

COURT OF SENIOR CIVIL JUDGE/JM, ORAKZAI AT BABER MELA

Case Title: State VS Mina Bat Khan and others

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 No. 06	28.11.2023	<p>DPP for the state present. Accused Minā Bat Khan, Almas Khan, Sajjad Khan, Salih Muhammad, Ajmir Khan, Luqman Khan, Muhammad Saleem, Noor Salam, Muhammad Asad, Gulab Khan, Nazeef Khan, Muhammad Tasdiq, Bakhtiar Gul, Abid Khan and Muhammad Salih on bail present.</p> <p>The above-mentioned accused are facing trial in the instant case FIR No. 79, Dated: 23.08.2022, u/s 324/353/186/189/337-F(i)/148/149 PPC of PS Kalaya, L/Orakzai.</p> <p>Learned DPP for the state filed application for discharge of the accused u/s 5(B), Prosecution Act, 2005 read with Section 494 Cr.P.C. Prosecution has requested for discharge of the accused on the ground of deficient evidence against the accused and co-accused in the above-mentioned FIR have already been acquitted vide order dated: 16.09.2023.</p> <p>Today, the case was fixed for arguments u/s 249-A Cr.P.C, notice of which is already given to the prosecution.</p> <p>Brief facts necessary as per FIR are that complainant Shal Muhammad, SHO of PS Kalaya vide Naqalmad No. 08, Dated: 29.06.2022, reported that on the eventful day at 13:10 hrs, he along with AC, Lower Orakzai, Zahir Khan JM-I, DSP Mehboob Khan, Inspector Farooq Khan along with other police contingent, pursuant to Madd No. 07 went to Lerrri Feroz Khel for inspection of landing property for construction of official building. Regarding the said inspection, Deputy Commissioner Orakzai issued directions vide letter No. AC/land/DC/208/ORK/31.01.2022. Section</p>

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<p>Order No. 06 continued</p>	<p>28.11.2023</p>	<p>04 of the Land Acquisition Act was already imposed by the DC, Orakzai. That when they reached to the place of occurrence for measurement of the property at about 10:50 hrs, the present accused facing trial named above along with more than 60 other accused, the names of whom are duly mentioned in the FIR came to the spot duly armed with axes, sticks and firearms came to the spot and started firing at them with the intention to spread terror. They also made hurdles and restrained the officials from their duty, they made announcement and directed the women folk of the village to come out and make stoning at them which amounts to criminal conspiracy. The women folk 20/30 in numbers came out and started stoning at them. They postponed the measurement proceedings. That due to stoning, one Raees Khan SI and Irfan Ullah constable got injured and they were sent to hospital for medical examination and treatment.</p> <p>Later about 100/120 people duly armed came to the HQ square and closed the road and later on after medical examination, the instant FIR was chalked out on 23.08.2022 and hence, the instant case.</p> <p>Supplementary challans of the accused facing trial were submitted and the case was put in court for trial. Accused appeared before the court.?????????????</p> <p>On previous date notice u/s 249-A Cr.P.C was given to the prosecution. Arguments heard and record perused.</p> <p>The perusal of record shows that as per report lodged by the complainant vide Naqalmaid No. 06, Dated: 29.06.2022, the occurrence has taken place at 13:10 hrs but the time of examination is not mentioned in the medical report while the date of sending the report is mentioned in</p>
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<p>Order No. 06 continued</p>	<p>28.11.2023</p>	<p>the medicolegal report of SI Raees Khan as 25.07.2022, meaning thereby that there is a delay of about 01-month between the report and preparation of medicolegal report. After sending the medicolegal report on 25.07.2022, the present FIR was lodged on 23.08.2022 and there is another 01-month unexplained delay in lodging the FIR after receiving the medicolegal report. This delay in the preparation of medico legal report and later on in chalking out the FIR is creating serious doubts about the prosecution case. The number of accused shown in the FIR is about 69 along with 30/35 women but neither any specific role has been assigned to any of the present accused facing trial, nor any kind of incriminating recovery has been made from the possession of the accused. The allegation regarding attempting murder of the complainant and his companions are ruled out on the ground that if there was any such intention of the accused, none of the person including complainant could have escape unhurt. Despite of levelling serious allegations in the report regarding the presence of sticks, stones and firearms in the possession of the accused only one police SI has sustained minor/negligible injury as evident from the medicolegal report, Dated: 25.07.2022 wherein, the nature of injuries is mentioned as “Almost Normal Findings”. The most important aspect of the case is that the alleged agitation has been made against the Assistant Commissioner and Judicial Magistrate but neither they himself, nor any of their representatives are complainant in the instant case. Even the perusal of challan form is not reflecting the names of any of those officials who were allegedly present at the spot.</p> <p>Record reveals that 07 co-accused have already been</p>
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<p>Order No. 06 continued</p>	<p>28.11.2023</p>	<p>acquitted u/s 249-A Cr.P.C vide order dated: 16.09.2023. Keeping in view ,the above facts and application for discharge of the accused u/s 5(B), Prosecution Act, 2005 read with Section 494 Cr.P.C by the learned District Public Prosecutor, the accused facing trial namely Mina Bat Khan, Almas Khan, Sajjad Khan, Salih Muhammad, Ajmir Khan, Luqman Khan, Muhammad Saleem, Noor Salam, Muhammad Asad, Gulab Khan, Nazeef Khan, Muhammad Tasdiq, Bakhtiar Gul, Abid Khan and Muhammad Salih are acquitted from the charges levelled against them. They are on bail. Their sureties are discharged from the liability of bail bonds. Case property if any be kept intact till expiry of the period provided for the appeal/revision/writ etc.</p> <p>File be consigned to the record room after its completion and compilation.</p> <p><u>Announced</u> 28.11.2023</p> <p><i>Bakht Zada</i> 28.11.23. (Bakht Zada) SCJ/JM, Orakzai (at Baber Mela)</p> <p>RECORDED & INDEXED 28.11.2023 COURT OF SENIOR CIVIL JUDGE/JM ORAKZAI AT BABER MELA</p>
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