

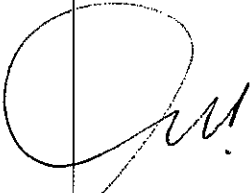
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FORM "A"

FORM OF ORDER SHEET

IN THE COURT OF ZAHIR KHAN, CIVIL JUDGE/JUDICIAL MAGISTRATE-I, KALAYA ORAKZAI

Case Title: State Vs Meer Ahmad etc

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
Or ___ 12	17.10.2023	<p>APP for the state present. Accused/respondents namely Habib Nazar and Asif Wazir on bail along with counsel present. Rest of the accused/respondents are absent. Counsel for accused/respondents submitted application for exemption of absent accused for today. Allowed. Further arguments heard and case file gone through.</p> <p>Briefs facts of the case as per contents of FIR, are that complainant Saifoor Khan on 29.04.2022 at DHQ Hospital Mishit Mela, reported to the police to the effect that, at the time of occurrence, he was present at his house when he was informed by Muhammad Saeed S/O Islam Khan via cellphone regarding a quarrel between Pirbat Khan, Muhammad Zubair and Pirbat Khan being stoned by accused on his forehead causing death of Pirbat Khan on the spot. Accordingly, he reached the spot and found his nephew Pirbat Khan murdered and the instant case was registered.</p> <p>The nominated accused applied for post arrest bail and on the date of hearing, accused alleged compromise with the LRs of deceased. Statements of jirga members and LRs (major) were recorded. Widow of the deceased Mst.</p>



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ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

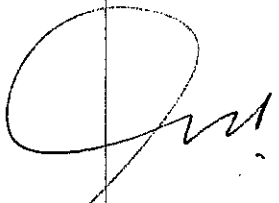
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Muzafar Khela appeared before the court and disclosed that besides, the LRs mentioned in the list of LRs, the deceased has left 05 daughters who were not mentioned in the list of LRs. In the list of legal heirs, daughters of deceased including minors were not shown in order to deprive the widow and other legal heirs including minors of their shares in the *Diyat* amount which amounted to giving false evidence, fabricating evidence, 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 the offence. The prosecution, pursuant to the order dated 28.09.2022, submitted the instant complaint for trial for offences u/s 193, 196, 166 (ii) and 201 PPC.


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Accused/respondents were summoned, who appeared before the court except accused/respondent Mir Ahmad who has died. Counsel for the accused/respondents submitted application for dismissal of the complaint being not maintainable in the eye of law.

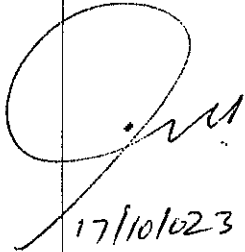
As per section 195 (1)(b) Cr.PC, no court shall take cognizance of any offence punishable under section 193,

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194, 195, 196, 199, 200, 205, 207 to 211 and 228 PPC when such offence is alleged to have been committed in or in relation to, any proceedings in any court, except, on the complaint in writing of such court, or of some other court to which such court is subordinate. Per record, the accused/respondents have allegedly given false evidence by concealing some of the LRs of deceased in the court of sessions in connection with the post arrest bail of the accused nominated in the FIR. Statutory procedure provided u/s 195 Cr.PC ought to be followed in such cases. Section 195 Cr.PC is an exception to the general rule that every person may set the criminal law in motion, for it forbids cognizance being taken of the offences referred to therein except, when there is a complaint in writing by the court concerned. Section 195 Cr.PC gives protection to parties and witnesses against frivolous prosecution. Section 195 Cr.PC is mandatory in nature which has not been followed in the instant case. Section 201 and 166 (ii) PPC are not attracted to the facts and circumstances of the case. Hence, it is held that this court cannot proceed with the trial of the accused/respondents, resultantly, complaint in hand is hereby returned to prosecution. Application disposed of accordingly.


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State

Vs

Meer Ahmad etc

File of this court be consigned to record room after its necessary completion and compilation while complaint file be returned to the prosecution accordingly.

Announced:

17.10.2023



Zahir Khan
Judicial Magistrate-I,
Kalaya, Orakzai