

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

Criminal case No. \_\_\_\_\_ of 2025, **FIR No. 19 Dated: 06.03.2025, U/S: 324,353,148,149**  
**PPC. Police Station: Kalaya, Lower Orakzai**

State Vs Muhammad Shahid etc

**Order No.01**  
**17.10.2025**

Supplementary challans alongwith complete challan along with discharge application received from prosecution. Be entered. Accused Muhammad Shahid, Asad Ullah and Amir Khan are on bail. Discharge application has been submitted by District Public Prosecutor. APP for the state was confronted with the same for arguments.

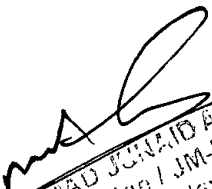
Record shows that complainant namely Shal Muhammad SHO have charged accused named above alongwith absconding co-accused namely Hashim Khan, Khanza Gul, Raid Khan, Umar, Asmat Ullah, Alamzib, Najeeb Ullah, Zahid, Majeed, Younas and Mustafa for commission of the offence in case FIR No. 19 Dated: 06.03.2025, U/S: 324,353,14,149 PPC Police Station: Kalaya, Lower Orakzai

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 the accused namely Amir Khan, Asad Ullah and Muhammad Shahid were not arrested on the spot; that the Station House Officer (SHO) has failed to disclose the credible source through which the said accused were allegedly involved in the instant case; that no direct recovery was effected from any of the accused; that no confessional statement was made by the accused persons who are on bail; that no empties were recovered either from the place of police encounter or from the alleged position of the accused; and further that no injury was caused to any police official nor any damage was caused

  
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to the official vehicle during the alleged occurrence. It is further contended that there is no sufficient evidence available on record to connect the accused with the commission of the alleged offences, hence the continuation of proceedings against them would be an abuse of the process of law.

2. Learned DPP submitted that upon perusal of the police record, the challan appears to be based merely on suspicion and conjectures, without any corroborative material or direct evidence. It is further argued that since no independent witness has been associated during the alleged recovery proceedings and no physical evidence has been found linking the accused to the commission of the offence, the prosecution has no reasonable prospect of securing conviction, therefore, the accused deserve to be discharged at this stage.
3. The record reveals that none of the accused were apprehended at the spot. No recovery, whether of weapon, narcotics, or other incriminating articles, has been effected from their possession. No confessional statement or disclosure memo is available. Even the site plan and recovery memos do not indicate any concrete evidence connecting the accused to the alleged occurrence. The SHO has also failed to mention the source or manner of their involvement in the crime, which renders the entire case doubtful.
4. It is a settled principle of law that an accused cannot be sent to face trial merely on the basis of assumptions or unsubstantiated allegations, unless there is some tangible material linking him with the offence. The prosecution must place sufficient evidence on record to raise a prima facie case. In the present matter, no such material is available. The absence of recovery, lack of independent witnesses, no injury to police officials, and no damage to public or official property collectively show that the case against the accused persons is devoid of evidentiary substance.


  
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5. In view of the above discussion, and considering that the learned DPP himself has found no sufficient evidence to sustain the prosecution, this Court is of the opinion that the continuation of proceedings would serve no useful purpose and would amount to unnecessary harassment of the accused.

Resultantly, the application filed by the learned DPP for discharge of the accused namely Amir Khan, Asad Ullah and Muhammad Shahid alongwith absconding mentioned above are hereby allowed. The accused are accordingly discharged from the instant case.

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.

**Announced:**  
17.10.2025

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