

**IN THE COURT OF JUDICIAL MAGISTRATE-I, KALAYA, ORAKZAI**

Case No .....77/2 of 2023.  
Date of institution.....01.12.2023.  
Date of decision.....12.12.2023.

Case FIR No. 83 Dated: 21.08.2023 U/S 392/506/34 PPC, PS Kalaya


**Order. No. 03**  
12.12.2023

APP for the state present. Accused Tabeeb and Abdul Basit on bail present. Accused Umat Khan is absconding. Complainant Iftikhar Ali absent. W/N on behalf of accused Tabeeb Khan in favor of Mr. Asad Ijaz Advocate along with application u/s 249-A Cr.PC submitted. Arguments on application U/S 249-A Cr. PC filed by accused/petitioner Abdul Basit already heard. Arguments on application submitted today also heard. APP for the state submitted application for withdrawal of the case U/S 5(b) of the Khyber Pakhtunkhwa Prosecution Act, 2005 read with Section 494 Cr.PC. Arguments heard and record gone through.

Brief facts of the prosecution's case as unfolded in the FIR are that complainant Iftikhar Ali charged accused named above for forcibly snatching original documents of machinery after aiming pistol at the him.

Report of the complainant was scribed in DD vide mad No. 17 dated 15.07.2023. Inquiry u/s 157 (1) Cr.PC was conducted and thereafter, case in hand was registered against accused Tabeeb Khan and Abdul Basit along with absconding accused Umat Khan.


Later on, complainant effected compromise with accused facing trial. Bail Before Arrest of accused Tabeeb Khan and Abdul Basit was

  
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confirmed on the basis of compromise. After submission of challan against the accused, accused and complainant were summoned. They appeared before the court. Complainant stated that he has patched up the matter with accused outside the court and produced compromise deed Ex.PA. Copy of his CNIC is Ex.PB.

The complainant stated at the bar that he has patched up the matter with the accused named above and has got no objection on their acquittal. Compromise deed is Ex.PA. Since, the parties have patched up the matter outside the court and have forgiven and forgotten the offence, therefore, further proceedings would be a futile exercise and wastage of precious time of the court. As on merits, the alleged occurrence took place on 15.07.2023 and FIR was registered on 21.08.2023. There is delay of about one month in registration of the case. Nothing incriminating has been recovered from possession of accused or on their pointation. Accused have not confessed their guilt before the court. Furthermore, per statement of complainant and available record, the matter is a money dispute which is civil in nature. There is no probability of conviction of accused/petitioners, resultantly, both the applications u/s 249-A Cr.PC are accepted and accused/petitioners namely Tabeeb Khan and Abdul Basit are acquitted. They are on bail. Their bail bonds stand cancelled. Sureties are discharged from their liability. As applications u/s 249-A Cr.PC are accepted, therefore, application of prosecution is disposed of accordingly.

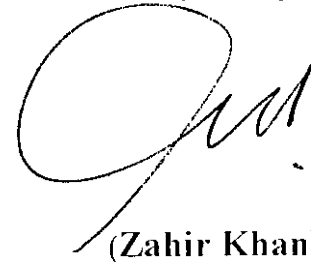
  
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Accused Umat Khan is absconding . Statement of DFC Ahmad Khel has already been recorded as SW-01. SI Minhaz Hussain, who is present in the court was examined as PW-01. He is IO of the case.

Resultantly, this court is satisfied that a prima facie case exists against the absconding accused named above who is intentionally avoiding his lawful arrest, hence, he is hereby declared as proclaimed offender. His names be entered in register/list of proclaimed offenders. Perpetual warrant of arrest be issued against him. Case property if any, be dealt with in accordance with law.

File be consigned to record room after necessary completion and compilation.

**Announced.**  
12.12.2023



(Zahir Khan)  
Judicial Magistrate-I,  
Tehsil Kalaya, Orakzai