

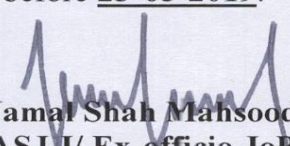
Serial No. of Order Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3

**Or 03**  
**21-05-2019**

**Present:**

Petitioner alongwith counsel

Comments of SHO concerned not received. Let fresh notice be issued to SHO of PS Lower Orakzai with strict directions to submit comments positively on or before **23-05-2019**.

  
**Jamal Shah Mahsood**  
**ASJ-II/ Ex-officio JoP**  
**Orkazai**

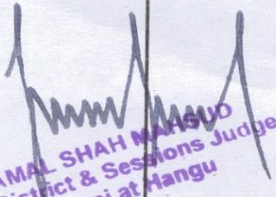
**Misc: No. 3 of 2019**

**Or 04**  
**23-05-2019**

**Present:**

Petitioner alongwith Abid Ali Advocate  
Skindar Hassan, DSP legal Orakzai  
APP Syed Amir Shah

1. The petitioner (**Gul Amin** s/o Gul Manan; r/o Sangrani, Caste Feroz Khel, Lower Orakzai) has filed the instant petition u/s **22-A CrPC**; with prayer that directions be issued by the undersigned, to the respondents SHO and DSP of PS Lower Orakzai (respondent No. 1 and 2), for registration of criminal case (FIR) against Abdul Salam s/o Abdul Khaliq (respondent No. 3) in respect of the alleged murder of Malik Khan Zaman.
2. Comments were sought from respondent No. 1 (SHO Lower Orakzai); however, comments have been submitted by the DSP Legal, which are placed on file. Arguments of the counsel for petitioner heard and the comments have been perused.
3. Facts of the case are that the present petitioner filed an application, dated 06-05-2019, before the DPO Orakzai; wherein he alleged that on 05-05-2019, at 07:00 am, He alongwith others – including deceased Malik Khan Zaman -

  
**JAMAL SHAH MAHSOOD**  
Addl: District & Sessions Judge-I,  
Orkazai at Hangu

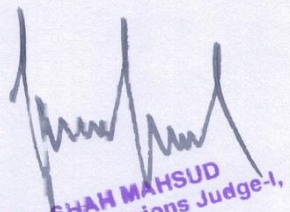
were proceeding for a Jirga, when respondent No.3 (accused Abdul Salam) made firing at deceased and killed him on the spot. The petitioner states that no action was taken by local police on his application. The petitioner/complainant, being aggrieved of inaction of local police, has filed the instant petition under section 22-A Cr.PC.

4. In this comments the DSP Legal has admitted that a murder has in fact been committed, but that the complainant has not approached the local police/administration. The DSP Legal has further stated that no post-mortem was conducted; that the deceased was buried without intimation; and that the complainant had submitted an application to the superior officer (DPO Orakzai) and not the SHO of PS Lower Orakzai at Kalaya. Finally, the DSP has stated that FIR shall be lodged if this court (sic) issues directions for the same.

5. I have given consideration to the arguments of the counsel and the comments of respondent DSP Legal, and have come to the conclusion that the local police has proceeded in the instant matter in an utter disregard of law and the laid down procedure.

6. The wordings of section 154 CrPC are very clear. Every information in respect of cognizable offence is required to be entered in the relevant register (FIR Register). After registration of the information, the local police has to proceed further and investigate the allegation by collecting evidence.

7. In the present case the DSP Legal has admitted the commission of murder and yet he is seeking the directions of this forum for registration of FIR. The registration of FIR in respect of cognizable offence is the sole duty of local police. No directions are required for registration of FIR in respect of

  
JAMAL SHAH MAHSUD  
Add: District & Sessions Judge-1,  
Orakzai at Hangu

cognizable offence even if the information received is suspected to be false.

8. The cognizable offence (murder) in the instant case was allegedly committed on 05-05-2019. The local police has already lost precious time of investigation. This state of affairs is deplorable.

9. The DSP Legal has stated in his comments that the information in respect of the murder was given to DPO Orakzai, and not to the local SHO is an illogical stance. Under section 551 of CrPC, a police officer of superior rank (DPO in this case) may exercise the same power throughout the local area to which he is appointed, as may be exercised by SHO within the limits of his station. Even otherwise, the DPO Orakzai was bound to refer the application in respect of cognizable offence to the SHO concerned for immediate action.

10. The DSP Legal has in his comments also sought that directions be issued by this forum to the complainant for cooperating in the investigation process. In this respect it must be stated that the investigation of a criminal case is the sole responsibility of investigating agency/local police, and even if the complainant is not cooperating in the investigation (which does not seem to be the case in present situation), the investigating agency is still bound to dig out the truth and submit a police report before the Magistrate concerned.

11. In light of the above discussion, the instant petition is **accepted** and the respondent SHO of PS Lower Orakzai is directed to register the complaint of petitioner Gul Amin; and thereafter to proceed further strictly in accordance with law.

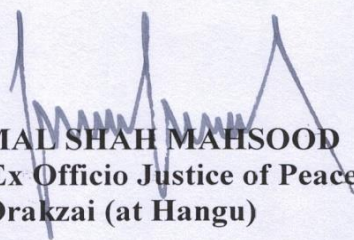
12. Let a copy of this order be sent to the SHO of PS Lower Orakzai for compliance. Let separate copies of the same be sent to the DPO Orakzai and to DSP Legal for information,

JAMAL SHAH MAHSUD  
Addl. District & Sessions Judge-I,  
Orakzai at Hangu

with directions to ensure that the SHOs of the District act strictly in accordance with law and follow the legal procedure while dealing with criminal cases.

13. This file be consigned to record room after necessary completion and compilation.

**Announced**  
**23-05-2019**



**JAMAL SHAH MAHSOOD**  
**ASJ-I/Ex Officio Justice of Peace**  
**Orakzai (at Hangu)**