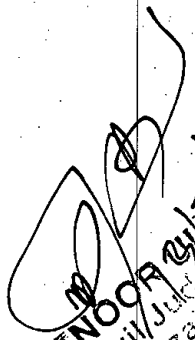


FORM "A"
FORM OF ORDER SHEET
IN THE COURT OF NOOR UL HAQ, JUDICIAL MAGISTRATE-II, KALAYA ORAKZAI
Case Title: _____ Vs _____

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-21	13.07.2026	APP for the State present. Accused Zar Gul and Jumat Khan alongwith counsel present while rest of the accused are exempted. Complainant absent. Vide this order the Court intends to dispose of instant application filed under section 249-A Cr.PC. Arguments of the learned counsel for the parties heard. Brief facts as per contents of FIR are that on 07.12.2023 at about 10:00 hours, the complainant Haji Zar Malik came to the PS and reported the occurrence to the local police; that on day of occurrence, he alongwith other family members were busy in construction work near main gate of their house. In the meanwhile, at about 10:00 hrs, the accused party already present on the mountain near their house, started firing at them to threaten them and they got shelter in the rooms. His family members are the eyewitness of the occurrence. He charged the accused for the commission of offence. The motive behind the occurrence was land dispute. The local police read over the contents of his report and he thumb impressed the same as token of its correctness. The one Talib Khan has also thumb impressed his report as verifier. Upon the same inquiry under section


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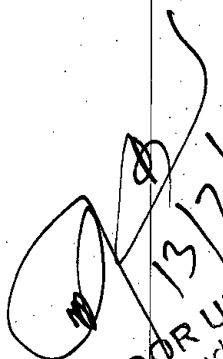
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157 Cr. PC was held. On the strength of Naqal Mad no. 07, FIR no. 122 dated 26.12.2024 under sections 506/148/149 PPC PS Kalaya was lodged against accused Jumat Khan, Minar Deen, Zar Gul, Gulab Deen and Habib Ullah was registered.

Accused were arrested and later on, released on bail. Complete challan was put in court against the accused on 21.02.2025. 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 05 witnesses.

PW-01 is Talib Khan son of Gul Wali Shah, who stated in his cross examination that he came to the PS at 01:00 PM, while the complainant reported the matter at about 12:50 PM in the PS. He also stated that he did not put any thumb impression on the report. Further stated it correct that SHO Shal Muhammad came to the spot alongwith other police officials after alleged firing. He also stated that the accused were not seen from the spot. The alleged firing made from congested jungle/forest. He has admitted it correct that he does not know who informed the SHO through telephone.


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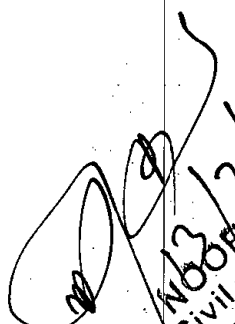
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It is also correct that no firearm empties recovered from the spot in my presence. He further stated that fires made upon them at 09:30 am.

PW-02 is the statement of Saraf Khan son of Dawran Shah, who stated in his cross examination that he did not see the accused facing trial at the time of alleged firing. The police party came to the spot at about 1200 hours. He also stated that the complainant reported the matter to SHIO on the spot and after that SHIO left the spot. No recovery was made from the alleged spot in his presence.

PW-03 is the statement of Zar Malik (complainant) son of Taimer Shah, who stated in his cross examination that he made report in the PS at about 12:30 hours. Shal Muhammad SHO and other police officials came to the spot at about 10:30 am after alleged firing. He also stated that he did not thumb impressed his report. He also stated that no police came to the spot after his report to the SHIO on the spot. No recovery made by police in shape of firearm empties in his presence. Investigation Officer have not prepared site plan on the spot in his presence. IO has not recorded his statement under section 161 Cr. PC.

PW-04, ASI Ayub Khan, who stated in his cross examination that he has not verified the site plan from the


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inquiry officer.

PW-05 is the statement of SHO Shal Muhammad, his examination in chief was recorded, however, was not cross examined.

PW-01 Talib Jan, verifier of the report stated in his cross examination that he has not thumb impressed the report of the complainant, while Naqal Mad no. 07 revealed that he thumb impressed the report of complainant. He also stated that the accused was not seen from the spot, the fires made from the congested jungle/forest. He further stated that fires made upon them at 09:30 am while the report of complainant revealed that the occurrence took place at 10:00 am. Similarly, PW-02 stated that firing were made at them at about 10:30 am.

PW-02 stated in his cross examination that complainant Zar Malik reported the matter to SHO on the spot, while complainant stated that he made report in the PS at about 12:30 hours. Moreover, complainant stated that he did not thumb impress his report, while Naqal Mad reveals that complainant alongwith verifier thumb impressed the report. An important aspect of the present case is that no recovery of any incriminating material has been made from the direct possession of accused or upon their pointation. Accused did

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not confess their guilt. No eyewitness of the occurrence was shown or produced. Furthermore, complainant did not disclose any source of involvement of the accused, as the accused made firing from the congested jungle/forest. The same fact was disclosed by the prosecution witnesses in their respective cross examination.

It is also pertinent to mention here that complainant has remained absent on many dates of hearing despite notice and knowledge of proceedings in the instant case, which shows his lack of interest to prosecute the accused or follow up the case.

Moreover, there is no criminal history of accused facing trial. Accused are facing agony of trial since 2024. Even otherwise, there is no probability of conviction of accused on the basis of available record and evidence produced by prosecution so far. There are many dents and doubts in case of prosecution. Recording of remaining evidence would be a futile exercise and wastage of time, as it is unseen occurrence, complainant or any of his witnesses have not seen the accused facing trial while allegedly committing the offence.

For what has been discussed above, application under section 249-A Cr. PC of accused is accepted and accused

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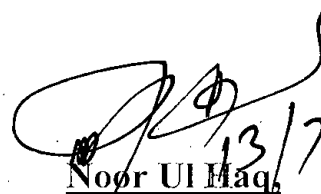
facing trial namely Jumat Khan, Meenar Din, Zar Gul, Gulab Din and Habib Ullah are acquitted from the charges levelled against them. They are on bail. Their sureties stand discharged from their liability.

Case property be dealt with accordance to law.

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

Announced:

13.07.2026


13/7/26.

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