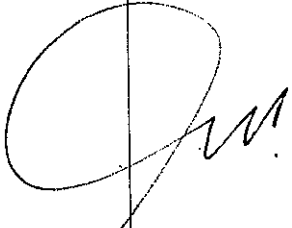


FORM "A"
FORM OF ORDER SHEET

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

Case Title: _____ Vs _____

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 ___30	09.03.2024	<p>APP for the state present. Accused Mehdi Hassan on bail along with counsel present. Further arguments on application submitted by prosecution u/s 344 read with section 196 Cr.PC heard and record gone through.</p> <p>Record shows that accused Mehdi Hassan is charged for uploading and sharing posts on social media from his facebook ID through his mobile phone with deliberate and malicious intention of outraging the religious feelings of Ahle-Sunnat, insulting the sacred name of Ummul Mumineen, righteous caliphs and companions of the Holy Prophet (PBUH). Case was registered against the accused on the report of complainant, SHO PS Kalaya. Accused was released on bail by the Worthy Peshawar High Court, Peshawar and after completion of investigation, complete challan was put in court against the accused. Accused was summoned who appeared before the court, legal formalities u/s 241-A Cr.PC were complied with. Formal charge was framed for offences u/s 295-A and 298-A PPC. Accused pleaded not guilty and claimed trial and afterwards, evidence of prosecution was recorded. After closure of prosecution evidence, statement of accused was</p>


 09/03/2024
ZAHIR KHAN
 Civil Judge/JM
 Kalaya Orakzai

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recorded within the meaning of section 342 Cr.PC. Final arguments were heard and case was fixed for order when prosecution submitted application u/s 344 read with section 196 Cr.PC contending that sanction u/s 196 Cr.PC was not obtained from the competent authority before trial of the accused for offence u/s 295-A Cr.PC. Defense counsel submitted written arguments contending that final arguments have already been heard and sanction of competent authority cannot be obtained at that stage and lastly requested for dismissal of the application.

Section 196 Cr.PC says;

"No court shall take cognizance of any offence punishable under Chapter VI [or IX-A] of the Pakistan Penal Code (except section 127), or punishable under section 108-A, or section 153-A or section 294-A, [or section 295-A] or section 505 of the same code, unless upon complaint made by order of, or under authority from [the [Federal Government], or the Provincial Government concerned, or some officer empowered in this behalf by either of the two Governments]."

Section 196 Cr.PC provides that all offences against the state in which a person, deliberately and maliciously insults or attempts to insult the religion or religious beliefs

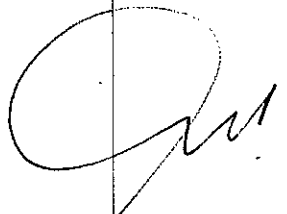

29/03/24
ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

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and feelings of a person or class of persons, are to be tried within the meaning of section 196 Cr.PC. Section 295-A PPC being an offence against the state is to be tried u/s 196 Cr.PC, therefore, court can take cognizance of the offence u/s 295-A PPC, only, if the complaint is made or the case is registered by an order of an authority from the Central or Provincial Government. Omission to observe provisions of S. 196 is an illegality which is not curable under S. 537 Cr.PC. Non-compliance with provisions of S. 196 would render all subsequent proceedings nullity in eyes of the law. Provision of S. 196, Cr.PC. are mandatory in nature. Where a mandatory condition for the exercise of jurisdiction was not fulfilled, then the entire proceedings that followed would become coram non judge, illegal and without jurisdiction. No sanction for prosecution of accused was obtained as envisaged by Ss. 196 & 196-A, Cr.PC, resultantly, case is returned back to prosecution with directions that the Government may if it so desires, try the accused after strictly complying with the conditions laid down in this section. Application disposed of accordingly. Accused is on bail. He will remain on bail. Prosecution shall re-submit the case file within 15 days of receipt of record.



09/03/24

ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

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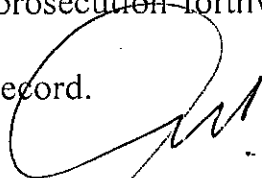
IN THE COURT OF ZAHIR KHAN, CIVIL JUDGE/JUDICIAL MAGISTRATE-I, KALAYA ORAKZAI

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File/record of this court be consigned to record room after necessary completion and compilation while case file be returned back to prosecution forthwith. Copy of this order be placed on file/record.

Announced:

09.03.2024


Zahir Khan
Judicial Magistrate-I,
Kalaya, Orakzai