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FORM "A"

FORM OF ORDER SHEET

IN THE COURT OF SYED ABBAS BUKHARI, CIVIL JUDGE/JUDICIAL MAGISTRATE/CJ-II, KALAYA ORAKZAI

Case Title: State Vs Amman etc

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 35	31.07.2024	<p>APP for the state present. Accused facing trial present. Complainant present.</p> <p>Vide this order I intend to dispose of instant application filed u/s 249-A Cr.P.C.</p> <p>Arguments already heard and record perused.</p> <p>Now on perusal of the available record and valuable assistance of the learned counsels for the parties and learned APP for the stated, this court is of the humble view that accused petitioners through instant application allege that prosecution has recorded statements of four PWs in the instant case so for and upon perusal of the evidence so for recorded by the prosecution there is no probability of conviction of accused petitioners at later stage. Contrary to this learned counsel for the complainant and APP for the state vehemently opposed the instant application and argued that accused have been directly charged in the instant case. They further argued that there exist no dent in the prosecution evidence and furthermore, the application in hand is pre-mature, hence the prosecution may kindly be allowed to produce their remaining evidence in order to bring home the charge against accused facing trial.</p> <p>In given circumstances, perusal of the evidence, so for recorded by the prosecution, in the instant case would reveal that PW-02 (IO) has deposed in his cross examination that inquiry in the instant case has been conducted by ASHO. He has not verified final report and site plan. He has not recorded statement of any witness in the instant complaint. He further self-stated that statements of witnesses were recorded by him in cross FIR no. 80. No recovery has been effected in the instant complaint. No statement of any eye witness was recorded by him.</p> <p>It is also pertinent to mention here that present complaint is cross version of FIR no.80 and the present complainant has been cited as accused in that very FIR. It is also pertinent to mention here that the accused in the cross case have been acquitted today by this court u/s 249-A Cr.P.C. furthermore, no recovery in the instant case has been</p>


31-07-2024
SYED ABAAS BUKHARI
Civil Judge/JM-II
Tehsil Courts Kalaya

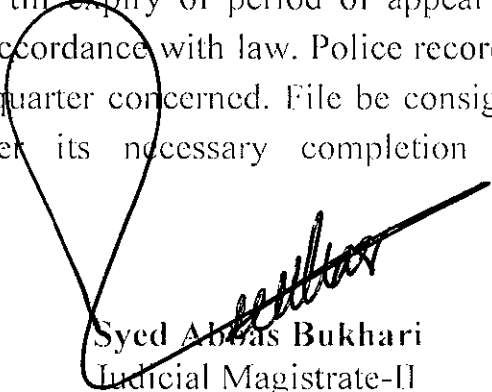
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Contind Order 35	31.07.2024	<p>effected. IO admitted that the statements of eye witnesses had not been recorded in the instant case and furthermore, both the eye witnesses in the instant case have been charged in the cross case for firing at the accused marwat. Hence, in given circumstances, there is no such material available on the record which could lead to the conviction of accused at later stage. Furthermore, the accused in cross case have also been acquitted u/s 249-A Cr.P.C. Furthermore, proceeding further with the trial would be a futile exercise and would result in wastage of precious time of this court as well as parties. Hence in circumstances, instant application filed by accused facing trial under Section 249-A Cr.P.C. is hereby allowed and accused facing trial namely Aman Ullah s/o Khana Baz and Marwat khan s/o Amin Baz are hereby acquitted from the charges levelled against them. Their sureties stand discharged from the liability of bail bonds. Case property, if any, be kept intact till expiry of period of appeal and thereafter be dealt in accordance with law. Police record be returned forthwith to quarter concerned. File be consigned to record room after its necessary completion and compilation.</p> <p><u>Announced</u> 31.07.2024</p> <p> Syed Abbas Bukhari Judicial Magistrate-II Kalaya, Orakzai.</p>
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