

Or-----²⁴
24
29.03.2023

(14)

Case was for arguments in 28.03.2023, the day on which Presiding Officer was on station leave, being busy in CJCC Meeting at district courts, Orakzai at Baber Mela. Case file adjourned. To come for arguments on application u/s 249 A Cr.PC on behalf of state on 01-04-2023.


Syed Abbas Bukhari,

Civil Judge-II,

Tehsil Court Kalaya, Orakzai

Or-----²⁵
25
01.04.2023

Accused on bail present. APP for the State present. Arguments on application u/s 249-A Cr. PC advanced by APP.

Arguments heard and record perused.

Now on perusal of the record and assistance of learned counsel for accused/petitioners and APP for the State, this court is of the view that accused/petitioners through instant application seek their acquittal in the instant case u/s 249-A Cr. PC due to weak evidence of prosecution. However, on perusal of the record it appeared that complainant in the instant case is not appearing before the court since 10.10.2022 and from the date of his non-appearance several summons/notices have been issued for attendance but all in vain. Furthermore, perusal of the summons available on the file would further transpire that in his report the DFC had clearly mentioned that complainant Mushtaq has abroad (Qatar). In given circumstances, this court is of the view that proceedings further with the instant case or passing any order on application u/s 249-A Cr. PC in absence of complainant would certainly defeat the ends of justice. On the other hand in section 249 Cr. PC it have been specifically mentioned that in absence of the complainant court got powers to stop proceedings at any stage without pronouncing any judgment either of acquittal or conviction and may thereupon release the accused.

In light of the above discussion, as in present case the complainant is not appearing before the court since 10.10.2022 and further from the reports of DFC he is abroad, hence the case in hand is hereby stopped u/s 249 Cr. PC. As the accused are already on bail, their bail bonds stand intact. However, prosecution is at liberty to open/restore the instant case upon arrival of complainant, whenever desired. Police record be returned forthwith to the quarter concerned while the file in hand be consigned to Record Room, Orakzai after its proper completion and compilation.

Announced
01.04.2023


Syed Abbas Bukhari,

Judicial Magistrate-II,

Tehsil Courts Kalaya, Orakzai