

FORM "A"
FORM OF ORDER SHEET

IN THE COURT OF NOOR UL HAQ, CIVIL JUDGE/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 40	16.09.2026	APP for the state present. Accused/respondent Habib Nazar on bail alongwith counsel present, while rest of the accused are exempted. No one for complainant present. Vide this order, the Court intends to dispose of the instant application under section 249-A Cr PC, filed by counsel for the accused/respondents. Arguments on application under section 249-A Cr. PC, heard and record gone through. Brief facts of the case folded in the complaint, are that on 29.04.2022, complainant Saifoor Khan, reported to the local police at DHQ Hospital Mishti Mela, Orakzai to the effect that on the day of occurrence, he was present at his house, when he was informed by Muhammad Saeed son of Islam Khan via mobile phone, that accused Muhammad Zubair has committed the murder of Pirbat Khan during quarrel. The accused hit a stone on the forehead of Pirbat Khan, due to which he died on the spot. On the said information he rushed to the spot, where he found dead body of his nephew Pirbat Khan. The complainant with the help of co-villagers shifted the dead body to the hospital for medical examination. Motive behind the occurrence, was debt amount. Accused was charged for the commission of

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offence. Accused applied for his post arrest bail, and on the date of hearing, accused alleged compromise with the legal heirs of deceased. Statements of jirga members and legal heirs (major) were recorded. Complainant in the instant complaint (widow) of deceased namely Mst. Muzafar Khela appeared before the court and disclosed that besides, the legal heirs mentioned in the LRs list, the deceased has left behind by 05 daughters who were not nominated in the list of LRs. In the list of legal heirs, daughters of deceased including minors were not shown in order to deprive the widow and other legal heirs including minors from their shares in the *Diyat* amount which amounts to giving false, fabricating information and using evidence known to be false and signing a false certificate/statement in order to screen out the offender. Resultantly, copy of the order dated 28.09.2022 was sent to DPO, Orakzai for criminal proceedings against the jirga members and other involved in the commission of offence. The prosecution, pursuant to the order dated 28.09.2022, submitted the instant complaint for trial for offence U/s 193/196/166 (ii)/201 PPC.

Upon the same, prosecution submitted a complaint before the Court of Judicial Magistrate. Accused/respondents were summoned. They appeared before the court. Provisions of


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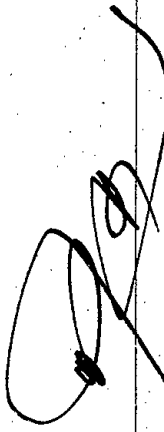
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Section 241-A Cr. PC was complied with. Formal charge was framed. Accused pleaded not guilty and they claimed trial. Prosecution was allowed to produce evidence against accused. Prosecution produced three witnesses.

PW-01, Muhammad Younas, which is reproduced as under; stated on oath that during the days of occurrence, he was posted as SHO PS Mishti Mela. He received written application and legal opinion of DPP Orakzai on 05.11.2022. On the basis of legal opinion, he submitted complaint under section 166 (ii)/193/196/201 PPC against the accused/respondents. The widow of deceased Peer Bat Khan recorded her statement before the court of Hon'ble Sessions Judge, Orakzai, that she has five daughters namely Nishada, Sharwanan, Moqadas, Musarat and Khadija, this fact was concealed by complainant, her son and elders of the locality. They tried to save the skin of accused. Vide his complainant is Ex. PW-1/1.

PW-02, the statement of CIO Bakht Munir, which is reproduced as under;

He stated on oath that during the days of occurrence, I was posted as CIO Lower Orakzai. That I have dictated the complaint already exhibited as Ex. PW-1/1 to Younas Khan SHO PS Mishti Mela. I did nothing else in the complaint.


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PW-03, the statement of Mst. Muzafar Khela (complainant), which is reproduced as under;

She stated on oath, that I am the widow of deceased Pir Bat Khan. My husband was murdered by Muhammad Zubair. In this regard FIR no. 17 dated 29.04.2022 under section 302 PPC PS Ghiljo was registered against him. I have total 07 children including 06 daughters and one son namely Nishada, Asmat Ullah, Noushada, Shawrana, Moqadas, Musarat and Khadija. Moqadas has died. Later on, elders of the locality/males namely Meer Ahmad Khan, Saif Ur Rehman, Din Muhammad and Habib Nazar have patched up the matter without my consent and recorded their statements before the court, in which they concealed the names of alive legal heirs i.e. my five daughters mentioned above. They made false statement before the court. This is my statement.

Although the above mentioned PWs fully supported the instant complaint in their examination in chief, but during their cross examination some material contradictions have been extracted out of them. Some of the as under;

As for as the identification of jirga members, the PW-03/complainant in the instant case had deposed in her cross examination that she does not know the names of jirga

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members. She further stated that she does not know that jirga members belonged to some other villages and she does not know about her family members. She further admitted that the IO prepared the list of legal heirs on the pointation of her father-in-law and son. She further stated in her cross examination that accused/respondents Ahmad Khan is her father-in-law and Asmat Ullah is her son.

Perusal of record reveals, that accused Muhammad Zubair was charged in case FIR No. 17 dated 29.04.2022 u/s 302 PPC PS Mishti Mela for Qatl-e-Amd. It is also on the record that the compromise was incomplete and application of BBA was dismissed. It is also pertinent to mention here that IO in the instant case prepared the list of legal heirs of deceased and the names of legal heirs were disclosed by father-in-law and son of the complainant. It is also noted that the early compromise was between the accused and listed LRs of the deceased, however, the complainant/widow of the deceased was not engaged in the said jirga/compromise. The fact that widow of deceased was not called for jirga/compromise, was because of the prevailing local custom & tradition in the area. Moreover, the complainant remained absent in the proceedings, on many dates of hearing, which shows her lack of interest to

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pursue the instant case.

More so, no evidence is available on file to connect the accused/respondents/jirga members, which could connect them for any malafide towards the I.Rs of deceased, rather it has been noted that the list of LR's was given by the adult LR's of deceased and the jirga members relied upon the said list. Per record, there is no criminal history of accused/respondents facing trial.

Moreover, there is also nothing on record which could connect those LR's with commission of the offence under this complaint, who have prepared the list of LR's and left the names of others, for the reasons that due to local customs and traditions, and because of Pashtoon society, the people of Orakzai do not mention the names of their female family members, not because they are going to deprive them from their share, but due to their local customs, they keep the names of their female members secret.

Keeping in view the above facts and circumstances, it is held that 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/respondents Mir


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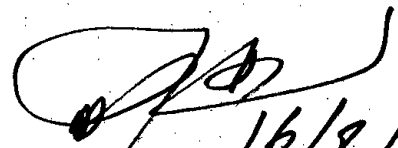
Ahmad, Asmat Ullah, Saifoor Rehman, Habib Nazar, Deen Muhammad, Asif and Tariq Mawia are acquitted from the charges levelled against them. They are on bail. Their sureties stand discharged from their liability.

Case property be dealt in accordance with the law.

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

Announced

16.09.2025



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

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