


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

Criminal case No. _____ of 2025, **FIR No. 25 Dated: 27.03.2025 U/S: 188,285 PPC**
Police Station: Kalaya, Lower Orakzai

State Vs Muhammad Sabit etc

Order No.01
10.10.2025

Complete challan received from prosecution. Be entered. APP for the state present. APP for the state recommended to discharge the instant challan. Accused Muhammad Sabit and Muhammad Taib are on bail.

Record shows that complainant namely Shal Muhammad SHO has charged the accused namely Muhammad Sabit and Muhammad Tayab for commission of the offence U/S 188,285 PPC, vide FIR No.  25 dated 27.03.2025 of PS Kalaya.

MUHAMMAD JUNAID ALAM
 Civil Judge / JM-II
 Orakzai at Kalaya


Today, the learned Assistant Public Prosecutor (APP) appeared and submitted that after careful scrutiny of the police record and available evidence, he is of the view that the instant challan does not disclose sufficient evidence to proceed against the accused. He recommended that the challan be discharged on the ground that the prosecution has failed to comply with the mandatory provisions of law regarding the handling of the recovered contraband.

The learned APP contended that the alleged recovery was neither sealed nor properly packed on the spot as required under the law, nor was any safe custody of the recovered items ensured thereafter.

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Furthermore, the same were not promptly sent to the Chemical Examiner/Expert for analysis. Such omissions have rendered the alleged recovery doubtful and have caused an irreparable defect in the chain of custody of the case property, which is fatal to the prosecution case.

Furthermore, the alleged recovery was effected from the accused, however, the investigating officer failed to seal the recovered items at the spot. There is no mention of any seal impression, nor any memo showing that the seized property was deposited in malkhana in safe custody. The record also does not reflect that the sample or recovered material was ever dispatched to the Chemical Examiner/Expert for report within a reasonable time. These lapses clearly amount to violation of the mandatory requirements of law, which are essential to maintain the sanctity of the case property and to establish a continuous chain of custody.


MUHAMMAD JUNAID ALAM
Civil Judge / JM-II
Orakzai at Kalaya

It is a settled principle of law that when the prosecution fails to establish the safe custody of recovered items and the link evidence from the time of recovery till chemical examination, the entire case becomes doubtful and cannot be safely relied upon for conviction. The burden lies on the prosecution to prove every link of the chain beyond reasonable doubt, which in the instant case, is completely missing.


In view of the above deficiencies and in light of the recommendation made by the learned APP, this court is of the considered view that there is no sufficient material on record to proceed

further against the accused. Continuing the trial in such circumstances would serve no useful purpose and would amount to abuse of the process of law.

Accordingly, the instant challan is hereby discharged. The accused namely Muhammad Sabit and Muhammad Tayab are hereby discharged from the instant case. The accused are on bail. Their bail bonds stand cancelled. Sureties are discharged from the liabilities of the bail bonds.

File be consigned to the record room after due completion and compliance.

Announced:
10.10.2025


Muhammad Junaid Alam,
Judicial Magistrate -II,
Tehsil Court Kalaya, Orakzai