

3
**IN THE COURT OF NOOR UL HAQ JUDICIAL MAGISTRATE-
II, TEHSIL COURTS KALAYA, DISTRICT ORAKZAI**

Criminal case No. ⁸³/₂ of 2026, **FIR No. 128 Dated: 11.11.2025 U/S: 506,148,149 PPC**

Police Station: Kalaya, Lower Orakzai

State Vs Ahmad Khan etc

Order No.01

10.08.2026

Complete challan alongwith supplementary challan received from prosecution. Be entered. Accused Zafar Ullah, Zahid Ullah, Aqib Javid, Najmuddin, Khamin Ullah, Muhammad Bashir, Arshad Noor, Liaqat Ali Khan, Abdul Qayum, Habib Ur Rehman, Sajid, Muhammad Haris, Habib Ur Rehman, Ahmad Khan, Imran and Gul Noor are on bail while rest of the accused are absconding. Notice was given to prosecution on the point to discharge the instant case. Arguments heard.

The record has been carefully examined and APP for the state heard. It is apparent from the FIR that initially Sections 341, 387, 393, 506, 148 and 149 PPC were invoked against the accused. However, during investigation, the prosecution subsequently deleted Sections 341, 387 and 393 PPC, leaving Sections 506, 148 and 149 PPC in the challan.

As regards Section 341 PPC, the essential ingredient of the offence is the wrongful restraint of a person, i.e. voluntarily obstructing a person so as to prevent him from proceeding in a direction in which he has a right to proceed. Likewise, Section 387 PPC relates to putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion. Similarly, Section 393 PPC deals with an attempt to commit robbery.

The only substantive provision remaining against the accused relating to the alleged criminal intimidation is Section 506 PPC. However,

4

the record reveals that the FIR does not contain any specific allegation of threat, much less a threat of the nature contemplated by Section 506 PPC. There is no clear assertion as to what threat was extended, by whom, to whom, in what manner, and in what circumstances. The mere recital of Section 506 PPC in the FIR/challan, in the absence of the factual ingredients constituting criminal intimidation, cannot by itself make out an offence under the said provision.

As regards Sections 148 and 149 PPC, these provisions are consequential in nature. Section 148 PPC requires the existence of an unlawful assembly armed with a deadly weapon and the commission of rioting, while Section 149 PPC fastens constructive liability upon every member of an unlawful assembly for an offence committed in prosecution of the common object of that assembly. Once the substantive allegations forming the basis of the alleged occurrence are not supported by sufficient material, and the principal provisions of Sections 341, 387 and 393 PPC have been deleted by the prosecution itself, there remains no independent and convincing material on record to establish the necessary ingredients of rioting or common object so as to sustain the charge under Sections 148 and 149 PPC.

It is a settled principle of criminal jurisprudence that the accused cannot be subjected to a full-fledged trial merely on the basis of the recital of penal sections in the challan where the factual allegations and available material do not constitute the essential ingredients of the offences. The Court is required to examine the substance of the allegations and the

NGOR/19/18/26
Civil Judge / JM-II
Orakzai at Kalaya

5

material collected during investigation rather than the mere nomenclature of the offences.

In the present case, after deletion of Sections 341, 387 and 393 PPC by the prosecution, the remaining allegations under Sections 506, 148 and 149 PPC are not supported by sufficient material. In particular, the record is conspicuously silent regarding any specific threat so as to constitute an offence under Section 506 PPC. Consequently, there is no reasonable probability of conviction of the accused on the basis of the material presently available on record. Keeping the accused facing trial in such circumstances would serve no useful purpose and would amount to subjecting them to unnecessary criminal proceedings.

Accordingly, the accused persons namely Zafar Ullah, Zahid Ullah, Aqib Javid, Najmuddin, Khamin Ullah, Muhammad Bashir, Arshad Noor, Liaqat Ali Khan, Abdul Qayum, Habib Ur Rehman, Sajid, Muhammad Haris, Habib Ur Rehman, Ahmad Khan, Imran and Gul Noor are hereby discharged from the instant case. Their bail bonds, stand cancelled and sureties are discharged. Absconding accused also discharged from the instant case on the above grounds.

File be consigned to the record room after due completion and compliance.

Announced:
10.08.2026


10/8/26
Noor Ul Haq
Judicial Magistrate -II,
Tehsil Court Kalaya, Orakzai