

**IN THE COURT OF NOOR UL HAQ, JUDICIAL MAGISTRATE-
II, TEHSIL KALAYA DISTRICT ORAKZAI.**

State Vs Qilat Khan etc

Case FIR No. 96 Dated: 16.09.2024 U/S 188 PPC, PS Kalaya.

Order. 02
30.07.2026

APP for the state present. Accused Haleem Gul and Hayat Khan on bail present. Rest of the accused absent. Today, the case was fixed for attendance of accused, however, after perusal of record it reveals that case is weak from evidentiary point of view, therefore, notice u/s 249-A Cr.PC given to prosecution. Arguments of counsel for accused and Public Prosecutor heard.

Brief facts as per FIR are that on the day of occurrence SHO along with Constables Fazal Hameed and Murad Gul duly armed was on routine gasht in official vehicle driven by Muhammad Ayaz under the supervision of the SDPO Lower Orakzai. During the gasht information received that the PTM leader Manzoor Pashteen was arriving at Kandy Feroz Khel, where a large number of people had gathered for his public meeting. Upon receiving the information, they proceeded to the spot, where approximately 170-180 persons were present at the gathering. Among those leading and organizing the public meeting were Safi Ullah (President), Raj Wali, Ghazan Jamal, Said Adil, Haleem Gul, Hayat Khan, Azam Khan, Adil, Qilat Khan Zahoor, Najeeb-ur-Rehman, Naib Hassan, Syed Ahmad Abbas, and Malik Khan Gul. Whereas, vide Order No. 1572/C/DC/ORK issued by the Deputy Commissioner, Orakzai, a ban had been imposed on public meetings, processions, and public gatherings. Despite the said prohibitory order, the above-named persons openly violated the lawful directions of the Deputy Commissioner by organizing and leading the aforesaid gathering. SHO drafted the Murasila on

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the spot and handed over to Constable Fazal Hameed to carry it to the PS for registration of the case.

After completion of investigation, challan was put in court and the accused were summoned.

Although it is alleged that the accused participated in and led a public gathering in violation of the prohibitory orders issued by the Deputy Commissioner, Orakzai, the prosecution has not produced reliable, cogent, and convincing evidence to substantiate these allegations. The prosecution witnesses have merely made general assertions regarding the presence of a crowd and the names of certain individuals without explaining the specific role played by each accused in organizing, leading, or participating in the alleged gathering.

Furthermore, the prosecution has failed to establish the proper identification of the accused at the spot. No witness has specifically deposed as to who identified the accused during the alleged public meeting, nor has any identification parade been conducted. It is noteworthy that none of the accused was apprehended at the place of occurrence despite the alleged presence of the police at the venue. Their subsequent implication without immediate arrest casts serious doubt upon the authenticity of the prosecution's version and renders the identification evidence highly unreliable.

Moreover, there is no direct or circumstantial evidence available on record to prove that the accused knowingly and intentionally violated the lawful orders of the Deputy Commissioner. The prosecution has neither produced any independent witness from among the alleged gathering nor brought on record any documentary, photographic, or electronic evidence, such as videos or

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photographs, demonstrating that the accused actively participated in or led the alleged public meeting. Mere mention of their names in the FIR or police statements, without independent corroboration, is insufficient to establish criminal liability. It is settled law that where the prosecution evidence creates reasonable doubt, the benefit thereof must invariably go to the accused. Accused have not confessed his guilt before the court.

Keeping in view the available record, the case in hand is not likely to result in conviction. Recording of full prosecution evidence would be a futile exercise and wastage of precious time of the court. Resultantly, application is allowed. Accused facing trial namely Tilawat, Najeeb, Hayat Khan, Safi Ullah and Haleem alongwith absconding accused namely Raj Wali, Ghazan Jamal, Said Adil, Azam Khan, Adil, Zahoor, Naib Hassan, Syed Ahmad Abbas, and Malik Khan Gul are acquitted in terms of Section 249-A Cr. PC from the charges leveled against them in case FIR No. 96 Dated: 16.09.2024 U/S 188 PPC registered at Police Station Kalaya. Sureties discharged from their liability. Case property, if any be dealt with in accordance with law.

File be consigned to record room after necessary completion and compilation.

Announced.
30.07.2026


Noor Ul Haq
Judicial Magistrate-II, Tehsil
Court Kalaya, Orakzai