

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

Criminal case No. _____ of 2025, **FIR No. 24 Dated: 27.03.2025 U/S: 188,285 PPC**
Police Station: Kalaya, Lower Orakzai

State Vs Umar Farooq etc


Order No.01
17.10.2025

Complete challan received from prosecution. Be entered. APP for the state present. APP for the state recommended to discharge the instant challan. Accused Umar Farooq and Bait Ullah are on bail.

Record shows that accused namely Umar Farooq and Bait Ullah are charged for the commission of the offence U/S 188, 285 PPC, vide FIR No. 24 dated 27.03.2025 of PS Kalaya.

The learned Assistant Public Prosecutor (APP) for the State appeared and submitted that the instant challan may be discharged. He contended that the seizing officer failed to comply with the mandatory legal formalities at the time of recovery, particularly the proper packing and sealing of the recovered articles on the spot, which is essential to ensure the integrity of the evidence. It was further pointed out that the articles allegedly recovered were not sent to the concerned chemical examiner or expert for opinion in accordance with law, nor was any evidence produced to show that the recovered items were kept in safe custody until their supposed dispatch.

The learned APP argued that such lapses on the part of the investigating agency have rendered the entire prosecution case doubtful and devoid of evidentiary value. In absence of compliance with the prescribed procedure regarding handling and examination of recovered contraband/articles, the possibility of tampering and substitution cannot be ruled out. Hence, continuation of proceedings against the accused would amount to abuse of the process of law.


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

Perusal of the police record reveals that the recovery memo does not show that the recovered items were properly packed or sealed at the spot of occurrence. The case property was neither sent for chemical analysis nor was any report from the forensic expert placed on record. Further, there is no proof on record that the recovered items remained in safe custody from the time of recovery till the filing of the challan. These omissions strike at the very root of the prosecution case and destroy the sanctity of the alleged recovery.


It is well settled that the prosecution must establish an unbroken chain of safe custody and proper sealing of the recovered items; failure to do so renders the recovery unreliable and inadmissible. In the absence of any credible evidence regarding the nature and safe preservation of the seized material, no useful purpose would be served by continuing the trial.

Accordingly, keeping in view the recommendations of the learned APP and the material available on record, this Court is of the view that the prosecution has failed to make out a prima facie case against the accused. The challan appears to be devoid of sufficient evidence to proceed further.

Resultantly, the instant challan is hereby discharged. The accused are discharged from the case. Their sureties are hereby discharged from their liability.

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

Announced:
17.10.2025


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