IN THE COURT OF ZAHIR KHAN, JUDICIAL MAGISTRATE -I TEHSIL KALAYA, DISTRICT ORAKZAI

Case No.....9/2 of 2023.

Date of Institution.....04.03.2023.

Date of Decision.....04.05.2023.

Order. No. 07
04.05.2023

APP for the state present. Accused Muhammad Irfan not produced. Jail warrant and Zamima Bay issued for production of the accused also not produced.

Record shows that on the complaint of Mehtab Hassan, the case in hand was registered against accused Muhammad Irfan vide FIR No. 86 dated 08.09.2022 u/s 489-F PPC, PS Kalaya. Accused was also involved in case FIRs No. 680/22 Dated 17.08.2022 u/s 406/411/34 PPC, 949/22 dated 21.11.2022 u/s 489-F PPC, 970/22 dated 01.12.2022 u/s 406 PPC, 616/22 dated 28.07.2022 u/s 489-F PPC registered at police station Ramna, Islamabad. Accused was arrested and sent on judicial remand in the above cited cases to Adyala Jail, Rawalpindi. Accused, being wanted in case FIR No. 86 of PS Kalaya, after fulfilling legal formalities, accused was transferred to district Orakzai vide order dated 06.02.2023 by the court of Magistrate at Islamabad West. On 07.02.2023, accused was produced before this court with request for 07 days physical custody of the accused and 02-days physical custody was granted. On 09.02.2023, accused was produced before this court for recording his confessional statement u/s 164/364 Cr.PC. Accused

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refused to confess his guilt, resultantly, he was sent to judicial lock-up (Sub-Jail at Baber Mela, Orakzai).

On 04.03.2023, supplementary challan against the accused was put in court by prosecution in case FIR No. 86 of PS Kalaya. Zamima Bay was issued for production of accused. On date fixed i.e. 08.03.2023, neither accused was produced before the court nor his jail warrant and Zamima Bay were produced before the court. On 22.03.2023, accused was again not produced. The Superintendent Sub-Jail , Orakzai submitted copy of letter No. 1383 dated 15.03.2023 wherein, it was mentioned that accused has been retained and confined in Central Jail Adyala, Rawalpindi. It was requested by the prosecution that the case in hand be kept pending till completion of trial of 04 criminal cases of PS Ramna, Islamabad. Similarly, DPO, Orakzai, vide letter No. 192/R/DPO/Orakzai dated 21.02.2023, requested that case in hand be kept pending till the completion of trial proceedings at Islamabad. (Copy of the said letter is placed on file).

As mentioned above, accused Muhammad Irfan is in custody in the instant case. He was committed to Judicial Lock-up (Sub-Jail Orakzai at Baber Mela). Accused was retained by the court of learned Magistrate, Islamabad West and presently confined at Central Jail Adyala, Rawalpindi. It was duty of the police/authorities concerned to produce the accused before the court for trial proceedings but they failed to do so. Request of prosecution to stop the trial proceedings till disposal of the 04 criminal cases

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registered against the accused at PS Ramna, Islamabad is turned down, however, trial proceedings of case in hand are stopped within the meaning of Section 249 Cr.PC with directions to prosecution to produce accused, complainant and PWs before the court on a working day.

Pertinent to mentioned that stopping of proceedings u/s 249 Cr.PC does not by itself terminate the proceedings finally as the case is neither discharged nor acquittal ordered. Proceedings in such case are to be taken as pending. Prosecution or complainant can resort to trial court for revival of trial which will commence from the stage it is discontinued.

Copy of this order be sent to DPP, DPO Orakzai, Superintendent Sub-Jail, Orakzai at Baber Mela and Worthy District & Sessions Judge, Orakzai for information.

File of this court be consigned to record room after necessary completion and compilation. Copy of this order be placed on police file. Police file be returned to the prosecution along with copy of this order.

Announced
04.05.2023

(Zahir Khan)
Judicial Magistrate-I,
Tehsil Kalaya, Orakzai