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COURT OF SENIOR CIVIL JUDGE/JM, ORAKZAI AT BABER MELA

Case Title: State VS Yousaf Khan and others

| Serial No of order or proceedings | Date of Order Proceedings | Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary |
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| Order No. 28 | 30.06.2025 | <p>Sr.PP for the state present. Complainant present who relied upon the prosecution and did not engage a private counsel. Accused Mewa Khan, Tabib and Aman Ullah along with counsel present while accused Yousaf absent. The said accused are facing trial in the instant case FIR No. 03, Dated: 08.03.2024, u/s 506/427/148/149 PPC of PS Ghiljo, U/Orakzai while accused Shah Hanif is absconding.</p> <p>Case is fixed for arguments on an application filed under section 249-A of the Cr.P.C for dismissal of charges against the accused persons.</p> <p>Arguments heard and record perused.</p> <p><u>Reasons:</u></p> <p>The grounds raised by the defense counsel are arguable. Their assessment with emphasis on their relevance in the context of the 249-A is as follows:</p> <ol style="list-style-type: none"> There is a delay of one day in the alleged occurrence and its report to the local police by the complainant. The incident occurred at 17:30 on 07/03/24, and was reported to the local police the next day at 11 am. The delay, which is substantial, is unexplained. The FIR reports the matter to have taken place at 17:30. Complainant states in his testimony that he set off for inspection of his lands and trees on the site at 10: am. He further informs that his house is situated at a distance of 05 Kms from the site of occurrence. The FIR reads that upon arrival on the spot, the accused persons were found busy in cutting trees. The counsel for defense raised the point that how come it took the complainants 7 hours to travel 05 |


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| Order No. 28 continued | 30.06.2025 | <p>kms. He further suggested that if it is presumed that they had arrived earlier, what transpired between their arrival on site and the incidence of the alleged offense at 17:30. It is potent discrepancy. Complainants must have travelled the distance of 05 kms in 30 min. if their departure time was 10 am, as they admit, what took the alleged dispute to commence after 06 hours.</p> <p>iv. Next key objection raised to the version of the prosecution is the manner of the occurrence as reported in the FIR and testified by the witnesses. It is stated that up of hundred shots were fired by the accused persons, but the police managed to collect only 05 empties. What happened to the rest of empties is unaccounted for in the record.</p> <p>v. About the transportation of the chopped woods left behind by the accused persons, the complainant has furnished a strange report. He has stated as a witness that police transported it to the PS in a private truck and paid for the expenses.</p> <p>vi. The size or number of the woods is not mentioned in the report. Police hiring a private truck at its own expenses indicates a level of efficiency uncommon in the region. Interestingly, PW-04, who claims to be cousin of the complainant stated that the driver of the private truck was his cousin. But, PW-03, the complainant, when questioned about the identity of the driver claims ignorance about his identity.</p> <p>vii. Further, the complainant in his statement reports that police captured snaps of the site, but record when examined was found empty of any such photographs.</p> |
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| Order No. 28 continued | 30.06.2025 | <p>All these points taken together seriously damages the probability of the prosecution to culminate in conviction. The court understands that section 249-A is attracted to the case in hand.</p> <p><u>Ruling:</u></p> <p>The evidence so far recorded makes it unlikely for the prosecution to end in conviction of the accuse persons. Without further delay, the court, accepting the application, acquits the accused persons of the charges levelled against them. Sureties stand discharged; case property be dealt with as per law.</p> <p>Keeping in view the available record, this court is satisfied that a prima facie case exists against the absconding accused Shah Hanif s/o Noor Akbar, who is intentionally avoiding his lawful arrest; hence, the said accused is hereby declared as proclaimed offender. His name be entered in the relevant register/list of proclaimed offenders. Perpetual Warrant of arrest be issued against him.</p> <p>File be consigned to the record room after its completion and compilation.</p> <p><u>Announced</u> 30.06.2025</p> <p> (Ijaz Mahsood) SCJ/JM, Orakzai (at Baber Mela)</p> |
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