

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

Case No6/2 of 2026.

Date of institution.....14.02.2026.

Date of decision.....31.07.2026.

Case FIR No. 49 Dated: 14.02.2026 U/S 506,148,149, PS Kalaya

Order. No. 05

31.07.2026

Accused Asad Ullah on bail present. Rest of the accused absent. Complainant 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 on behalf of Public Prosecutor heard.

Brief facts of the case are that on 17.04.2025 at 13:00 hours a written application on behalf of Amir Ihsan, Mansoor Khan etc resident of Qoum Sultanzai is presented before the Office of Assistant Commissioner Lower Orakzai, stating that Khan Mela is their ancestral property. They further stated that litigation regarding Khan Mela is pending before the Sessions Court. They requested that Abdul Qadeem, Jan Muhammad, and other tenant's/farmer resident of Khan Mela be restrained from cultivating the crops. They also requested that the accused be restrained from cutting trees and cultivation of crops. In this respect ADR Jirga is also held between the parties and till conclusion of the said ADR Jirga, accused be restrained from cultivating the crops and cutting the trees. The application of

(Signature)
MOJIB ULLAH
Civil Judge / JM
Orakzai Kalaya
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complainants was reduced in the shape of Naqal Mad and was handed over to SHO for further inquiry.

Accused was formally arrested. After completion of investigation, complete challan was put in court against accused.

Upon careful examination of the FIR and the material available on the record, it is evident that the dispute between the parties primarily relates to the possession, cultivation, and ownership of agricultural land. The allegations contained in the FIR revolve around a civil dispute, which is already pending before the competent civil court, while the parties are also pursuing settlement proceedings through an ADR Jirga. The complainant himself sought restraining order in FIR against cultivation of crops and cutting of trees until the decision of the pending civil proceedings and ADR process, thereby demonstrating the essentially civil nature of the controversy.

Although Section 506 PPC has been incorporated in the FIR, a careful reading of the FIR reveals that no specific allegation of criminal intimidation has been levelled against the accused. There is no averment describing any threat, its nature, the words allegedly used, the person to whom such threat was extended, or the circumstances in which it was made. Consequently, the essential ingredients of the offence punishable under Section 506 PPC are conspicuously absent. Mere incorporation of a penal provision without factual foundation cannot sustain a criminal prosecution.

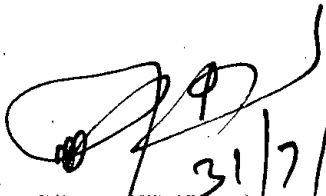
NOOR UR RAHMAN
Civil Judge / JM-II
Orakzai at Kalaya
12/26

It is a settled principle of criminal jurisprudence that criminal law should not be permitted to be used as an instrument for settling civil disputes or exerting pressure upon a party in matters essentially of a civil character. Where the allegations contained in the FIR, even if accepted at their face value, fail to disclose the commission of the alleged offence and do not satisfy the essential ingredients of the penal provision invoked, allowing the prosecution to continue would amount to an abuse of the process of law and would unnecessarily subject the accused to the ordeal of a criminal trial.

There are so many dents and doubts in case of prosecution benefit of which goes to the accused. 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 U/S 249-A Cr. PC is accepted and accused facing trial namely Jahanzib, Hidayat Ullah, Sheraz, Abdul Qadeem, Jan Muhammad, Perviz and Asad Ullah are acquitted from the charges levelled against them in case FIR No. 49 dated: 17.05.2025 u/s 506,148,149 PPC registered at police station Kalaya. They are on bail. Their sureties stand discharged from their liability. Case property if any be dealt with in accordance with the law.

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

Announced.
31.07.2026


(Noor Ul Haq)
Judicial Magistrate-II,
Tehsil Kalaya, Orakzai