

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-38	30.06.2026	APP for the State present. Accused Shamal Hussain on bail present while rest of the accused are exempted. Complainant in person present. Vide this order the Court intends to dispose of instant application filed under section 249-A Cr.PC. Arguments of the learned counsels for the parties heard. Brief facts as per contents of FIR are that on 20.12.2023 at about 09:00 hours, the complainant alongwith Hikmat Ali, Aqid Ali, Makan Ali and Naeem Ali came to the PS. The complainant Wajid Ali reported to the local police; that on the day of occurrence, he alongwith Hikmat Ali, Aqid Ali, Makan Ali and Naeem Ali were going to Kalaya Bazar from home for grocery. When they reached <i>Tarra Mela</i> Tube Well at about 07:30 hours, accused Shamal Khan son of Tamash Khan, Maqbool and Gul Hassan duly were armed with Kalashnikov. Upon seeing them the accused Maqbool Hussain started ariel firing in order to threaten them. Due to his firing they took shelter in the nearby fields. After firing, accused party fled away from the spot. Before the present occurrence, the above mentioned accused had earlier threatened them for dire consequences, as complainant party claimed. Furthermore, accused

(Signature)
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Orakzai at Kalaya

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Case Title: _____ Vs _____

Shamal Hassan sent a letter through barber Said Wali, wherein accused threatened them for dire consequences. The local police read over the contents of his report and complainant correctly thumb impressed the same. The motive behind the occurrence, was shown to be dispute over the blockage of the passage. The one Hikmat Ali also thumb impressed his report as verifier. On the strengthen of Naqal Mad, FIR no. 02 dated 04.01.2024 under section 506/34 PPC was lodged 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 08 witnesses. PW-01 is SI Anwar Khan, who stated in his cross examination that "it is correct that site plan was prepared/drafted by someone else on his dictation". He further stated that he was accompanied with one constable but he cannot remember his name. He visited the spot on 20.12.2023 where no private person was present. PW-02 is the statement of AMHC Asmat Ali, who stated in

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30/6/26
NOOR UL HAQ
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Vs _____

his cross examination that the case property was handed over to him at about 03:00 hours.

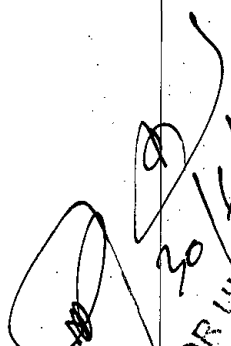
PW-03 is the statement of Makan Ali son of Haider Ghulam, who stated in his cross examination that they reached the PS at 09:00 am by walk. Police came to the spot at afternoon in his presence. He also stated that site plan was prepared by SI Anwar Khan on the spot.

PW-04 is the statement of constable Abdul Shakoor, who stated in his cross examination that IO Aftab Hassan handed over to him case property on 18.01.2024 with monogram 'A' affixed on the parcel.

PW-05 is the statement of constable Nazi Khan, his examination in chief was recorded, however, was not cross examined.

PW-06 is the statement of Naeem Hassan, who stated in his cross examination that Anwar Khan was accompanied with 03-04 police officials. He also stated that he does not remember whether SHO prepared site plan in his presence at the spot. He further stated that during the visit of IO only he and complainant Wajid were present on the spot. Further stated that they all thumb impressed the report of the complainant.

PW-07, is the statement of IO Aftab Hassan, who stated in


30/6/26.
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Civil Judge / JM-II
Orakzai at Kalaya

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his cross examination that Khan Mat Khan Inquiry Officer prepared the site plan. He left the spot on 10.10.2024 at about 10:00 am. No recovery was affected from the accused. Further added that he spent 30/45 minutes on the spot.

PW-08, Wajid Ali (complainant), who stated in his cross examination that IO Aftab came to the spot on 04.01.2024 alongwith 02-03 police officials. Anwar Khan came to the spot at 03:00 PM. They reported to Anwar Khan in the PS. His report was scribed by Anwar Khan. Report was thumb impressed by Makan Ali, Naeem Ali and Aqid Ali. Site plan was prepared by Anwar Khan in his presence. He further stated that IO consumed 30 minutes on the spot.

Perusal of statements of PWs and record reveal that PW-06, the complainant in the instant case, stated in his cross examination that IO Aftab Hassan came to the spot on 04.01.2024 alongwith 02-03 police officials, while IO in the instant case had deposed that he came to the spot on 10.10.2024 at about 10:00 am.

Complainant also stated in his cross examination that his report was thumb impressed by Makan Ali, Naeem Ali and Aqid Ali. PW-06 stated in his cross examination that they all thumb impressed the report of complainant, while Naqal

30/6/26.
NOOR UL HAQ
Civil Judge / JM-II
Orakzai at Kalaya

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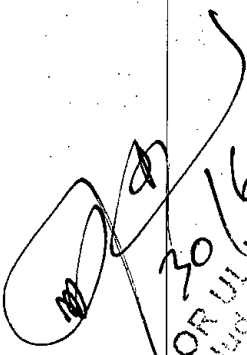
IN THE COURT OF NOOR UL HAQ, JUDICIAL MAGISTRATE-II, KALAYA ORAKZAI

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Mad no. 04 reveals that report of complainant was only thumb impressed by one Hikmat Ali as a verifier. Complainant stated in his cross examination that Anwar Khan himself prepared site plan on the spot, whereas, SI Anwar Khan stated in his cross examination that site plan was prepared/drafted by someone else on his dictation. PW-03 also stated in his cross examination that site plan was prepared by police official Anwar Khan. PW-06 also stated that he does not remember whether the SHO prepared the site plan in his presence at the spot. PW-07, the IO in the instant case had deposed in his cross examination that he spent 45 minutes on the spot, while complainant stated that IO consumed 30 minutes on the spot.

An important aspect of the present case is that no recovery of any incriminating material has been from the direct possession of accused or upon their pointation. Accused did not confess their guilt. No eyewitness of the occurrence was show or produced.

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.


30/6/26.
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Moreover, there are so many dents and doubts in case of prosecution. Recording of remaining evidence would be a futile exercise and wastage of time.

Therefore, application under section 249-A Cr. PC is accepted and accused, nominated in the instant FIR, 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:

30.06.2026


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