

**IN THE COURT OF MUHAMMAD JUNAID ALAM**  
**JUDICIAL MAGISTRATE-II, TEHSIL KALAYA, DISTRICT**  
**ORAKZAI**

**FIR No. 125 Dated: 27.12.2022, U/S: 379, 34 PPC. Police Station: Kalaya, Lower**  
**Orakzai**

***State Vs Gul Mudasir Khan***

**Order No.01**  
**19.09.2025**

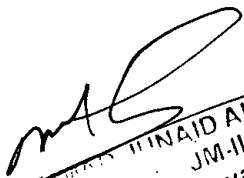
Supplementary challan against accused Mudasir Khan alongwith discharge application received. Be entered.

Accused Mudasir Khan on bail absent. Complainant absent. Learned District Public Prosecutor, has moved an application on the ground that i) no eye-witness of the occurrence ii) co-accused have already been acquitted iii) compromise has been effected between the parties iv) insufficient evidence available against the accused. Record perused.

Record shows that complainant namely Hashmat Ullah has charged accused namely Mudasir Khan for commission of the offence U/S 379, 34 PPC vide FIR No. 125 dated 27.12.2022 of PS Kalaya.

**Regarding no-eye witness of the occurrence:**

It is observed that no ocular accounts are available to connect the accused with the alleged occurrence. It is well settle law of principle that conviction cannot be based on surmises or conjectures in absence of directed evidence. since no person has come forward is an eye-

  
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witness to support the prosecution version, the evidentiary worth of the case stands substantially weakened.

**Regarding acquittal of accused:**

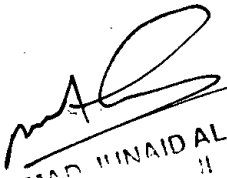
Record reveal that co-accused involved in the same transaction have already been acquitted by the competent court after full trial. When on identical set of evidence, co-accused have been exonerated, no useful purpose would be served to keep the present accused tied in unnecessary litigation. The rule of consistency also demands similar treatment unless distinguished evidence is shown, which is not available here.

**Compromise between the parties:**

The parties have placed on record a compromise deed duly executed and verified. The object of criminal law is not only punishment but also reconciliation in compoundable offences. Where parties have resolved their dispute amicably and intend to live in peace, courts are inclined to give due weight to such settlement, provided it is genuine and free from coercion.

**Insufficient of evidence:**

The entire record has been perused and it appears that except for mere allegations in the FIR, there is no substantive material or corroboratory evidence against the accused. No recovery, no independent witness has been shown by prosecution. Thus,

  
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continuation of proceedings in futility, causing unnecessary harassment to the accused.


**Conclusion:**

In view of the above discussion, the application U/S 5 (b), Prosecution Act, 2005 filed by the Learned DPP, Orakzai has merit. The case is devoid of sufficient evidence to proceed further. Accordingly accused Mudasir Khan is hereby *discharge from the instant case*. He is on bail. His sureties stand discharge from their liability.

Copy of the order be placed on police file as well as Judicial file. Instant file be consigned to record room after necessary completion and compilation while police file be returned back to quarter concerned.

**ANNOUNCED:**

19.09.2025

  
**Muhammad Junaid Alam**  
Judicial Magistrate-II,  
Tehsil Courts, Kalaya, Orakzai