

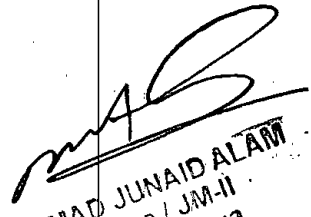
FORM "A"

FORM OF ORDER SHEET

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

Case Title: State Vs Shamal Hussain etc

Serial 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-53	28.11.2025	<p>APP for the State present. Accused Shamal Hussain on bail present while rest of the accused are exempted. Complainant in person present.</p> <p>Vide this order the Court intends to dispose of instant application filed under section 249-A Cr.PC.</p> <p>Arguments of the counsel for accused facing trial heard through video link while APP for the State advanced his arguments.</p> <p>Brief facts as per contents of FIR are that a written application submitted by the complaint Zeenat Ali son of Makan Ali which was reduced into writing in the shape of Madd no. 09 dated 02.11.2022. Inquiry was initiated to find whether the alleged occurrence has taken place or not. The contents of application are that, on 30.10.2022, complainant Zeenat Ali was going pedestrian to village Ain Posh. When he reached to village Kamangar at about 11:00 hours. In the meanwhile, accused namely Shamal Hassan, Maqbool Hassan and Gul Hassan, resident of Qom Mani Khel had obstructed his way and they forcibly grabbed me, took me with them, locked me in a room of their house, and kept me in their illegal confinement for one night and one day. On 31.10.2022 at about 19:00 hours, the local police acquit</p>

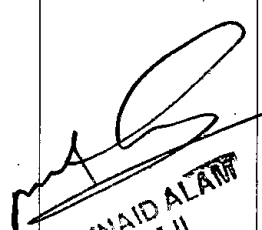

 MUHAMMAD JUNAID ALAM
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him from the accused facing trial. No motive behind the occurrence. He charged the accused for the commission of offence. Upon the same Inquiry under section 157(i) Cr. PC initiated. Final report submitted. On the strengthen of final report FIR no. 113 dated 08.11.2022 under sections 342/34 Pakistan Panel Code, 1860 police station Kalaya registered against the accused facing trial.

Accused were arrested and later on, released on bail. Complete challan was put in court against the accused. Accused were summoned. They appeared before the court. Provisions of Section 241-A Cr. PC were complied with. Formal charge was framed. Accused pleaded not guilty and claimed trial. Prosecution was allowed to produce evidence against accused. Prosecution produced 06 witnesses. PW-01, SI Shal Muhammad, who stated in his cross examination that it is correct that the occurrence took place on 30.10.2022 and it was reported on 02.11.2022 and FIR was lodged on 08.11.2022. It is also correct that the accused was rescued by police on 31.10.2022. He further stated in his cross examination that he has recorded statement of verifier of the report lodged by complainant on the spot, while FIR reveals that no verifier of the report. He also stated in his cross examination that from 30.10.2022 to


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<p>Continued Order-01</p>	<p>26.05.2025</p>	<p>02.11.2022, no report was made by the family of complainant.</p> <p>PW-02 is the statement of HC Shamim Hussain, who stated in his cross examination that they went to the spot house on 31.10.2022.</p> <p>PW-03 is the statement of SI Murtaza, who stated in his cross examination that he inspected the site plan but not verified the same from the complainant as he agreed with the inquiry officer. He further stated that he did not recorded statement of inquiry officer.</p> <p>PW-04 is the statement of SI Muqadar Khan, who stated in his cross examination that no report was made at the spot as the complainant/detainee was brought to PS. He further stated that the application of complainant is not placed on file.</p> <p>PW-05 is the statement of Makan Ali, who stated in his cross examination that the complainant was not recovered/detained in his presence by someone. He further stated that no motive behind the occurrence. His statement was recorded by SI Shal Muhammad. He further stated that police never visited to his house in his presence.</p> <p>PW-06 is the statement of Zeenat Ali/complainant, who stated in his cross examination that he has not submitted</p>
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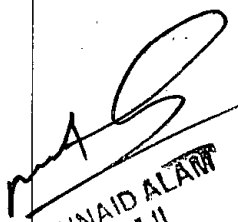
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any application to the local police. He further stated that after his from police station to home, no police officials came to his house. Self-stated that SI Shal Muhammad recorded his father statement under section 161 Cr. PC. He also stated that he has no enmity with the accused facing trial and made no report to the local police.

Perusal of the statement of PWs and record would reveal that PW-06 the complainant in the instant case stated in his cross examination that has not submitted application before the police. He further stated that he has not made any report to the local police and no thumb impression was obtained on any documents, while Mad no. 09 daily diary dated 02.11.2022 would reveal that complainant Zeenat Ali submitted written application, which shows malafide intention on behalf of complainant.

PW-02 Makan Ali is the father of complainant, who stated in his cross examination that he has no enmity with the accused facing trial. Similarly, PW-01, Shal Muhammad stated in his cross examination that he recorded statement of verifier of the report on the spot, while FIR reveals that there was no verifier of the occurrence.

It is also pertinent to mention here that the occurrence took place on 30.10.2022 at about 11:00 hours and it was


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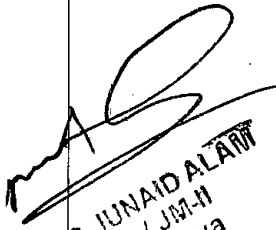
reported on 02.11.2022 at about 13:40 hours and FIR was lodged against the accused on 08.11.2022, after unreasonable delay of about 06-days, which makes the case of prosecution doubtful. It is also worth mentioning here that no incriminating thing has been recovered on the spot or from pointation of accused. Accused did not confess their guilt before the police. No eyewitness of the occurrence.

Furthermore, there is no criminal history of accused facing trial. Accused facing trial are facing agony of trial since 2023. Even otherwise, there is no probability of conviction of accused on the basis of available record and evidence produced by prosecution so far.


Moreover, there are so many dents and doubts in case of prosecution. Recording of remaining evidence would be a futile exercise and wastage of precious time of the court.

Keeping in view the above facts and circumstances, it is held that there is no probability of accused being convicted.

Further proceedings would be a futile exercise and wastage of precious time of the court, therefore, application under section 249-A Cr. PC is accepted and accused are acquitted from the charges levelled against them. They are on bail. Their sureties stand discharged from their liability.


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		<p>Case property be dealt with accordance to law.</p> <p>File be consigned to record room after necessary completion and compilation.</p> <p><u>Announced:</u> 28.11.2025</p> <div> <u>Muhammad Junaid Alam,</u> Judicial Magistrate-II, Tehsil Courts, Kalaya, Orakzai</div>
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