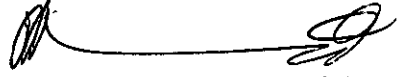



COURT OF SENIOR CIVIL JUDGE/JM, ORAKZAI AT BABER MELACase Title: State vs Fazal Karim

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
Order .08	13.12.2022	<p>Both DPP and APP for the state present.  Accused produced in custody.  Counsel for accused also present.  Complainant present along with counsel.  Counsel for complainant requested for adjournment on the ground that his witness is not prepared. Adjourned.  Counsel for accused submitted application u/s 249-A Cr.PC. Notice of the application be issued to the prosecution for 20.12.2022.</p> <p style="text-align: right;">  <b>(Rehmat Ullah Wazir)</b>  Senior Civil Judge/JM,  Orakzai (Baber Mela)</p>
Order No. 09	20.12.2022	<p>DPP for the state present. Accused produced in custody. Complainant in person present. Counsel for both the accused and complainant also present.</p> <p>Statement of complainant recorded today as PW-07.</p> <p>My this order is to dispose off application u/s 249-A Cr.P.C. Counsel for the accused present and argued that as the statements of the main PWs in the shape of SHO, OII, marginal witnesses of recovery memo and the complainant himself are recorded and as per the statements of the PWs, there is no probability of the accused being convicted of the offence and the charge is groundless. Further that the co-accused has already been acquitted by this court.</p> <p style="text-align: left;">  <b>REHMAT ULLAH WAZIR</b>  Senior Civil Judge/JM,  Orakzai at Baber Mela</p>

COURT OF SENIOR CIVIL JUDGE/JM, ORAKZAI AT BABER MELA

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
<p>Order No 09 <i>Continued</i></p>	<p>20.12.2022</p>	<p>That the accused is behind the bars for sufficient period and keeping him further behind the bars would be result less and futile exercise. At the end, requested for the acquittal of the instant accused.</p> <p>On the other hand, Learned DPP for the state and counsel for the complainant opposed the application and argued that there is sufficient evidence against the instant accused, therefore, the application should not be accepted at this stage.</p> <p>I have heard both the sides and came to the conclusion that the concerned I.O, has admitted that the weapon of offence has not been recovered and that he has not mentioned in the site plan that from where the empty was exactly recovered. Further, that he has not obtained FRC from NADRA which could establish the relationship of the one Hazrat Ullah with the present accused. That the mechanic who reported about the damage of the vehicle is not a registered one and that the report of the mechanic is written on the receipt of an auto store situated at Mishti Mela, Orakzai but he was brought from Kohat and that nowhere it is mentioned in my findings that the battery, tyre rod etc of the said vehicle have been damaged. That the empty was not sent to the FSL and that the blood stained garments etc were sent to FSL on 20.09.2021 while the occurrence took place on 06.09.2021 and no entry in this respect has been made by the Muharrir in the Register No. 19 of the PS. Further, the main complainant namely Naqib Ullah s/o Fazal Janan though stated today that it is incorrect to suggest that I have not stated earlier during trial of co-accused that I have not seen anyone while firing but when he was confronted with his old statement, it was found so recorded. Further, stated that the eye-witness has not affixed thumb impression on the report in his presence in hospital but as per the record, this eye-witness is the verifier of the report. There are also many a admissions on</p>

*REHMAT ULLAH WAZIR*  
 Senior Civil Judge/JM  
 Orakzai at Baber Mela

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<p>Order No 09 continued</p>	<p>20.12.2022</p>	<p>the part of this complainant in his statement in the other file against the co-accused. Further, the entire case file is silent about those women who thrown stones upon the active complainant namely Shams-Ur-Rehman as they have neither been mentioned with names nor charged at any stage. Further, this active complainant has stated in his statement against the co-accused that his statement was not recorded by the I.O. Allegedly, the firing was made through Kalashnikov but the recovered empty is that of 30 bore pistol. Further the prosecution has not collected any piece of evidence w.r.t the damage caused to the vehicle rather there is a baseless receipt of an auto store, which by no means can be considered as sufficient proof of damage.</p> <p>Thus, in the light of the aforesaid findings, it is established that there is no probability of the accused being convicted of the offence. Therefore, the application in hand is accepted and the accused Fazal Karim s/o Fazal Khanan is acquitted from the charges levelled against him. The accused is in custody. He be released if not required in any other case.</p> <p><i>Case property be dealt according to law.</i></p> <p>File be consigned to the record room after its necessary completion and compilation.</p> <p><b><u>Announced</u></b> 20.12.2022</p> <p> (Rehmat Ullah Wazir) SCJ/JM, Orakzai (at Baber Mela)</p>
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