

**IN THE COURT OF SYED OBAIDULLAH SHAH**  
**DISTRICT JUDGE, ORAKZAI (AT BABER MELA)**

CIVIL APPEAL NO. : 18/13 OF 2023  
DATE OF INSTITUTION : 24.10.2023  
DATE OF DECISION : 18.12.2023

GUL AJAB KHAN S/O NOOR MUHAMMAD, R/O CASTE  
SHEIKHAN, LAK KANRE, DISTRICT ORAKZAI  
....(APPELLANT)

-VERSUS-

MUHAMMAD SAUD S/O SHEERIN KHAN, R/O CASTE  
SHEIKHAN, TAPA UMARZAI, LAK KANRE, DISTRICT ORAKZAI  
..... (RESPONDENT)

**Present:** Mr. Aziz Ur Rehman Advocate for appellant  
: Mr. Kashif Hayat Advocate for respondent

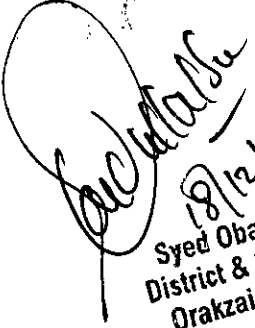
**JUDGEMENT**

18.12.2023

Impugned herein is the order/judgment dated 10.10.2023 of learned Civil Judge-I, Orakzai vide which the suit of the appellant/plaintiff has been rejected under Order 7 Rule 11 of the CPC.

- (2). The appellant/plaintiff through a suit before the learned trial court claimed that the respondent/defendant had charged him in a false case vide FIR dated 21.12.2020 u/s 447/506/148/149 PPC registered at Police Station Kalaya wherein the appellant/plaintiff faced trial and had been acquitted u/s 249-A CrPC. The appellant/plaintiff also claimed recovery of Rs. 2,470,000/- owing to maliciously prosecuting him in a false case, Rs. 470,000/- incurred as counsel's fee along with additional expenses and Rs. 2,000,000/- for mental torture sustained while facing the trial.

The respondent/defendant was summoned who appeared

  
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before the learned trial court and contested the suit by submitting a written statement accompanied by an application under Order 7 Rule 11 of the CPC.

(3). The learned trial court, after having heard the arguments on application, rejected the plaint of the appellant/plaintiff under Order 7 Rule 11 of the CPC. Appellant/plaintiff, considering himself aggrieved of the impugned order/judgment, filed the instant appeal.

(4). Arguments heard and record gone through.

(5). Perusal of the case file reveals that the appellant/plaintiff claimed that the respondent/defendant had falsely charged him in a case for which he underwent trial and was subsequently acquitted under section 249-A of the Criminal Procedure Code (CrPC). The appellant/plaintiff further asserts that various expenses were incurred during the trial, and both his physical and mental well-being suffered, prompting him to file a suit before the learned trial court for recovery. To counter the claim of the appellant/plaintiff, the respondent/defendant submitted application under Order 7 Rule 11 seeking the rejection of the plaint contending that the appellant/plaintiff has got no cause of action to claim the damages. The record indicates that the learned trial court, in reaching its judgment, cited 2018 MLD 1202 which dictates that the accused is precluded from claiming damages if he has

been acquitted on the grounds of benefit of doubt arising from

  
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flawed investigation by the police or any other reason. Moreover, reliance was also placed on the decision outlined in 2023 MLD 416 where it is penned down that the acquittal of an accused in any case does not automatically entitle him to seek damages which would put undue burden on the justice system and would discourage individuals from filing claims indiscriminately. Furthermore, guidance was sought from 1999 SCMR 700 which held that in case the defendant failed to prove his contention against the plaintiff, it does not mean that the defendant subjugated the plaintiff maliciously rather aimed to carry the Law into effect, unless the plaintiff proves that the case was instituted without any reasonable or probable cause. These references establish that a criminal case decided under section 249-A of the CrPC does not confer the right upon the accused to claim damages based on malicious prosecution. The conduct of the parties, along with their involvement in a false case and subsequent filing of a suit for damages, suggests a chronic nature. The protracted and enduring legal disputes between the parties appear to be aimed at subjugating each other.

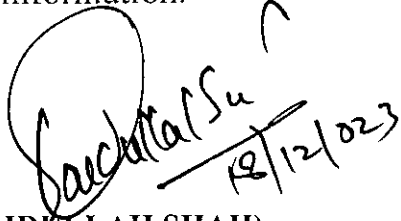
- (6). In these circumstances, the learned trial court has rightly dismissed the suit of the appellant/plaintiff. The impugned order/judgement of the learned trial court is unexceptional and not open to any interference by this court.

  
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Accordingly, the appeal in hand resultantly stands dismissed being meritless with no order as to cost.

Judgment announced. File of this court be consigned to Record Room while record be returned. Copy of this judgement be sent to learned trial court for information.

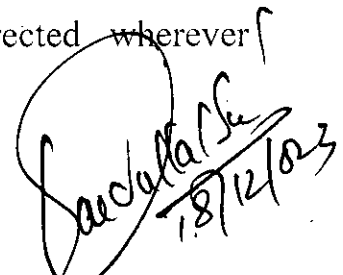
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District Judge, Orakzai  
at Baber Mela

**CERTIFICATE**

Certified that this judgment consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 18.12.2023

  
(SYED OBAIDULLAH SHAH)  
District Judge, Orakzai  
at Baber Mela