

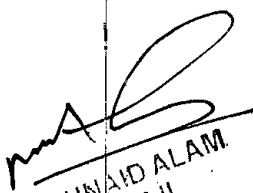
## FORM "A"

## FORM OF ORDER SHEET

IN THE COURT OF MUHAMMAD JUNAID ALAM, CIVIL JUDGE/JUDICIAL MAGISTRATE-II, KALAYA ORAKZAI

Case Title: \_\_\_\_\_ Vs \_\_\_\_\_

No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order 02	10.11.2025	<p>Complainant namely Gul Raib Khan alongwith counsel present. The case was fixed for arguments on maintainability of the instant complaint.</p> <p>Preliminary arguments on the complaint were heard at length. The learned counsel for the complainant advanced submissions in support of the maintainability of the instant complaint. The court has carefully perused the contents of the complaint, the relevant statutory provisions, as well as the submissions advanced at the bar.</p> <p>The complainant has instituted the present proceedings by filing a complaint purportedly under Sections 427, 435, 34 PPC, seeking criminal action against the accused persons. However, perusal of the record reveals that the complainant has neither complied with the mandatory procedural requirements prescribed under the Code of Criminal Procedure, nor followed the statutory mechanism meant for institution of a private complaint before a criminal court.</p> <p>Under the law, a private complaint seeking criminal prosecution must be instituted strictly in terms of Section 200 Cr.P.C, which prescribes the manner in which such complaint is to be filed, examined and processed. The</p>

  
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 Civil Judge/JM-II  
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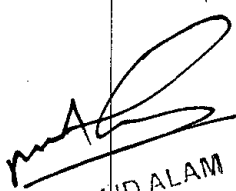
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complainant, however, instead of filing the complaint under Section 200 Cr.P.C, has directly moved an application in the form of a complaint by citing only the penal sections of the Pakistan Penal Code. This in itself amounts to a material irregularity, rendering the very foundation of the complaint defective and non-maintainable.

A complaint under Sections 427, 435, 34 PPC is not independently maintainable unless the complainant undergoes the statutory procedure mandated under Chapter XVI of the Cr.P.C. The initial requirement of examination of the complainant on oath under Section 200 Cr.P.C, and subsequent inquiry under Section 202 Cr.P.C. (if required), are necessary safeguards intended to prevent false, frivolous or malicious criminal litigation. The complainant has failed to comply with these mandatory prerequisites.

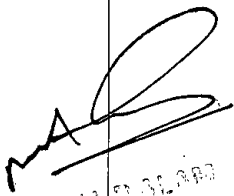
Furthermore, the complaint mentions that the matter was earlier taken up under Section 22-A Cr.P.C for registration of FIR. The complainant also referred to some proceedings pending in a civil suit. However, despite making such assertions, neither the order passed by the learned Justice of Peace under Section 22-A Cr.P.C. nor any document pertaining to the alleged civil proceedings was produced before this court.

The court specifically inquired from the learned counsel

  
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		<p>regarding the status, nature and outcome of the proceedings under Section 22-A Cr.P.C, and also regarding the title, number and subject-matter of the alleged civil suit, but no satisfactory explanation or supporting documents were provided. Failure to produce such material not only raises doubts about the stance of the complainant but also indicates concealment of material facts.</p> <p>It is a well-established principle of law that where a matter is already pending in civil litigation or relates primarily to civil rights between the parties, criminal law cannot be invoked to exert undue pressure or obtain collateral benefits. The criminal court must always remain cautious in entertaining such complaints, particularly when the complainant conceals or withholds material information that may affect the maintainability of the proceedings.</p> <p>Moreover, the presence of admitted civil proceedings strengthens the presumption that the dispute between the parties, if any, is essentially of a civil nature and does not prima facie disclose the commission of any cognizable criminal offence. The failure of the complainant to file the requisite documents creates further doubts about the bona fides of the complaint.</p> <p>Considering the above legal deficiencies, procedural irregularities, and the complainant's failure to substantiate</p>
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MUSLIM JUDGE  
CIVIL JUDGE II  
Orakzai at Kalaya

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the allegations by providing the relevant record, this court finds that the instant complaint is not maintainable in its present form. The complaint suffers from foundational defects, including:

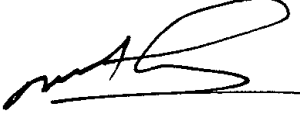
- Non-filing under the mandatory provision of Section 200 Cr.P.C.
- Filing complaint merely by citing PPC sections without following Cr.P.C. procedure.
- Non-production of documents regarding Section 22-A Cr.P.C. and Civil Suit proceedings.
- Concealment of material facts affecting jurisdiction and maintainability.

In light of the foregoing discussion, this court is of the considered view that the present complaint is full of irregularities, legally defective, procedurally non-compliant and therefore not-maintainable. No useful purpose will be served by keeping such defective proceedings pending before the court.

Resultantly, the instant complaint is hereby dismissed being non-maintainable.

File be consigned to record after completion of necessary formalities.

**Announced:**  
10.11.2025

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