

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

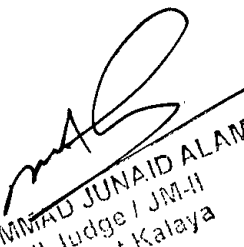
Criminal case No. of 2025, FIR No. 78 Dated: 06.07.2025 U/S: 324,148,149 PPC
Police Station: Kalaya, Lower Orakzai

State Vs Tehsil Khan etc

Order No.01
09.10.2025

Complete challan along with discharge application received from prosecution. Be entered. Accused Tehsil Khan and 11 others are on bail while Khan Zali, Itbar Gul, Ashoor Khan, Malak Meer, Fateh Khan, Rajeet Khan and Gul Badeen are absconding. Discharge application has been submitted by District Public Prosecutor. APP for the state was confronted with the same for arguments.

Record shows that complainant namely Shal Muhammad SHO has charged the accused namely Tehsil Khan etc and absconding accused mentioned above for commission of the offence U/S 324,148,149 PPC, CNSA vide FIR No. 78 dated 06.07.2025 of PS Kalaya.


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

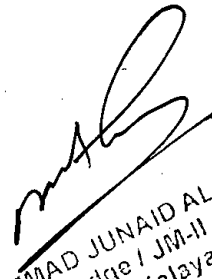
As District Public Prosecutor has filed application for discharge of the accused U/S 5 (b), Prosecution Act, 2005 read with Section 494 Cr. PC. Prosecution has requested for discharge of the accused on the ground that there is no eye-witness of the occurrence, and the accused were neither directly charged nor named in the FIR. The learned DPP further pointed out that the FIR was initially lodged against unknown persons, and subsequent nomination of the accused was made by the

complainant without disclosing any credible source of information as to how the accused were allegedly involved in the occurrence.

It is further submitted that the accused were not arrested on the spot, nor has any recovery or material evidence been brought on record connecting them with the alleged offence. The learned DPP concluded that, in view of the weak and insufficient evidence available, the prosecution is not in a position to proceed successfully against the accused, and continuation of proceedings would serve no useful purpose. Hence, the prayer is made to allow withdrawal from prosecution and discharge the accused accordingly.

In the given circumstances, court is of the view that the application advanced by the learned DPP and have gone through the police record with care. The record reveals that the case was registered on the basis of general allegations against unknown accused persons. Later, the complainant nominated the present accused, without any supporting evidence or source of information explaining their alleged involvement. There is no ocular testimony, no recovery of narcotics or incriminating article, and no independent corroboration to connect the accused with the alleged offence.

The investigation file does not contain any material indicating that the accused were present at the spot or were apprehended during or soon after the alleged occurrence. No call data record, no statement of any witness, and no other direct or circumstantial evidence has been collected to substantiate the prosecution case.


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Civil Judge / JM-II
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The opinion formed by the learned DPP appears to be based on proper appreciation of facts and evidence. The DPP, being the competent authority under Section 4-C(ii) and 5(B) of the Prosecution Act, 2005, is empowered to withdraw from prosecution when continuation of proceedings is not supported by sufficient evidence. The Court finds no reason to disagree with such opinion.


In view of the submissions made and material placed on record, this Court is satisfied that there exists no prima facie evidence against the accused to justify further proceedings. Continuation of the trial would, therefore, amount to abuse of the process of law.

Accordingly, the application filed by the learned District Public Prosecutor under Section 4-C(ii), 5(B) of the Prosecution Act, 2005 read with Section 494 Cr.P.C. is allowed. Permission is granted to the prosecution to withdraw from the case.

Consequently, the accused on bail alongwith absconding accused are discharged from the instant case FIR No. 78, dated 06.07.2025, registered under Sections 324,148,149 PS Kalaya.

File be consigned to record after due completion and necessary compliance.

Announced:
09.10.2025


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