

Order...13

29.11.2022

Present:

APP for the state.

Accused Muhammad Ayaz and Saif Ullah on bail in person.

Accused Dosti Khan and Raheem Ullah are exempted.

Complainant absent.

Accused Dosti Khan, Saif Ullah, Raheem Ullah and Muhammad Ayaz are charged in case FIR No. 07, dated 06.07.2021, U/S 506/504/447/34-PPC of PS Dabori, District Orakzai.

Brief facts as per FIR are that complainant namely Lal Jan on 06.07.2021, reported to the local police after the directions issued to the police to register FIR on conclusion of petition under section 22-A Cr.P.C that the accused named above entered forcibly upon his property along with a tractor and started ploughing. After receiving information, when the complainant reached his property, the accused named above took out their pistols and extended life threats to the complainant by aiming their pistols at him.

After completion of investigation, challan was put in court and the accused were summoned. Provisions of Section 241-A Cr. PC were complied with. Formal charge was framed U/S 506/504/447/34-PPC, to which the accused did not plead their guilt and claimed trial, therefore, the prosecution was called to produce evidence in support of the case.

The prosecution has produced five witnesses and their statement were recorded. Thereafter, counsel for accused filed application U/S 249-A Cr. PC for acquittal of the accused.

Arguments from the counsel for accused, learned APP and counsel of complainant already heard and record perused.

(Continued.)

*Sami Ullah*  
**Sami Ullah**  
Civil Judge/JM-I  
Orakzai (Babar Mela)

Order...13

Continued.

29.11.2022

Record would show that the alleged occurrence took place on 19.02.2021 and the complainant wrote an application to the DPO Orakzai on 22.02.2021 stating therein that the local police of concerned police station is not registering the FIR and on 03.03.2021, he filed petition under section 22-A Cr.P.C which was accepted. Resultantly, criminal law was set into motion and FIR was registered and investigation was conducted. In course of trial, the one Malik Abdul Janan, SI stated in his cross examination that the complainant has not instantly approached the local police for registration of FIR, rather he wrote an application to DPO afterwards. Which shows that there is unreasonable delay of Four days in setting the criminal law in motion.

Pw-02 who was OII in the concerned police station at the time of investigation in the instant case, stated in his cross-examination that the accused has not directedly approached the local police for registration of FIR. During the course of investigation, the statement of Tractor Driver is not recorded. He further stated that during investigation I inquired about the occurrence from the villagers and they have refused the stance of the complaint and told that no such occurrence has taken place.

Moreover, the parties are in Civil litigation with each other and the possibility of setting the criminal law in motion for pressurizing the opponents cannot be ruled out. No recovery has been affected from the accused. Accused have not confessed their guilt before the court. There is nothing on record which could connect the accused with the commission of the offence. There are so many dents and doubts in case of prosecution.

(Continued.)

*Sam Ullah*  
**Sam Ullah**  
Civil Judge/JM-I  
Orakzai at (Babar Mela)

Order...13

Continued.

29.11.2022

The trial court can acquit accused U/S 249-A Cr. PC at any stage of the proceedings. Keeping in view the available record, if it is held that there is no probability of conviction of accused. Recording of full prosecution evidence would be a futile exercise and wastage of precious time of the court.

Resultantly, application is **Allowed**. Accused facing trial are acquitted in terms of Section 249-A Cr. PC from the charges leveled against them in case FIR No. 07 Dated: 06.07.2021 U/S 506/504/447/34-PPC registered at PS Dabori, District Orakzai. Accused are on bail. Bail bonds stands canceled and sureties are discharged from their liability. Case property, if any be dealt with in accordance with law.

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

Announced:

29.11.2022

*Lami Ullah*  
**Sami Ullah**  
Judicial Megistrate-1,  
Orakzai at Baber Mela.