

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

Case Title: State VS Zeena Gul and others

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
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Order No. 15	21.01.2025	<p>Sr.PP for the state present. Complainant along with counsel present. Accused Zina Gul, Samin Badshah, Waris Khan, Khamin Akbar, Nasir Khan, Naimat Khan and Mina Din are facing trial in the instant case FIR No. 21, Dated: 01.11.2023, u/s 380/447/427/147/149 PPC of PS Ghiljo, U/Orakzai while accused Minat Shah is absconding.</p> <p>Today, the case was fixed for arguments u/s 249-A Cr.P.C, notice of which is already given to the prosecution. Brief facts necessary as per FIR are that complainant Islam Gul vide Madh No. 08. DD: 26.10.2023, reported that is leased holder at Chappar Ali Khel, District Orakzai. That he has constructed a room for laborers to stay/reside at Chappar Naway Kaly Dand where different utensils/articles of the labors were also being kept. That for the last several months, the labor was off-work, and the said room was closed.</p> <p>On 03.09.2023 at about 11:00 hrs, accused No. 02 to 10 broke the lock of the said room reportedly, trespassed it and stole 02 batteries (brand AGS), 02 Solar Panels and utensils of the kitchen etc and also demolished a side of the room due to which the roof of the room fell down.</p> <p>That on 11.09.2023, the complainant had filed an application to SHO PS Ghiljo and DPO Orakzai but no proceedings have been carried out yet; hence, the instant FIR has been registered.</p> <p>Complete challan against the accused facing trial was submitted and the case was put in court for trial on 19.03.2024. Accused facing trial appeared before the court and provisions u/s 241-A Cr.P.C were complied with.</p>

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<p>Order No. 15 continued</p>	<p>21.01.2025</p>	<p>Formal charge against the accused facing trial was framed on 09.05.2024, to which they pleaded not guilty and claimed trial. Statements of DFC as SW-01, Shahjehan IO as PW-01 and complainant as PW-02 recorded.</p> <p>On previous date notice u/s 249-A Cr.P.C was given to the prosecution. Arguments heard and record perused.</p> <p>The perusal of record shows that as per report lodged by the complainant vide Naqalmaid No. 08, Dated: 26.10.2023, the occurrence has taken place on 03.09.2023 at 11:00 hrs but the application to DPO Orakzai was written on 11.09.2023 and FIR was registered on 01.11.2023. There is a delay of 08 days between occurrence and application to DPO and also delay of about 02 months between occurrence and FIR.</p> <p>Furthermore, there is no evidence about the mysterious informant, no material, circumstantial or ocular evidence. Alleged stolen items have not been recovered. Their proprietary status i.e. being owned by the complainant, is also not established on record.</p> <p>The above make the instant trial an exercise in futility. The court would be groping in the dark for an offence on which there is no human, or material evidence available.</p> <p>I therefore, acquit the accused facing trial namely Zina Gul, Samin Badshah, Waris Khan, Khamin Akbar, Nasir Khan, Naimat Khan and Mina Din from the charges levelled against them. They are on bail. Their sureties are discharged from the liability of bail bonds. Case property if any be kept intact till expiry of the period provided for the appeal/revision/writ etc.</p> <p>Keeping in view the available record, this court is satisfied that a prima facie case exists against the</p>
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<p>Order No. 15 continued</p>	<p>21.01.2025</p>	<p>absconding accused namely Minat Shah s/o Said Meer, who is intentionally avoiding his lawful arrest; hence, the said accused is hereby declared as proclaimed offender. His name be entered in the relevant register/list of proclaimed offenders. Perpetual Warrant of arrest be issued against him.</p> <p>File be consigned to the record room after its completion and compilation.</p> <p><u>Announced</u> 21.01.2025</p> <p style="text-align: right;"> (Ijaz Mahsood) SCJ/JM, Orakzai (at Baber Mela)</p>
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