

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

State Vs Mukhtar Ullah

Case FIR No. 17 Dated: 07.04.2025 U/S 506,34 PS, PS Mishti
Mela.

Order. 04
14.07.2026

APP for the state present. Accused on bail present. Today, the case was fixed for framing of charge however, however, court heard the accused. Record perused.

Perusal of record shows that Vide FIR No. 17 Dated: 07.04.2025 U/S 506,34 PPC, PS Mishti Mela, accused was arrested by the local police.

Brief facts as per FIR are that on the day of occurrence SHO alongwith with Constables Shah Faisal Abdul Ameen, in official uniform, armed, were on routine Gasht in the official vehicle driven by Driver Mikail. During gasht information received that parties were fighting in Deh Meshti Bazar over a land dispute and further reported that both the parties were resorting to aerial firing against each other. Upon receiving the information SHO concerned along with the police party, immediately proceeded to the place of occurrence at Deh Meshti Bazaar. On inquiry, it transpired that Party No. 1 Mukhtiar Ullah and Party No. 2 Muhammad Tahir both residents of Mishti Bazar had a land dispute, had opened aerial firing against each other with the intention of intimidating and threatening one another. Their firing spread fear and panic among the residents of the locality. Before the arrival of the police party both the parties had already fled from the spot. SHO drafted the Murasila on the spot and handed over to Constable Abdul Ameen to carry it to the PS for registration of the instant case.


NOOR UL HAQ
Civil Judge / JM-II
Orakzai Kalaya

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

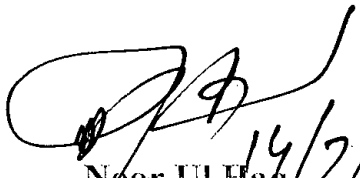
Record would show that the case was registered by the police on the basis of information allegedly received regarding aerial firing between the parties. However, police official himself stated that by the time the police party reached the place of occurrence, both parties had already fled from the spot. Thus, no accused was found present at the scene, nor was any one apprehended in the act of committing the alleged offence. Prosecution has not disclosed the source of information on the basis of which the accused were nominated in the FIR. Since the police admittedly did not witness the occurrence themselves and reached the spot after the alleged incident had already concluded, the identity of the alleged offenders remains doubtful. No independent witness from the locality has been associated with the investigation to establish that the accused had actually resorted to aerial firing. In the absence of direct ocular evidence, independent corroboration, or any other convincing material, the prosecution story suffers from inherent doubt. Neither any empty cartridges, weapon of offence, forensic evidence, nor any other incriminating material has been brought on record to corroborate the allegation of aerial firing. The investigation, therefore, fails to inspire confidence. Such circumstances create a serious dent in the prosecution case and make the nomination of the accused highly doubtful. 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 their guilt before the court. There is no eye witness to the occurrence.

1/NOOR UL HAQ
Civil Judge / JM-II
Orakzai at Kalaya

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 Muhammad Tahir and Mukhtar Ullah are acquitted in terms of Section 249-A Cr. PC from the charges leveled against them in case FIR No. 17 Dated: 07.04.2025 U/S 506,34 PPC registered at Police Station Mishti Mela. Accused are on bail. 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.
14.07.2026


Noor Ul Haq 14/7/26.
Judicial/Magistrate-II, Tehsil
Court Kalaya, Orakzai