the Frontier Province and conduct an enquiry into the repressive laws that were in force in the land without laws. Dr. Sayad Mahmud, Lala Duni Chand and Maulana Abdul Qadir were on their way to the Frontier Province to hold an enquiry into the oppressions of the Government when they were stopped at Attock under a warrant issued by the Frontier Government which gave proof of its past evil nature. The Government was in the guise of wolf devouring sheeps and it would naturally try to keep the blood shed and tyrannies committed here to remain unexposed , so that no body could remove the veil from its true colors.

This Committee was coming to enquire and unmask these. The Government did not like that its oppressions be investigated into and put before the public. They would take a lesson from this and awake from their lethargy and try to get rid of these laws with great perseverance, as they could not live with ease and comfort, unless they freed themselves from these worst laws. They should throw off the yoke of slavery if they wanted to enjoy a comfortable life. It was not time for making speeches but practical work was required. They should come out in the field and oppose the Government unitedly and trample down under their feet this heart burning policy and with these words he would put forward the resolution.

(Reference:D.C office Peshawar I.B first List,bundle#1 File #17 page 213-215,archives library record section Peshawar)

Charge of Qissa Khawani Mutiny 1930 in the case of Crown versus Maulvi Abdur Rahim

In the court of District Magistrate, Peshawar.

King Emperor versus Maulvi Abdur Rahim s/o M.Abdul Hakim of Mohallah Gadi Khana, Peshawar City.

Charge under section of 124-A., OF THE Indian Penal Code

The complaint of Inspector S. Khuda Bakhsh, Prosecuting Officer ,Peshawar , respectfully sheweth:-

1.That M. Abdur Rahim delivered a speech at a meeting held at Hasting's Memorial Peshawar City on 10-4-30 in which he said:-

“ You know that ever since the present Government had placed their foot in India 150 years ago, India has been dragged down to the daily increased degradation, calamities, starvation and hardships. In 1857 war which was for liberty, this “ Daku Shahi” Government opened fire on unarmed subjects and murdered them mercilessly. They should take part in the war of Independence which has been launched forth by Mahatma Gandhi and get themselves freed from this slavery.”

2. That the said M .Abdul Rahim delivered a speech at a public meeting at Shahi Bagh on 15-4-30 in which he said:-

“ Ever since this Daku, autocratic and despotic Government has laid its foot in India , it has sucked their blood and rendered Indians half dead. The present system of administration was just like Pthisis and consumption to the Indians and unless these germs were extirpated, there was no hope whatsoever of recovery of the patient. He said he wanted to overthrow the British Imperialism so that these Khans should be trampled under feet. He said that when they would smash the British Government they would then blacken the faces of these

Khans as well. He exhorted the public to participate in the procession to be taken out by the Congress the next day for Civil Disobedience against Salt Laws.”

3. That the said M. Abdul Rahim delivered a speech at a public meeting held at Hasting’s Memorial on 31-3-30 in which he said:-

“ It is on account of the existing Government that our existence counts for nothing. It is the cause of ailment that has come upon us. It has reduced to slavery Iraq, Egypt and the Muslims of the world. This is the calamity which threw bombs on the sacred places of the Muslims at Mecca. What is this calamity. It is the existing Government. This was the calamity that opened fire on the unarmed oppressed people in Jillianwala Bagh, with machine guns.” He continued saying, you will learn that the Government is sucking the blood of our oppressed and helpless Indians. It is therefore essential that THE Government should create all sorts of difficulties for the subjects. He continued saying that the daily income per head in the Frontier Province is 2 pice per day. The Government depends on the wealth of the peasants but the peasants get only a share of 2 pice. Government spends 55 crores per anum on the army and sends 5 crores for the ” Gora” pensioners who go away from India so that they may enjoy toasts and butter but the laborers here are dying of hunger (He was president of the meeting).

4. That by the said words the said M. Abdul Rahim did bring or attempted to bring into hatred or contempt, or excite or attempted to excite disaffection towards the Government established by law n British India; and thereby committed offences punishable under section 124-A., of the Indian Penal Code.

5. That the order of the local administration, sanctioning the prosecution under 124-A, Indian Penal Code, of the said M. Abdul Rahim is attached hereto.

6. It is therefore prayed that the accused be tried and convicted of the offences of which he may be found guilty.

Khuda Bakhsh

Prosecuting of Police, Peshawar

Dated Peshawar

This day ----- of April, 1930

JUDGEMENT OF MAULVI ABDUL RAHIM IN QISSA KHAWANI CASE 1930

Section 124-A

Crown versus Maulvi Abdul Rahim

Judgement

Accused Maulvi Abdul Rahim is charged with delivering seditious speeches on the 31st March 1930 in the Hasting's Memorial Square in Peshawar City, on the 11th April 1930 in the same place, and on 15th April 1930 in the Shahi Bagh at Peshawar. The prosecution was sanctioned in the regular way by the local Government by means of an order u/s 196 C.P.C which contains the actual words alleged which have been spoken by the accused on the above occasions. These words form part of the charge, and are translations of the portions underlined in the red ink in exhibits P.A to P.F.

The prosecution evidence consists of notes taken in Urdu of these speeches independently by the Inspector of the C.I.D. and a sub Inspector of the Peshawar District Police (special Branch).

A summary of the evidence is as follows :-

<u>Date of speech</u>	<u>Official recording</u>
<u>Exhibit No.</u>	
(1){ 31-3-30 }	Inspector C.I.D. (P.W.1)
P.A.	
do	Sub Inspector Police(P.W.1)
P.D.	
(2) { 11-4-30 }	Inspector C.I.D. (P.W.1)
P.B.	
do	Sub Inspector Police(P.W.2)
P.E.	

(3) {15-4-30 } Inspector C.I.D. (P.W.1)

P.C.

do Sub Inspector Police(P.W.2)

P.F.

Accused is alleged to have presided at the meeting held at the 31st March 1930. He is stated to be a member of the Peshawar City Congress Committee, sand an active member of the Nau Jawan Bharat Sabha.

Accused made no defence. His attitude throughout the proceedings was one of Complete but silent contempt of court. He refused to cross examine the witnesses., to make any statement or to plead to the charge. The only occasion where he broke silence was on entering or leaving the court, where he shouted the usual revolutionary cries "Inqilab Zinda bad("Long LIVE Revolution") ,which I have noted on the file of the case.

Points for determination.

- (1) Did accused speak the words underlined in red ink in exhibits P.A. to P.F. ?
- (2)Did accused thereby attempt to bring into hatred and contempt and to excite disaffection towards the Government established by law in British India.?

Point No. 1 With regard to the three speeches alleged to have been made by accused on the above three occasions, the only evidence provided by the prosecution is that of Police and C.I.D. officials. The notes produced by these officials are in Urdu and not in shorthand, and it is not pretended that they represent accused's speeches word for word complete. It is contended however that they are verbatim reports of considerable portions of accused's speeches, and that these portions, so far as the general sense and

object of the speeches are concerned, are fairly representative of the whole.

It appears to me that in the interest of law and positive law bound to consider whether the circumstances under which the speeches were made precluded the possibility of obtaining the evidence of independent witnesses --law bound to take judicial notice of such facts as to the recent riots in Peshawar, the spread of the Civil Disobedience movement in this Province, and the holding of public meetings in Peshawar on the 31st March 1930, the 11th and the 15th April 1930 with a view to inaugurate and promote Civil Disobedience in this neighbourhood. It is only natural that such meetings would be attended by sympathizers with the movement and that independent persons would be unlikely to attend them. One can not expect therefore to find independent evidence in the case.

In considering the reliance which should be placed upon the prosecution evidence in this case, law bound to draw certain inferences from the demeanour of the accused. Though given every opportunity to deny the allegations of the prosecution, accused remained silent. In his silence and in his demeanour, he showed the utmost contempt for the authority of the court, and for the law under which he was being tried. He behaved in a manner deliberately calculated to ensure that the inference of the court should go against him. Whether he did so from motives of self sacrifice and devotion to a cause are matters which do not enter into the scope of this judgement. I can only draw those inferences from his demeanour which accused voluntarily invites me to draw and these inferences tend un-mistakenly to corroborate the evidence for the prosecution.

I have carefully compared the various notes of the speeches and find that they do not differ in any substantial respect. I hold

therefore that accused actually spoke the words underlined in red ink in exhibits P.A. to P.F.

Point No. 2 Are these words seditious within the meaning of sedition 124-A I.P.C? There is no hesitation in answering this question in the affirmative. The words are manifestly calculated to excite contempt, hatred and disaffection towards the Government of India. It can not be said that the object of these speeches is any other than to subvert the Government.

Finding : I find accused Maulvi Abdul Rahim guilty under 124-A I.P.C of delivering seditious speeches IN Peshawar on the 31st March, the 11th and the 15th April 1930.

Sentence In passing sentence, I have to consider the serious situation which has arisen in Peshawar as the direct result of such speeches as those delivered by the accused, and which terminated in riot and bloodshed in Peshawar City on the 23rd April 1930.

I sentence accused Maulvi Abdul Rahim u/s 124-A I.P.C to three years rigorous imprisonment on each of the three counts, all three sentences to run concurrently.

G.L mallam

Captain

A.D.M

30-4-30

Order announced

Signature

G.L.MALLAM CAPTAIN

30-4-30

5) Maulana Abdur Rahim Popalzai 'speech on 11-6-1931 at Shahi Bagh protesting over the death sentence to Hari Kishan.

My respected brothern, who have come here to hold a meeting ,had to take a lot of trouble. But (as) we are are not the cause of your trouble, therefore I like to place that thing before you due to which you had to bear greater trouble (here?). The fact is that the time of meeting was fixed at 6.00 O clock. The Naujawan Bharat Sabha had announce that a meeting should be held at Shahi Bagh. What will be the aim of this meeting? (For what purpose the meeting will be held?). A meeting should be held to mourn (the death of) our brave and self respecting (Ghayyur) and the brave and self respecting young man of the Frontier, Hari Kishan. For that Naujawan Bharat Sabha announced the holding of a meeting and procession,but the Government whose foundations are laid on force and repression and whose honour, absolute rule (domination) and power are based upon oppression does not like that for a short time, we may mourn (the death of) that deceased and martyr by sitting here. The Government sent a warrant under section 144 at 4.00 O clock today, to Naujawan Bharat Sabha. Setting work from its old policy, the Government has ordered that today on the 11nth instant, no meeting or procession of the Naujawan Bharat Sabha can be held under Section 144. Refusing to obey the order the self respecting Naujawans of Naujawan Bharat Sabha jumped into the field and were arrested one after another. Accordingly you would have heard that their ten persons have been arrested. After that when the third batch consisting of 5 men came forward, the Government lost all its senses, acknowledged its defeat and said that it did not want to make arrests in future. We said that we were ready (for the arrests). We would hold a meeting and take out procession. The Government said that it would not arrest us.(When) certain Razakars enquired why it did not arrest, the Government

replied, that it did not possess food. After that we came here and placed before you the resolutions that we had to represent. Misconception is creeping in about the aims and motives of the Naujawan Bharat Sabha. It is not the time to say something about it but in brief I may tell you that in its aims and motives it is also included that at present it should accomplish its constructive work. In order to accomplish its aims and motives it is treading the path of constructive program. It wants, if the world is viewed from the beginning up to the present time and pages of the history are turned over, every body can know that many revolutions broke out in the world but in reality the common people of the world who were poor and dependent were denied (the advantage) and the rich and the Khanism was benefitted. In the beginning of the world when the people used to live in harmony even then (first) king. At that time no advantage used to fall to the poor class of the Government. Inqilab has come down (descended) to the present day and assumed several shapes (forms). Today it will be the Inqilab of peasants and labourers. Today it is tried that peasants and labourers of the world should unit and uproot the monarchy (Imperialism).They should get united and organize and bring their movement to a first grade higher standard. Out of thirty five crore inhabitants of India, the greater portion is that of the poor and labourers who do not get sufficient to eat and who have no place to live and sleep. When they are living in such a manner, the Naujawan Bharat Sabha does not like that the thirty two crore inhabitants should lead the life of distress and the remainder one or two crore inhabitants should lead the life of ease. In brief I have indicated (explained) the aims and motives of the Naujawan Bharat Sabha. I like to place before you that we view the today's act of the Government, which has been done by repressive policy and repression, with the great hatred. Defeat of the Government clearly indicates that the policy it adopted was quite a wrong one.

Reference: Archives Library Peshawar. Special branch record , second list, bundle No. 71, file No.1308.

JUDGEMENT OF MAULVI ABDUL RAHIM'S SPEECH ABOUT THE EXECUTION OF HARI KISHAN

Crown	Versus	1. Maulvi Abdul Rahim, 2. Abdul Ghaffur Atish, Of Peshawar City,
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Charge under Section 124-A, Indian Penal Code.

For :- Accused No.1 Mr. Abdul Rab Nishtar, B.A., Vakil
Accused No. 2 Mr. Pir Bakhsh, B.A., Vakil.

JUDGMENT

This order covers two cases under Section 124-A, Indian Penal Code, against two accused persons named Abdul Rahim and Abdul Ghaffur Atish, who are stated by the prosecution to have made speeches at a meeting held in the Shahi-Bagh on the 11th:June, 1931. As both speeches are stated to have been made at the same meeting, both accused have been tried together with the same counsel, and it will be convenient to deal with both cases in the course of the same order.

PROSECUTION HISTORY. The case for the prosecution is that on the 11th June, 1931, ,the NAUJAWAN BHARAT SABHA of Peshawar City, decided to take out processions in honour of the execution of Hari Kishen, a youth from the Mardan Sub-Division, convicted and sentenced to death for the attempted murder of the Governor of the Punjab and the murder of a Police Officer. The processions which started from the Naujawan Bharat Sabha Office in the City, were dispersed, and about 10 of the processionists arrested. These have been separately tried and convicted. Some of the leaders and a remnant of the processionists, however, made their way to the Shahi – Bagh where they started to hold a meeting at about 7 p,m. in defiance

of an order u/s Criminal Procedure Code, prohibiting all meetings and processions in connection with Hari Krishen. The meeting was attended by an Urdu Shorthand Reporter, P.W.2, and A Head Constable from the Suburb Police Station P.W.3, in whose jurisdiction the meeting was taking place. The meeting was addressed by Abdul Rahim and Abdul Ghaffur Atish, the two accused, against whom these prosecutions have been launched with the sanction of the Local Administration u/s 196, Criminal Procedure Code. The speeches made by these two persons were taken down in Urdu Shorthand by P.W.2. They were subsequently on that evening transcribed into Urdu longhand, and according to Police executive orders were handed over to a Gazetted Officer (the Asstt:Supdt: of Police, Peshawar City) on the following morning. The Asstt:Supdt: of Police has stated that the Shorthand notes and the transcription have been in his hands from the 12th: of June until the date on which he gave evidence in Court (P.W.1). The Shorthand writer had undergone a training of 19 months at a School of Commerce in Lucknow and had obtained Diploma of Proficiency. I have examined the Shorthand notes which appear to be taken neatly and carefully. English translations of the speeches as taken down have been placed on the file, and were also read out to the accused. The speech of Abdul Rahim contains the following passages:-

“ A meeting should be held to mourn the death of our great and self-respecting Frontier young man, Hari Krishen. The Government, however, whose foundations are laid on force and repression, and whose honour, domination, and power are based on oppression, does not like us for short time to mourn the death of this deceased martyr.”

The speaker goes on to describe the disobedience by the members of his Organization of the order u/s 144, Cr: P.Code, and the holding of a meeting in defiance of that order. He then proceeds to set out what he states to be the constructive policy of his Organization saying that it is

to be a revolution of peasants and labourers in order to uproot the monarchy.

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The speech of Abdul Ghaffur Atish is far more inflammatory, and a translation of this has also been placed on the file. The speech is full of emotional appeals and imprecations against the acts of Government as exemplified by various instances. He proceeds to recall the incident of Habib Nur who attempted to murder the Assistant Commissioner, Charsadda, and states that his execution was contrary to law. He proceeds as follows:-

“ Before our eyes three rubies, Comrades Sukh Dev, Bhagat Singh and our Comerade Hari Krishen have been executed on the gallows. Only a few days ago fire ws opened in the Shalamar Garden. After these I warn my brethren that they should not sit silent. There are three more youths who will soon climb to the gallows. Two youths who killed a Jail Officer will also shortly be executed. Remember nothing can be achieved by words alone. We should do something practically today, because if you have anything today, show it in action, and if you are to live show it by dying. Show what you have to the tyrant Government.”

Both the accused refused to answer any question and would not take an opportunity to explain the circumstances appearing in the evidence against them. Their counsel was asked to warn them that u/s 342 (2)Cr:P. Code, the court might have to draw inferences from their refusal to answer, but they were unprepared to be persuaded. They also declined to put forward any defence. The case for them as argued by their counsel is that the notes of the speech as taken by the Shorthand Reporter are uncorroborated by any other evidence and that the prosecution must, therefore fail. In the case of Abdul Rahim it is also argued that his speech is constructive, that the wording was carefully guarded and that even if it is admitted as set down in Shorthand notes it scarcely comes within the perview of Section 124-A, I.P.Code.

POINTS FOR DETERMINATION.

The points for determination are as follows:-

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- (a). Has the prosecution established that the speeches as transcribed by the Shorthand Reporter and given in the translation on the file represent sufficiently accurately the speeches alleged to have been made by the two accused on the occasion in question?
- (b) If so, are the speeches actionable u/s 124-A, I.P. Code?

DISCUSSION.

- (a) For the accused it is argued that Urdu Shorthand writing is not a complete science and that the Shorthand Reporter had only returned about a month before he recorded these speeches from concluding his course, that he was, therefore fresh to his work
- (b) and that his evidence to the words used can not be accepted unless corroborated. This witness had undergone training for over one and a half years and had obtained a Diploma and prima facie therefore, it must be assumed that he was well versed in his art. There is nothing to show that Urdu Shorthand is in fact not an exact science. Examination of the original notes shows that they are very neatly kept, and it is proved that they were immediately transcribed when the memory of the writer was fresh. The speeches as transcribed make excellent sense, exactly suit the occasion and it cannot possibly be conceived that they were invented by the Shorthand or embroidered at a later stage. In fact it is impossible to think of more conclusive evidence than

Shorthand notes of speeches. Mere evidence of persons who had attended the meeting showing the trend of the speeches would be far less valuable as it is notorious how difficult it is

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to recollect the exact wording of an address made by another person. It is also noteworthy that the accused utterly declined to make any reply to the case against them. They never denied that the meeting was held, or they attended it, or that they made speeches at it, or that the speeches were in the form read out in court. Under Section 342, Cr:P.Code, I am justified in drawing the inference that they do not deny that these speeches were in fact made by them.

- (c). As already observed the speech of Abdul Rahim is less inflammatory than that delivered by his co-accused. There is however no doubt that the extracts quoted taken with the attendant circumstances in which the meeting was called, namely to glorify a political murderer, could have no other effect but to bring into hatred and contempt, and to excite disaffection towards, the Government established by law. The wording of Section 124-A is extremely wide and no person listening to the speech in question could fail to carry away the impression that it was designed to spread contempt of Government.

With regard to other speech, there is not the slightest doubt that it falls within the purview of Section 124-A I.P.Code. Counsel for this accused has in fact explained the more fiery phrases used by this accused by excusing him on the ground that he is less educated than his co-accused. The specific extract from his speech will show that not only was the speaker bringing Government into contempt and hatred, but he was also inciting other persons to follow the lead given by Hari Krishen. An impressionable person, listening to the words

uttered by the speaker, If he possessed the mentality unfortunately now commonly to be found, would carry away

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the impression that the example of Hari Krishen ought to be followed, and that political murder was a good thing.

For the reasons I convict Abdul Rahim and Abdul Ghaffur Atish of offences u/s 124-A, I.P.Code. I consider that it will be sufficient in the case of Abdul Rahim to sentence him to one year R.I. Abdul Ghaffur Atish I sentence to three years R.I. Abdul Rahim is the son of a well known Mullah in Peshawar City and will be placed in "B" Class. Abdul Ghaffur Atish is a Mistry and there are no grounds for special classification.

Signature
District Magistrate, Peshawar
G.H.

14th SEPTR.,31

Maulana Abdur Rahim Popalzai and others addressing Congressmen and Red Shirts in Cattle Market Mardan on January 26, 1938.

C.I.D. , I.P.S. Daily Diary Dated 28—1—

38 “Independence Day “

A meeting attended by about 400/500 persons , including about 52 redshirts, and the following prominent persons was held on the “Cattle Market Ground Mardan on the 26 th January under the presidency of Dr. Saran Singh OF Hoti Bazar.

1. S. Ishar Singh Bar- at law.
2. Ali Asghar Pleader.
3. Ram Saran Pleader
4. Dr. Ishar Das Kohli.
5. Sher Muhammad of Mardan.
6. Maulvi ABDUL Rahim of Peshawar.
7. Bakhshi Faqir Chand of Peshawar.

Two dhools, one Surnah and one piper were in attendance. The audience included about 100 Hindus and Sikhs

Proceedings were opened by recitation of poem by Bakhshi Faqir Chand, touching upon the miserable plight of Kisans and Labourers, who contributed to the wealth of imperialism but were ill treated by them.

Maulvi Abdul Rahim Popalzai ,speaking first said that it was the first time that he was expressing his views in Pashto. He had a lot to say but owing to shortness of time ,he would only deal with important matters.

Proceeding he said that a person who was suffering from several diseases , how would he procure medicine for his various ailments. Very wise sufferer, the speaker said, will

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endeavour to have his evil nipped in the bud in order to prevent worse troubles. He would like to tell them that the present malignant disease of India was slavery and unless it was removed, all other efforts were useless.

Speaking on “ Independence Day” he said that on the 26 th January 1929 AND subsequently on the same day every year, they acknowledged that slavery was a disease and pledged themselves to remove it as independence was its only remedy.

Speaking on the word “ Independence “ he said that unless they would try to understand its meaning they will know nothing about it. Their opposite party was cheating them because its interests consisted in keeping them in bondage .They should not pay any head to them.

Proceeding he said that he had explained to them the meaning of “ Independence” and it was the object and aim of the Congress. **By “ Complete Independence” they meant that all Indians should not be slaves of others, either of the Britishers or of non Britishers** and no community should be slave to any other sister community. If Hindus were to remain slaves of Muhammadans or vice versa, then it was no “Independence”. The object of the Congress was the speaker stated was to show that Britishers, who had come from distance of 6 thousand miles , had no right to rule over them. Its other object was that all communities irrespective of casts or creed should be independent.

Speaking on Congress ,he said, that self seekers and others, who had set up propoganda that Congress should first enter into a compromise with Muhammadens, were misleading

them under the guise that it was a Hindu body. Congress had made it clear that no community

will be the slave of any other community. Proceeding he said that it was a deception to say that the numerical strength of Muhammadens was below that of Hindus. Now a days no nation could progress on the strength of its number and history will bear testimony to it. They could study the history of China and Japan. The latter was a smaller country as compared with the former but in the present fight it was carrying the day. It indicated that number did not count and it was only political awakening and organization which held the field. Now a days, the speaker stated, India was governed by the Britishers whose number was smaller than Indians. Had number counted, they would have been ruling over London.

Similar was the case of Italy and Abyssinia. The numerical strength of the former was smaller than the latter but still it had annexed it to its country. **More over he would like to ask whether the number of the poor or the number of the rich was greater. In India about 97% were poor who were Kisans and Labourers. The object of " Independence was that 97% people should not beslaves of 3%.**

Proceeding he said that they did not want independence in which the white should be replaced by black oppressors, but its object was that the condition of the poor should be ameliorated and they should live in peace. What would be the use of such independence in which Britishers were replaced by Indians, but the condition of the poor was not improved. The true meanings of independence were that poor should enjoy and capitalists should not become their rulers.

Speaking on the Congress programme in the legislature, he said that its one item was to improve the condition of the poor and Kisans. Congress M.L.A s will follow the above programme.

In order to judge whether a society was good or bad, the speaker maintained that the best criterion was to know its

aims and its programme. If they were good then they should be in a position to say that it was a beneficial society otherwise bad. Now they will have to look to the programme of Congress which he had endeavoured to explain to them to some extent.. The Congress programme was to stamp out poverty, remove the hardships of the poor and devise steps for their protection and nourishment. At its Karachi and Faizpur Sessions, Congress had made it abundantly clear that religion, culture and rights of every community will be safe. Could any one doubt that Congress was showing favour to any particular community, contrary to the above declaration. Congress had chalked out the above programme in consultation with the Socialist Party, the object of which was that poor should get full wages for their labour. It was on account of the programme that Socialist Party and Congress were amalgamated.

Speaking on India, he said that India was a very rich country but the drawback was that

Indians were earning for others which was due to their disunity and selfish people were on the lookout to promote disruption because they laboured under the impression that it was difficult to rule over India if even Indians were united.

On the above data they had set up the cry of religion and were propagating that Congress was a "Hindu Body". If they really wish to stamp out ignorance, illiteracy and poverty then

they should follow the Congress programme. No nation had gained “

Independence” without sacrifices and practical work and it was borne out by many progressive European countries.

Concluding he spoke much on the Congress programme and maintained that if they will follow, poverty etc will vanish.

Afterwards Maulana Abdul Rahim hoisted the Congress flag amidst shouts of “ NARAI -E-TAKBIR , ALLAH HU AKBAR FAKHR-E-AFGHAN AND NATIONAL FLAG ZINDABAD”

20 crackers were let off and the redshirts saluted the flag and the band played.

Afterwards all the prominent Hindus and about 50 Muhammadens stood opposite the flag and repeated the “ Independence Pledge”. The meeting terminated by thanking Maulana Abdul Rahim for his illuminative and instructive speech.

Ref: Congress cum Redshirt Activities, 1938 Mardan District.Special branch bundle No. 10, Serial No. 131. Pages 65,67,69, 71 .Record section, Archives Library,NWFP, Peshawar.

9) Maulana Abdur Rahim Popalzai's Speech on July 20,1938 in Public meeting Mardan.

One of the historical public meetings of **Ghalla Dher Movement** in village Choki Mardan on July 20,1938 held under the **Presidentship of Baghat Ram of Ghalla Dher** attended by about 500 persons including 300 Safaid Posh.

Mian Akbar Shah ,leader of Badrashi, speaking first said that 6 years before it was considered an offence to wear red clothes with the result that many of them were killed and houses of many were burnt. However , now they could wear red clothes with impunity because they had borne all troubles cheerfully and it had been proved to the English that they were brave people. The English had sustained a defeat and handed over the Government to them.

The English , he observed were not so weak as to have handed over the government to them so easily, but they had done so as there were disturbances at home and they were in awful troubles. They had three enemies. The first one was India ,as the English apprehended that they may not join their enemies ,Germany, Italy and Japan,

German and France he said could cause havoc in England by aeroplanes within a few hours.

Proceeding, he said that they could not become free by wearing red clothes ,but they had afforded them so much relief that they had some respite now.

Continuing ,he asked the audience not to let this golden opportunity go away as it was the time to attain liberty because the English themselves were harmed by their enemies and more prepared to please them.

The English ,he said called them under-age and gave them things by instalments.

Speaking on federation, he said, that they were not prepared to accept it as it was nothing, but cheating. One of their party was prepared to accept it, but if it was imposed on them, they would raise a joint protest against it because they wished to have control over treasury and army.

The present Government, he said was for the good of Khans, Nawabs and capitalists, because no one had ever seen that the son of a poor man had become Deputy, Captain or Tehsildar.

Proceeding ,he said that like the English the sons of Nawabs also drove in cars and had no regard for poor people. If the English were to go away, they will still have troubles at the hands of Khans because their sons will put forward the question that they were literate while poor people were illiterate.

Continuing he said that he would suggest that poor people should be given free education and free books by imposing taxes on capitalists so that they refrain from extravagancy.

Concluding he advocated unity between redshirts and Safaid Posh.

Mukarram Shah of Dag Ismail Khel speaking next said that he was not a leader but he was a friend of the poor and desirous of liberty. Proceeding he said that he had noticed that the Zamindars of the Frontier Province were backward in education and politics.

Continuing he said that there were two kinds of dacoits in the world, one were poor people who committed dacoities owing to poverty, while the other were capitalists dacoits who leached the blood of the nation.

Poor and capitalists would not become brothers at all.

Continuing he asked Zamindars to wake up as in the modern country labourers and Zamindars had put up a stout fight to attain their demands and so they should follow in their wake.

It behoved all Zamindars to join their party and urge for the acceptance of their demands.

Liberty which did not benefit the poor should be cursed.

Speaking on title holders he said that they had not earned titles for an act of bravery, but forging the bonds of their slavery, however he would like them to unite like the Zamindars of Ghalla Dher and not to fear death.

Proceeding he said that he did not wish to take land out of the hands of the Nawabs, but they wanted to show that they could not earn their living.

In Maler Kotla State, he said crops and houses were burnt and Zamindars were fired upon, but ultimately they succeeded as they worked patiently.

Concluding he asked the audience to join Congress and flock to the banner of Zamindars if the Government was to go away as Congress and Zamindars flags were both brothers who had unseated many governments.

Maulana Abdul Rahim (Popalzai)of Peshawar City :

Said that there was nothing left for him as the above two speakers had said enough.

Proceeding he said that he was a religious man. Once the holy Prophet, he said, gave out that the oppressors and the oppressed should be helped. Thereupon one of his companions said that they were bound to help the

oppressed and how could they now assist the oppressors.

The holy Prophet retorted that to make an oppressor abstain from doing zulam amounted to help.

Continuing, he said that the present Government was not afraid of any other Government but it was afraid of Mazdur and Kisan Party as it maintained that India will become free if these parties would unite.

Mazdur and Kisan Parties were responsible for overthrowing the Government of Russia.

Zamindars ,he said were known as earners of bread and if they would not do so then what would be the lots of persons with big belly.

Concluding he asked Zamindars to unite and form Jirgas in their villages.

Amir Muhammad Khan M.L.A next said that half of the audience had retired as they fell sleepy, but he had come on foot in the evening from Mardan where he was engaged in their work.

Proceeding he said that far the last 6 years he had taken a vow to sacrifice his life and property for the sake of the nation.

Continuing he said that they had attended the meeting but now every body wanted to grind his own axe and their ideas had become out of tune. However they should note that it required time to frame or abolish laws.

The speaker always looked to the dark side of the picture because he apprehended danger from it. They should endeavour to attain the goal of their movement and demand every thing when they have become free.

Proceeding he said that he would place the grievances of poor people in the forthcoming assembly session.

At this stage the President (Baghat Ram Talwar) gave a chit to the speaker that his time has finished.

Amir Muhammad Khan grew indignant and left the meeting which gave rise to disturbances.

Waris Khan of Rashakai, said that it was entirely wrong as said by Amir Muhammad Khan that they had no law with them. It was strange that U.P assembly had the powers to frame law for Zamindars, but the Frontier assembly had no such power. The speaker was not prepared to give audience (the right) to it.

Proceeding he said that law was nothing and they were themselves the law (makers).

The other day he said Khan AbdulmGhaffar Khan was not permitted to enter the province and there was a ban on red clothes, but how the both bans were removed.

The speaker himself replied that it was due to their power .Therefore he would say that law was nothing and there appeared to be no reason as to why appropriate legislation should not be introduced.

Their demands were according to Shariat and none were unlawful.

Concluding, he asked the audience to unite like people of Ghalla Dher, where there was neither any Nawab nor Nazer.

The president in closing the meeting said that any power or a single personality who would intervene in their economic trouble, they would be their enemies and they would give them ultimatum of war as they were fighting to feed the poor and not for the English, capitalists or Nawabs.

Reference: Congress cum Red Shirt Activities Mardan
1938 , Special Branch bundle No.10, File serial No.132,
PP. 91-99, record section, archives library, Peshawar.

8) Allama Abdur Rahim Popalzai's speech in Kisan Conference Mansehra on February 25, 1939.

Maulana Abdur Rahim Popalzai read his presidential address.

He said that the whole world was in a turmoil and every thing indicated that in the near future there would be a war which would envelop every country in the world. Capitalists had failed to find a remedy for the sufferings of the masses and circumstances now demanded that the old system should be replaced. The economic position in India was bad because the country was under foreign control. He traced the gradual growth of British power in India and said that this had been achieved under the guise of friendship. He referred at considerable length to the history of the Frontier Province and said that owing to its strategic position and its importance to the rest of India, Great Britain had extended her influence into this province as well. He referred to the punishment awarded to the province for its participation in the Mutiny of 1857 and said that the then Deputy Commissioner had given orders to the effect that mutineers should be blown from guns. The concluding portion of his address consisted of an appeal to Congress to render assistance to the Kisan movement.

Reference: C.I.D daily diary dated 1-3-39, special branch record, bundle No. 74, serial file No. 1372. Archives library Peshawar.

12) Allama Abdur Rahim Popalzai's speech in first ever Provincial Sweepers Conference on 26-3- 1939.

Maulana Abdur Rahim Popalzai, president of the Reception Committee read his printed Urdu address .Speaking on the subject of the conference, he said that it had been convened to safeguard the interests of sweepers and other depressed classes and stated that their demands would be placed before the Ministry. He said that liberty could not be attained by using firearms and other weapons of destruction, but by unity amongst the laboring classes, who should formulate their demands and present them in the form of an ultimatum to the British Government. He maintained that the British Government consisted of capitalists who have all along exploited the working classes. Referring to the speech of Lord Baldwin in 1929 to the effect that Great Britain had established peace in India, he declared that recently the Foreign Secretary, replying to the question in the Central Assembly, had announced that 300 had been killed and 900 had been wounded during the Waziristan operations. He added that if they were to prepare statistics of such casualties since the advent of the English in this Province, they would realize that under the pretext of establishing peace many millions of rupees and thousands of lives had been wasted in Waziristan, Tirah, Mohmand country and other places. Proceeding he said that the English had relied on a policy of "Divide and Rule" ever since their advent in India and had introduced the question of agriculturists, non agriculturists, capitalists and so on. He demanded that sweepers should be allocated seats in local bodies in order to safeguard their interests.

REFERENCE: Sweepers Unions, Special branch bundle
No. 86, file serial No.1587-1588, page 95.Record section,
archives library ,Peshawar.

10) Allama Abdur Rahim Popalzai's presidential speech at Kisan Conference Sarai Saleh

,Hazara on 20-12-1939

Abdul Rahim Popalzai, the President referred to the general situation throughout the world and said that now was the time to take advantage of the position to solve the troubles of Kisans. He criticized Britain's war aims in the unusual manner and said that no one quite knew why she had gone to war on the Polish issue when she had taken no action when other smaller countries had been annexed previously. He referred to the British Government as "machinery to crush laborers and Kisans" and wondered why, if Britain was out to free Poland, she did not liberate India which had been in slavery for 200 years. He criticized the dispatch of Indian troops and Indian money overseas without the consent of the country and said that it mattered little that, Rajas, Nawabs and Khans had offered their services in the war. Since 97% of the population in India were laborers and up to the present time no labour organization had offered assistance. In these circumstances, he wondered how Mr. Chamberlain could possibly state that the British Empire was backing England in the war. He criticized Khans for the attitude they had adopted towards Kisans and said that they were the people, who had assisted the British Government during the Mutiny in 1857 by which action they had perpetuated India's slavery. The money which these landlords and Rajas were now giving to British for the prosecution of the war had accumulated by sucking the blood of the poor and they were doing this with the object of keeping them in slavery for ever. It was for these reasons that Congress had resigned office and had objected to Indian troops

being sent overseas. He asked the audience to make Kisan propaganda in all villages and to form Kisan Societies and at the same time to follow and act upon the program announced by the All India Kisan Society. The British Government was trying to prevent the formation of any strong body and the influences of Socialism affecting the laborers because they knew that this would terminate British Imperialism. The Kisan program, he said consisted of Socialism combined with non violence, though this latter condition would not necessarily be apart of their program for ever.

1.Reference: Special branch record C.I.D Daily diary dated 22-12-39 , bundle No.74, Serial No.1372, record section ,archives library, Peshawar

2. Reference . TRC record Hazara ,bundle #43,serial # 1206 archives library Peshawar also adds; Maulana Abdur Rahim Popalzai of Peshawar delivered a speech wherein he said that the meeting should serve warnings to the oppressors of the Kisans who were subjected to the atrocities of the two classes of dacoits. i.e one the English and the other the Khans, Jagirdars, Nawabs and the big land owners who helped the British in consolidating their Government. It was common knowledge that an outside dacoit could not attack a village unless he was assisted by a dacoit from within the village. It was the forefathers of the Khans and the Nawabs who helped the British in the Mutiny of 1857. It was with their help that the British conquered the Muslim Kingdoms, destroyed their powers and usurped their wealth. It was in recognition of these services that Jagirs, Nawabis and titles were conferred on those people and the " Wajibul Arz "was prepared for them in which the present day occupancy, tenants and landlords were created. The tenants could no longer tolerate the oppression provided in the Wajibul Arz and had thus gathered together. A bill had been placed to remove

these disabilities and it would be better if the Government passed it, otherwise other ways and means would be adopted That was the first ultimatum of war. He assured the Kisans that he would visit their places and render them all possible assistance.

CID daily diary of the English translation of Pashto speech of Abdur Rahim Popalzai in Bannu on 12-4-1940.(Special branch bundle No. 73 , file No.1353-1355 archives library Peshawar).

Abdul Rahim Popalzai of Peshawar City addressed a meeting attended by about 200 Muslims, after Juma prayers on the 12 the April in the Qasaban Mosque, Bannu City. His objective in addressing them ,he said was to try to reform them and to instil some sort of unity amongst the various parties which had cropped up in Islam. Their main difficulty was that they did not abide by the dictates of the Quran They could not consider that the holy Quran or that their religion was free because they could only abide by those orders which did not go against British law. It was therefore, obviously their duty to use both their power and their wealth against any nation or religion which prevented them practicing their own. If they obeyed a single verse of the QURAN, it was most likely that they would be sent to jail and their property, etc, would be confiscated and he thought that British law had turned them into cowards. This had been foisted upon them because the British Government, which he referred to as “dacoits and robbers”, did not want to see them prosperous. Promises made by the British Government were worthless and no one had been fulfilled during the 200 years of British occupation. It was the clear order of God, said the Maulana, that the Muslims should do Jihad for their country and that anybody who died while thus employed was a martyr. He was not afraid to state openly that THE FAQIR OF IPI was performing the duty of a true Muslim. Government might put him in jail for saying this but they could not hang him. He asked his audience to prepare themselves for a forthcoming struggle with the British. He himself was in favour of

both of violence and of non violence. Those who used violence were in the right because they were fighting for the protection of their country and were opposing their enemy.(Presumably referring to the hostilities in Waziristan). Those who followed the path of non violence were also right because they had no arms to do otherwise and were taking the only step in their power to compel their enemy to leave the country.

CID daily diary of the English translation of Pashto speech of Abdur Rahim Popalzai in Bannu on 15-4-1940.(Special branch bundle No. 73 , file No.1353-1355 archives library Peshawar). On the 15th April, a meeting, attended by about 200 persons was held in a mosque outside Ghoriwala , District Bannu. About 50 Mullahs from the Sadar and Ghoriwala areas were also present.

The meeting was addressed by Maulvi Abdul Rahim Popalzai. He said that he had a specific object in coming to Bannu and that was to find from the Ulemas of the district whether they considered the British were their enemies or friends and whether it was necessary to engage in a struggle for independence. He had sent for the Ulemas who had unanimously agreed with him. He continued by saying that there were two kinds of struggles, one similar to that being fought by THE FAQIR OF IPI and the other one of non violence. He preferred the latter. The time to engage in the struggle had come and if Muslims remained aloof they would suffer for ever. He said that according to thec Quran God had ordered Muslims to remain free or be punished. The should be aware of the persons who assisted Government and some Muslims, who were outwardly friendly were really their enemies. Many people ,he said, alleged that they were ready for the fight but their relatives were serving in Government departments. The war of independence being fought by them was according to God's laws and the Quran and they should persuade their relatives to join. There were no Europeans in the police or the Frontier Constabulary but these departments were served by their brethren. Now that Congress leaders and the Ulemas would announce the beginning of the fight for freedom they should stop their relatives from enlisting. He concluded by saying that Government had insufficient jails to accommodate them

all and that as the FAQIR OF IPI was fighting a jehad any one killed in his country's cause was a martyr. (It is reported that Maulana Abdul Rahim Popalzai before his recent arrest succeeded in persuading many Ulema to take an oath to support his program).

3) Judgement of Maulana Abdur Rahim Popalzai in Bannu Speech case of 12-4-1940

Judgement:-

The Police sent up Maulana Abdur Rahim Son of Abdul Hakim Popalzai of Peshawar City, for trial under section 38 (a) of the Defence of India Rules.

Said Kamal Shah, City Inspector Bannu, made a complaint against Maulana Abdur Rahim accused on 19-4-40 (Ex.P.A under Section 38 (a) of the Defence of India Rules alleging that the accused had made an objectionable speech in the Qasaban Mosque which excited disaffection towards the Government established by British India.

Major .D.G.H.Dela Fargue, District Mgistrate Bannu gave his formal sanction to the prosecution of the case.

P.W1 .Said Kamal Shah, City Inspector, stated that on 12-4-40 said Hassan Shah, An Urdu Stenographer, (P.W 3) handed over some stenographic notes, Ex.P.B . and transcribed notes Ex.P.G. of the speech made by the accused.The witness deposed that the accused visited Bannu with two or three followers and that they had been touring in the district making speeches.. The cross-examination referred to the wording of he speech but I do not consider that this need be discussed at present as there is direct evidence from the stenographer on this point .In answer to question by the court ,the witness stated that from his own experience he could say that speeches of the type made by the accused had, in the past, excited the local inhabitants to infringe the law.

P.W 2 S.I, Haqdad Khan of the Bannu Intelligence Branch, deposed that he has been working as an intelligence

Sub Inspector for the last year and a half. It was his duty to report all matters of political importance to the authorities. The political situation prevailing in Bannu District had been given a religious tone by certain Mullahs who had in the past made speeches against Government. He added that speeches of this type did in fact excite the local people to commit crime. Counsel for the accused failed to shake the witness's evidence regarding the effect of anti-Government propaganda made in former religious speeches. In answer to a court question the witness replied that after seditious speeches had been made, the political situation in the district had deteriorated.

I now turn to the main witness A.S.I Said Hassan Shah an Urdu Stenographer of the Police who is specially employed to take down anti-Government speeches made in the district. The first part of the evidence showed that the witness was an expert at his own type of work which he had been doing in various districts since July, 1936. He was qualified for a diploma in stenography in Lahore in 1936. Since this time his sole duty has consisted of recording speeches. He has been posted in Bannu for seven months. On 12-4-40, he attended the meeting held in the Qasaban Mosque, Bannu City after the Friday Prayers. The meeting was on from 2.00 p.m to 3.00 p.m. The accused Maulana Abdur Rahim made a speech in Pashto and the witness took down an exact translation of the words in Urdu shorthand. Directly the speech was finished, the notes Ex.P.B were signed by Chaudhry Mod Azim, P.W.4. Some 200 people were present at the Mosque while the speech was being delivered. The witness transcribed the notes Ex.P.C. and handed over both the notes and transcription to Inspector Said Kamal Shah, P.W.1.

In order to give the accused a fair chance to rebut the words of the speech, I ordered the witness to read out

Ex.P.B., his notes and permitted Mr.Lutfullah Khan, counsel for the defence, to check the translation Ex.P.C. Counsel admitted that translation was correct.

Counsel for the defence tried to shake the witness regarding the wording of the speech. In court it was read out in 17 minutes. The witness was reading it so quickly that I had to stop him once or twice in order to understand the meaning. The accused must have been delivering the speech much more slowly. He recited certain verses from the Holy Quran and certain traditions which the stenographer omitted from the notes. This apparently is his normal custom. At the end of the speech he asked Chaudhry Mod Azim P.W.4 to sign the notes.

The witness said that the speech was very objectionable. The witness's Pashto is not good and I therefore do not consider this evidence to be relevant. The material value of this witness is his signature on the back of the notes which constitutes formal corroboratory evidence that the stenographer did in fact take down the speech.

Counsel for the defence tried to prove that Chaudhry Mohd Azim was a Police witness and was in the habit of giving evidence for them. Whether he is or not, I do not know, but I only accept his evidence regarding the fact that he accused made a speech and that he (the witness) signed the shorthand notes at the end of the speech.

A reference to Ex.P.C. will show that certain parts of the speech do not tend to excite disaffection towards His Majesty's Government established by law. For easy reference I have attached an English translation to the file.

Once again in order that the accused should be given a fair chance to rebut the evidence produced against him,

certain portions of the speech of red out to the accused during his examination.

The accused admitted making a speech in Qasaban Mosque on 12th April 1940, after the Friday prayers. He however stated that the translation had many omissions and additions. He was asked whether he made a statement to the that “ If you follow those verses of the Quran which are opposed to the I.P.C and Cr.P.C, you will be arrested under 124-A ,121 I.P.C and other sections ,adding therefore your hands, feet, tongue , inner and outer senses are tied ;therefore you cannot act in compliances of the verses of the Quran; your religion is not free”. The accused replied that he spoke these words but with some other context.

He was then asked if he made a statement to the effect if he made a statement to the effect that “ there were Muslims who were willing to sacrifice their lives and anything for religion and God, were willing to carry on a holy war. In contrast to them you people are afraid. What has made you such coward? It is the English law. I ask you what is the use of this law ? they are forced to obey such a law..... If we follow the verses of the Quran, then how will these dacoits and robbers who come from several thousand miles be able to prosper?. The accused admitted making the speech but stated that there were many changes in the context.

The accused was then asked if he made a statement to the effect that ;”I am not afraid of the Government because the Government cannot hang me , at the worst she can only sent me to the prison and Government knows that I am not afraid of prison. He denied saying these words.

Finally the accused was asked if he made a statement to the effect that; “ you should commit holy war for the sake of your country, property and honour. If you are

killed you will be a martyr. I can tell you what your duty is. I can say without fear that the Haji Sahib is performing your duty. The accused replied that he had made the speech but there were many additions. The accused stated that he was a Congressman, that he believed in non violence and that he preached it.

As it appears that there was a prima facie case against the accused under Section 38 (a) of the Defence of India Rules in that he had done a ' prejudicial act' as defined in Section 34 (6) (e) of the said rules, a charge was framed against him. The charge was read to the accused. He pleaded not guilty but declined to produce defence.

There is no doubt whatever in my mind that the as defined in speech comes under the definition of a " Prejudicial act as defined in para 6(e) of the said rules i.e that the speech excited disaffection towards the Government by law in British India. The evidence has been discussed in detail above and there is no doubt that this speech excited disaffection towards the Government established by law in British India. The evidence has been discussed in detail above and there is no doubt that this speech excited disaffection towards the Government. The statement that : You should commit a holy war for the sake of your country, property and honour. If you are killed you will be a martyr. I can tell you what your duty is .I can say without fear that " Haji Sahib" (obviously referring to the Faqir of Ipi) is performing your duty " is the most dangerous form of propaganda. It is a deliberate challenge to law and order and direct incitement to hostiles and their followers. Inflammatory speeches of this type have in the past caused untold trouble in this district with the resultant loss of many innocent lives and great deal of property. Government has also been compelled to enlist hundreds of extra men to deal with the situation.

Had this speech been made in any district where normal conditions prevail, it is probable that it would not have called for magisterial notice, but the fact that it was delivered in Bannu, the most turbulent district in the whole of India and where the local inhabitants are swayed only too easily by an anti government speech which has a religious tendency, brings it under the heading of a 'Prejudicial act'.

The counsels for defence R.B.L Chaman Lal, Sardar Lutfullah Khan, M.Sarfraz Khan, L.Kewal Ram and Amir Dost Mohd Khan headed by L .Kotu Ram argued that the Defence of India Rules were meant to apply to European War.A reference to the heading of Ordinance 5 of 1939 of the Defence of India Rules will show that the Ordinance was made law on account of the grave emergency which had arisen and it was to ensure the public safety and interest and the defence of British India.I therefore find the accused guilty.

It is common knowledge in this district that lately the tone used by local speakers and preachers has been studiously moderate. The inhabitants have gradually begun to see the folly of encouraging the hostiles, self named Ghazis. They have realized that these hostiles are nothing but a pack of murderers and gangsters. An innocent Hindu pregnant mother was killed because she could not keep up with a gang, a Sikh had his hair cut because ransom was not paid quickly, a wretched patwari was branded and young girls have been forcibly converted to Islam. There is an endless tale on record of senseless brutal atrocities committed by the followers and in the name of gang leaders who style themselves the Lieutinants of The Faqir of Ipi. The the accused has the effrontery to come to this district from Peshawar to

encourage these gangsters and their associates in the district and excite disaffection towards law and order which was slowly but surely being restored. The accused must be given a maximum punishment as an exemplary measure and as a warning to others. I therefore sentence him to five years R.I. under Section 38(a) of the Defence of India Rules.

Sd/A.K. A Dredge

Additional District Magistrate

Bannu

8-5-40

APPEAL AGAINST THE BANNU CASE (1940) JUDGEMENT OF MAULANA ABDUR RAHIM POPALZAI BY ADDITIONAL DISTRICT MAGISTRATE BANNU.

Maulana Abdur Rahim versus Crown.

Mrsr. Abdul Qayum, Qasim Shah and Ragu Nath for the appellant.

Advocate General for the Crown.

JUDGEMENT.

The appellant in this case Maulvi Abdul Rahim aged 42 has been convicted of an offence under Sec.38(1) (a) of the Defence of India Rules read with section 34 (b) (e) and has been sentenced to 5 years R.I. He appeals against his conviction and sentence.

The conviction is based upon a speech which he made in a mosque at Bannu on the 12th of April 1940. Three points are taken by learned counsel for the appellant.; one is that the speech was not fully and correctly recorded by the police officer who was present at the meeting and took it down in shorthand; the second is that the speech does not contravene the provisions of the rules and the third is that the sentence is excessive.

As regards the first point the accused when questioned as regards the correctness of the record of the speech was not very specific. He admitted that he made a speech but said that the translation contained many omissions and additions and that the words which are spoken were spoken in some other context than that in which they appear.

Virtually the only evidence regarding the correctness of the report of the speech is that contained in the statement of P.W.3 , Said Hussain Shah who was the stenographer who recorded the speech. He says that he has been regularly practicing as stenographer since 1936 and that the speech is a correct record of what he heard, although he has not included in it the verses from the holy Quran which were recited during the course of the speech. There was one other witness Chowdry Mohd Azim who signed the speech after it had been made ,but he admits that he is not very conversant with Pushto in which the speech was made and the magistrate has recorded a note to the effect that the Pushto of the witness is bad. There are however, in my

opinion no reasons for doubting the correctness of the evidence of the witness who recorded the speech. It is part of his official duties. He appears to be employed as a stenographer only and there are no reasons why he should have recorded the speech incorrectly. I may say that the notes which he took were read out in court while the transcription was in the hand of counsel for the accused and it was not disputed that the transcription was correct. Generally speaking the contents of the speech appear to me to go far beyond the limits of reasonable criticism of Government. The following specific passages were put to the accused in his examination:-

1. If you follow those verses of the Quran which are opposed to the I.P.C. AND Cr.P.C. you will be prosecuted under 124-A AND 121 I.P.C. and other sections. Therefore your hands, feet ,tongue, inner and outer senses are tied, therefore you cannot act in compliances with the verses of the Quran. Your religion is not free.
2. There were Muslims who were willing to sacrifice their lives and to do anything for religion and God and were willing to carry on a holy war. In contrast to them you people are afraid. What has made you such cowards; it is the English law. I ask you what is the use of this law, why are we forced to obey such a law.If we follow the verses of of the Quran, then how will these dacoits and robbers who come from several thousand miles be able to prosper?
3. I am not afraid of the Government ,because Government can not hang me, at the worst she can only sent me to prison and Government knows that I am not afraid of prison.
4. You should commit a holy war for the sake of your country, property and honour. If you are killed you will be a martyr. I can tell you what your duty is. I can say without fear that the Haji Sahib is performing your duty.”.

It was explained in the judgement of the Magistrate that the reference to the Haji Sahib in the last quotation was obviously a reference to the Faqir oflpi who is causing great deal of trouble in the southern districts of this province by operations conducted from tribal territory. Learned counsel has suggested that this inference is not justifiable but with historical knowledge of the conditions in the Bannu district, I

must accept the interpretation of the words put upon them by the Magistrate.

The second and fourth of these extracts appear to me to be particularly objectionable, but as has been laid down in certain rulings of High Courts, the speech as a whole must be indication that the intension of the accused was to bring into hatred and contempt the Government established by law in British India.

There remains the question of sentence. The learned Magistrate in the course of his judgement remarked that had the speech been made in any district where normal conditions prevail, it is probable that it would not have called for magisterial notice, but the fact that it was delivered in Bannu, the most turbulent district in the whole of India, where the local inhabitants are swayed only too easily by an anti Government speech which has a religion tendency, brings it under the heading of a “ prejudicial Act.”

In the last paragraph of his judgement he referred to several offences which had been committed by people who styled themselves as lieutnants of the Faqir of Ipi.

In the case which I have been referred to by learned counsel for the appellant namely 1930 L ,1929 L, .817 AND 1933 Bom 65 which were tried under section 124-A I.P.C, which is somewhat similar in terms to the offence under The Defence of India Rules, sentences much more lenient were awarded than has been awarded in the present case .In the first of them the sentence was reduced to the amount of imprisonment already undergone four months. In the second it was reduced from two to one year, and in the third it was reduced to a fine of Rs.300/-. There are as noted by the learned Magistrate special circumstances why a speech of this nature is objectionable in the district of Bannu. It is well known in that district disorder has been rampant nature is liable to increase that disorder. Furthermore these rules have been made with a view to to prevent any thing which is in my opinion grounds for inflicting a substantial sentence of imprisonment .But I do not think that the case calls for the maximum punishment allowed under the rules. There are other offences punishable under the same rule which would have to be looked upon as more serious than this one; for instance communicating information which might be likely to

assist the enemy. Taking into consideration all the circumstances of the case I think that a sentence of 3 years R.I., will be appropriate in this case and therefore while maintaining the conviction I reduce the sentence to 3 years R.I.

Sd/J.Almond
Judicial Commissioner.
N.W.F.P, Peshawar.

8th July 1940.