

Or 04
27-04-2020

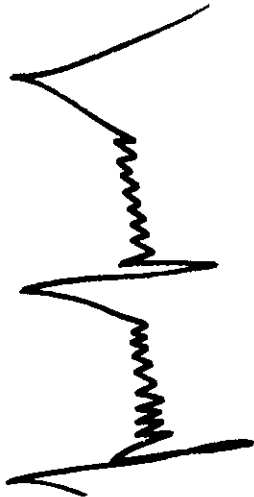
Present:

Abid Ali Advocate for petitioner
DPP Umer Niaz Khan for State

1. The petitioner (**Rehmat Ullah** s/o Gulbar Khan; r/o Mian Kabalkhel, PO Shewa, District North Waziristan) has filed the instant petition u/s **22-A CrPC**; with prayer that directions be issued, by the undersigned (Ex-officio Justice of Peace) to the respondent SHO (of PS Upper Orakzai), for registration of criminal case (FIR) against Hawaladar Fakhre Alam and two others, who were serving at FC check post Belandkhail, at the time of the alleged commission of offence.
2. Comments were sought from respondent SHO; which have been submitted and placed on file. Notices were issued to the accused, Hawaladar Fakhre Alam, but he has not appeared before the undersigned despite information through mobile phone. Arguments of the counsel for petitioner were heard and the available record along with comments have been perused.
3. Facts of the case are that, on 07-04-2020, the present petitioner filed an application before DPO Orakzai, wherein he alleged that, on 31-03-2020, his brother Ahsan Ullah (injured) was fetching groceries when 03 FC personnel, caught Ahsan Ullah and give him a beating, causing serious injuries on his eye; that one of the 03 FC personnel was Fakhre Alam and the other two unknown. The petitioner further alleges that his brother Ahsan Ullah has lost sight in the injured eye and he is under treatment in CMH Kohat. He further alleged that he approached the police of Upper

Orakzai repeatedly, but that they were reluctant to register FIR.

4. The perusal of application, dated 07-04-2020, given by the petitioner to the DPO Orakzai, clearly shows the commission of offence of causing injuries and itlaf-i-salahiyat-i-udu, which are cognizable offences. In such a situation there was no other option with the local police but to register an FIR in the case.
5. In its comments, the local SHO has stated that the complaint never approached the police station on 31-03-2020. However, the SHO admits that he, along with a police party, had gone to FC check post Belandkhail and had a discussion in the matter with the FC persons present there; that he found out that the complaint (sic) had driven past the said check post speedily and in a suspicious manner; that he did not stop on directions of the FC officials; that later Ahsan Ullah returned riding on motorcycle in a rash and negligent manner; that his motorcycle slipped and rider Ahsan Ullah got injured in the eye. The SHO alleges that the injuries caused were the result of rash and negligent riding of Ahsan Ullah and that there is no fault of FC security staff in the matter.
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 is required to proceed further and investigate the allegation, by collecting evidence in the case – in consultation with prosecution office.
7. The police cannot refuse registration of FIR on the basis of unlawful and private investigation conducted through an illegal procedure. The registration of FIR is a must in every case of allegation of cognizable offence. In case the




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information in respect cognizable offence registered as FIR is found to be false, after due investigation, the local police may adopt all lawful means for taking legal action against the maker of false report in terms of section 182 PPC.

8. In these circumstances, the instant petition is **accepted** and the respondent SHO of PS Upper Orakzai is directed to register the complaint of petitioner Rehmat Ullah; and thereafter to proceed further strictly in accordance with law.
9. Let a copy of this order be sent to the SHO of PS Upper Orakzai for compliance. Let a separate copy of this order be sent to DPO Orakzai for information
10. This file be consigned to record room after necessary completion and compilation.

Announced
27-04-2020


JAMAL SHAH MAHSOOD
ASJ-I/Ex Officio Justice of Peace
Orakzai