

IN THE COURT OF ZAHIR KHAN CIVIL JUDGE –I, KALAYA, ORAKZAI

Case #	=	172/1 of 2022.
Date of Institution	=	20.10.2021.
Date of Decision	=	10.11.2022.

Syed Muhammad S/O Syed Gul, R/O Qaum Bar Muhammad Khel, Tappa Baba Nawasi, Village Abo Daag, Tehsil Lower, District Orakzai

.....(*Plaintiff*)

Versus

Jabbar Ali S/O Deedar Ali, R/O of Qaum Bar Muhammad Khel, Tappa Terai, Tehsil Lower, District Orakzai.

.....(*Defendant*)


SUIT FOR RECOVERY OF RS. 193,000/-

Order No. 17
10.11.2022

Plaintiff present. Defendant has already been placed and proceeded against ex-parte. Ex-parte arguments already heard and record perused.

Through this ex-parte order, I am going to decide the suit in hand filed by plaintiff namely Syed Muhammad against the defendant namely Jabbar Ali for recovery of Rs. 193,000/-

Brief facts of the case in hand are that plaintiff has filed the instant suit against the defendant for recovery of Rs. 193,000/- alleging that he was falsely implicated by defendant in case FIR No. 13, dated 15.03.2020, U/S 341, 347/34 PPC registered at PS Lower Orakzai. Allegations of wrongful restrain and wrongful confinement for the



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purpose of extorting his property were levelled against him. That this false implication of plaintiff by defendant in the above cited case caused him mental torture, monetary loss and injured his reputation in the society. That he was acquitted by the trial court from the charges levelled against him vide order/judgement dated 04.03.2021. He lastly requested for decree of suit in his favour against the defendant.

Defendant was summoned. He appeared before the court on 16.11.2021 but later on, he absented himself, resultantly, he was placed and proceeded against ex-parte vide order dated 15.07.2022. Thereafter, plaintiff was allowed to produce his ex-parte evidence. List of witnesses was submitted.

Thereafter, Plaintiff produced four witnesses in support of his claim and contention.

Plaintiff himself appeared and deposed as PW-01. He reiterated the averments of plaint. Copy of his CNIC is Ex-PW-1/1. Copy of FIR is Ex. PW-1/2. Copy of the order dated 04.03.2021 is Ex. PW-1/3. He stated that he was falsely implicated by defendant in case FIR No. 13, dated 15.03.2020, U/S 341, 347/34 PPC registered at PS Lower Orakzai and after conclusion of trial, he was acquitted by the trial court vide order/judgement dated 04.03.2021. He lastly requested for decree of suit in his favour against the defendant.

Syed Zameer Hussain, Syed Yadeed Ul Hussain and Syed Munir Hussain appeared and deposed as PW-02 to PW-04 respectively.


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Copies of their CNICs are Ex. PW-2/1, Ex. PW-3/1 and Ex. PW-4/1 respectively. They supported plea of plaintiff and lastly requested for decree of suit in favour of plaintiff against the defendant as prayed for.

Thereafter, ex-parte evidence of plaintiff was closed and ex-parte arguments were heard.

As mentioned above, plaintiff has sought recovery of Rs. 193,000/- alleging that he was falsely implicated by defendant in case FIR No. 13, dated 15.03.2020, U/S 341, 347/34 PPC registered at PS Lower Orakzai. Allegations of wrongful restrain and wrongful confinement for the purpose of extorting his property were levelled against him. That this false implication of plaintiff in the above cited case by defendant caused him mental torture, monetary loss and injured his reputation in the society.

Record transpires that plaintiff was nominated in case FIR No. 13, dated 15.03.2020, U/S 341, 347/34 PPC registered at PS Lower Orakzai and after conclusion of trial, he was acquitted by the learned trial court vide order/judgement dated 04.03.2021. Copy of the order dated 04.03.2021 is Ex. PW-1/3. Grounds of acquittal of plaintiff in the above cited case are:

- (a) Contradictions in the statements of PWs.
- (b) Non-production/exhibition of application submitted by complainant before SHO concerned.
- (c) Delay in lodging of FIR.


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(d) Absence of ocular evidence.

(e) Doubtful disclosure of source of information regarding involvement of accused in the commission of offence.

(f) Dents and doubts in the case of prosecution.

There is nothing in the order/judgement dated 04.03.2021 which could show that defendant had falsely implicated plaintiff in the above cited criminal case. Plaintiff was acquitted of the charges without any findings by the learned trial court that the charge was frivolous. There is nothing on record which could show malicious prosecution of the plaintiff. There is nothing on record which could show that accusations were vexatious. Plaintiff was acquitted in the above cited criminal case as prosecution failed to prove its case against him beyond shadow of doubt.

Resultantly, plaintiff is not held entitled to recovery of the suit amount/compensation, hence, suit of plaintiff stands dismissed. No order as to cost.

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

ANNOUNCED
10.11.2022



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