(23) (24)

IN THE COURT OF SENIOR CIVIL JUDGE/JM ORAKZAI

Case No .....03/02 of 2025.
Date of institution.....07.01.2025.
Date of decision.....20.10.2026.

Case FIR No. 66, dated 07.12.2024, U/S 380/34 PPC. PS Kurez Boya

Order. 39
20.10.2026

Dy.PP for the state present. Complainant absent. Accused are on bail along with counsel present.

This order is meant to decide an application filed by accused for decision of the case under section 249-A. Arguments on application u/s 249-A Cr. PC already heard and record gone through.

Brief Fact:

The prosecution's case as unfolded in the FIR, is that complainant Gul Ameer Shah submitted an application to the SHO, Police Station Kuriz Boya, alleging therein that he had established coal mine No. C-10 in the field of Mastal Khan at Waam Panra in the year 2006. Rizwan Khan, brother of Mastal Khan, was appointed as Chowkidar/security guard at a monthly salary of Rs. 15,000/-. The complainant alleged that, about one month prior to the report, unknown persons had stolen his compressor machine, valued at Rs. 450,000/-, due to which mining operations were suspended.

Upon inquiry, he allegedly came to know that the accused, namely Asif alias Shah Nawaz, Imran alias Khanpir and Noor Janan, had stolen

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the said machine and transported it to District Kohat in a Suzuki vehicle. On 25.11.2024, the complainant pointed out the place of occurrence to the Investigating Officer, who prepared the site plan. Complainant has entered into a compromise with accused Noor Janan son of Lal Baran, in respect of which his statement has also been recorded.

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. So far, 05 PWs have been examined.

Reasoning and Ruling:

On the merits of an application under section 249-A, the court observes as follows:

- The incident allegedly took place on 21-11-24 when the complainant was telephonically informed by Mr. Rizwan, the watchman, that the accused persons had stolen a compressor from the mine.
- It was promptly reported to the police that some unknown persons had stolen a compressor in the manner it was described by the eye-witness Mr. Rizwan.
- On 27-11-24, complainant, purportedly, in a statement under section 162 Cr.PC nominates the accused persons stating that he discovered them 'upon inquiry'.

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- There are many contradictions pertaining to time and date in the evidence so far recorded. For instance, Mr. Rizwan, the watchman, in his statement under 162 reports that the incident occurred on 27-08/24, instead of 27-11-24. Again, in his statement before the court, the complainant maintains that he went to the PS on 20-11-24, a day prior to the occurrence. However, these could be argued away as insignificant memory-lapses.
- A critical contradiction the court could not overlook is the fact that the complainant in his statement before the court admits that the accused persons were known by names to Mr. Rizwan, the eye-witness who reported it to the complainant.
- However, in his statement recorded under Cr. PC 162, the complainant attributes the discovery of the persons responsible to an 'inquiry' conducted by him. It defies reason and good sense that the accused were known to the eye-witness, yet the complainant did not name them until the alleged inquiry.
- Again, in his cross-examination, he relates that the chowkidar, the only eye-witness who allegedly informed the complainant, was 'not present on the site at the time of the incident.'
- The stolen compressor whose made and type details are neither known nor recorded was allegedly recovered from verandah of Musa Zai Hall Market, Kohat, not from the accused persons.

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In view of the above, there is no probability of the accused persons being convicted even if the trial is proceeded to conclusion. Further proceedings would be a futile exercise and a waste time of the court, therefore, application U/S 249-A Cr. PC is accepted and accused facing trial namely are acquitted from the charges leveled against them.

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

Announced.
20.10.2026

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