

Or.....  
09.07.2021

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APP for the state present. All the accused on bail, alongwith their counsel present. Complainant absent while his father is present but despite opportunity, the father of the complainant failed to produce counsel.

My this order is to dispose off application u/s 249-A Cr.P.C. Counsel for the accused present and argued that although, evidence in the present case has been recorded by this court wherein it is admitted by the IO as PW-01 that the occurrence took place at night at 09:00p.m. on 03/12/2020 while it has been reported after delay of 21 hrs. and 50 minutes on 04/12/2020. Further that the complainant has not disclosed any source of light in his report and the same is not mentioned in the site plan. That firstly the complainant charged unknown accused. Further that there is no eyewitness in the instant case and the statements of any independent/private witness has not been recorded. That no weapon of offence has been recovered. That at the end, the IO has admitted that as per his opinion and today's cross examination, all the accused facing trials are innocent. He further stated that admittedly the complainant is abroad and there is no prospect of his arrival in the near future and all the proceedings are initiated just to harass the accused.


On the other hand, Learned APP for the stated opposed the application and argued the same and requested that the application should not be accepted at this stage.

I have heard both the sides and came to the conclusion that firstly the complainant is not interested in pursuance of the instant trial as admittedly he is abroad and there is no prospect of his arrival in the near future. Secondly, it is night occurrence having no eyewitness and no source of light is there through which the accused could be identified. Thirdly, there is un-explained delay of 21 hrs and 50 minutes in the reporting of the matter to the local police and even the same against the unknown accused. Also, the IO, the only materially available witness has at the end admitted that the accused facing trial are innocent.

Thus, in the light of aforesaid findings I am of the opinion that there is no probability of the accused being convicted of any offence, therefore, the application in hand is accepted and the accused are acquitted U/S 249-A CrPC from the charges levelled against them. They are on bail. Their bail bonds stand cancelled and sureties are discharged from the liability of bail bonds.

File be cosigned to the record room after its necessary completion and compilation.

**Announced**  
09.07.2021

  
(Rehmat Ullah Wazir)  
JM-I/MTMC,  
Camp Court, Kalaya, Orakzai  
CIVIL JUDGE/JM-1  
CAMP COURT  
KALAYA ORAKZAI