

State Vs Mumtaz Gul

5

Order...01
27.09.2022

Case file received from the Hon'ble court of District and Sessions Judge, Orakzai to the undersigned. DPP for the state present.

Accused namely Mumtaz Gul on bail present.

Charge framed today. The accused pleaded not guilty and claimed trial. Accused is directed to engage the counsel.

Summons be issued to PWs for 29.09.2022.

File be put up for prosecution evidence on the date already fixed.


Sami Ullah
Civil Judge/JM-I,
Orakzai (at Baber Mela)

Order...02
29/09/2022

Present:

APP for the state.

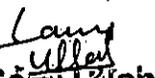
Accused Mumtaz Gul on bail present with counsel.

Accused Mumtaz Gul S/O Sherin Gul is charged in case FIR No. 57, dated 10/12/2020, U/S 447/427/354/147/149-PPC of PS Ghiljo, District Orakzai.

Brief facts of the case as alleged in the Supplementary Challan are that the accused named above was absconder in the instant case and on 12/09/2022, his Pre-Arrest bail was confirmed by the learned additional sessions judge, Orakzai. Supplementary Challan was received on 20.09.2022 by the court of Senior Civil Judge.

As per the version of the complainant in the FIR in the case No. 57, dated 10/12/2020, the accused named above along with 4 other accused, who have already been acquitted in the instant case

Continued...


Sami Ullah
Civil Judge/JM-I
Orakzai (at Baber Mela)

Order...02
Continued...
29/09/2022

on 27/07/2022, allegedly entered into the house of complainant, demolishing her house and causing damage to household articles therein and they were not allowing the complainant party to take their luggage from the house.

Investigation was completed and complete supplementary challan was submitted on 20/09/2022.

Accused appeared before the court, copies were delivered to them in compliance with the provision of Section 241-A Cr.P.C on 24/09/2022.

On 27/09/2022 formal charged was framed U/S 447/427/354/147/149-PPC, to which the accused did not plead his guilt and claimed trial, therefore, the prosecution was called to produce evidence in support of the case.

Today matter was fixed for prosecution evidence but learned counsel for the accused submitted an application under Section 249-A Cr.P.C. Arguments from learned APP and the counsel for accused heard and record perused.

Perusal of record shows that four other accused in the instant case has already been acquitted. There is no specific role of the accused named above rather all the accused were charged generally with no specific role. The fact on the record shows that there is unexplained delay of 03 days delay in lodging FIR by the complainant against the accused which creates reasonable doubts.

Continued...

Lauji
ullah
Sami Ullah
Civil Judge/JM-I
Orakzai at (Babar Mela)

Order...02
Continued...
29/09/2022

Moreover, the complainant did not appear before the court to pursue his case. Had the accused named above were tried with other 04 accused jointly, who have already been acquitted, and had the accused named above were not absconded, they would have also been acquitted with the other 04 accused.

In the application u/s 249-A, the accused has also explained that the abscondence was not intentional rather it was due to earning bread and butter abroad. Though it is a factual position which needs to prove yet simultaneously it seems a genuine cause as people in the locality earn their livelihood abroad or in other part of the country.

Moreover, if the prosecution could not prove the case against the other 04 accused who have been acquitted already, how could they be able to prove their case against the present accused on the same facts and evidence. Nothing new, in evidence, could the prosecution seem to produce against the present accused.

Hence, further proceedings in the case will bear no fruits rather; will result in abuse of the process of court.

Resultantly, for the above reasons accused is acquitted from the charges leveled against them in terms of Section 249-A, Cr.P.C. Bail bonds stands canceled and sureties are discharged from liability of bonds.

File be consigned to Record Room after necessary completion and compilation.

Announced:
29/09/2022


Sami Ullah
Civil Judge/JM,
Orakzai at Baber Mela.