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IN THE COURT OF ZAHIR KHAN,
JUDICIAL MAGISTRATE-I, TEHSIL KALAYA, ORAKZAI

Case No. 7/2 of 2021

Case FIR No. 04 Dated: 13.01.2021 U/S 392 PPC,

PS Kalaya


Order. No. 19

21.09.2022

APP for the state present. Accused Noor Muhammad on bail present. Complainant absent. Arguments on application U/S 249-A Cr. PC already heard and record gone through.

Record shows that the instant case was registered against accused on the acceptance of petition U/S 22-A Cr. PC by the court of Hon'ble District & Sessions Judge, Orakzai vide order dated 23.12.2020. Petition was filed by complainant Muhammad Yousaf wherein it was alleged that on the day of occurrence, accused Noor Muhammad came and hired his motorcar for Rs. 500/-. When they reached Uthman Khel, accused Noor Muhammad snatched his motorcar on gun point and he was asked to leave. Complainant left the spot in order to save his life. He went to police station Kalaya for lodging of report but SHO PS Kalaya refused to register FIR against the accused, therefore, he approached the court of Sessions for registration of the case and as per directions of the Sessions Court, case in hand was registered against accused. Later on, complainant effected compromise with accused facing trial and motorcar was returned to him after 6 months. Accused refused to abide by Jirga decision.

Accused procured interim pre-arrest bail which was confirmed vide order dated 08.02.2021 on the basis of compromise. Compromise deed was


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ZAHIR KHAN exhibited as Ex. PA.
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After completion of investigation, complete challan was put in court against accused along with application for discharge of the case U/S 4C (ii) of the Khyber Pakhtunkhwa Prosecution Act, 2005, read with Section 494 Cr.PC. Application for discharge of the case was not agreed with by learned predecessor of the court observing that sufficient material is available against the accused.

Accused and complainant were summoned. Accused appeared and provisions of Section 241-A Cr. PC were complied with. Formal charge was framed. Accused pleaded not guilty and claimed trial. Prosecution was allowed to produce evidence against accused.

Complainant was examined as PW-01. Counsel for accused filed application U/S 249-A Cr. PC. Arguments on application were heard.

Statement of complainant Muhammad Yousaf S/O Abdul Ghaffar R/O Stori Khel, Anjani, Tehsil Lower, District Orakzai was recorded as PW-01. He stated that on the day of occurrence, near the house of accused situated at Uthman Khel, accused came and hired his motorcar for Rs. 500/-. When they reached Uthman Khel, accused Noor Muhammad snatched his motorcar on gun point and he was asked to leave. Complainant left the spot in order to save his life. He went to police station Kalaya for lodging of report but SHO PS Kalaya refused to register FIR against the accused, therefore, he approached the court of Sessions for registration of the case and as per directions of the Sessions Court, case in hand was registered against accused. After registration of the case, he pointed out the spot to IO. Later on, he effected compromise with accused facing trial and motorcar was returned to him after 6 months. Accused refused to abide by Jirga decision.


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Record transpires that the occurrence took place on 30.11.2020 at 10:00 hours and FIR was registered on 13.01.2021. Complainant effected compromise with accused at the time of BBA. Compromise deed was exhibited as Ex. PA. Statement of complainant was recorded accordingly wherein, he stated that he has pardoned the accused and does not want to proceed with the case against the accused as he is fully satisfied from the compromise. Application U/S 4C (ii) of the Khyber Pakhtunkhwa Prosecution Act, 2005, read with Section 494 Cr. PC was submitted by prosecution. Per opinion of prosecution, there is insufficient evidence against the accused and requested that accused be discharged accordingly.

As per available record, the alleged snatched vehicle was not recovered from possession of the accused or on his pointation. The vehicle, when returned to the complainant as a result of compromise, was not produced before the local police. Complainant, in his cross examination stated that he reported the matter to the local police after two months of the occurrence. He further stated that he does not remember the date of occurrence. There is no criminal history of accused which could show that accused is previously involved or convicted in such like cases. Accused facing trial has not confessed his guilt before the court. There are so many doubts and doubts in case of prosecution benefit of which goes to the accused per law.

(There is no probability of accused being convicted. Further proceedings would be a futile exercise and wastage of precious time of the court; therefore, application U/S 249-A Cr. PC is hereby accepted and accused facing trial is acquitted from the charges levelled against him.)

Jud

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

Announced.
21.09.2022



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