

Misc.: No. 6/6 of 2019

Or 02
10-08-2019

Present:

Petitioner along with Jamal Hussain Advocate
APP Zohaib Ahmed Sher

1. The petitioner (**Said Wazir** s/o Muhammad; caste Rabia Khel, Tapa Piyao Khel; r/o Ghoz Gorh, Ghiljo, District Orakzai) has filed the instant petition u/s **22-A CrPC**; with prayer that directions be issued, by the undersigned to the respondent No.8 (SHO of PS Ghiljo/Upper Orakzai), for registration of criminal case (FIR) against respondents Akhtar Munir, Misal Jamal, Ishtiaq, Jal Habib, Inayat ur Rehman, Rawan Khan and Shoaib (respondents 1 to 7).
2. Comments were sought from respondent No. 8 (SHO Upper Orakzai); however, comments have not been submitted, despite lapse of 7 days. The DFC has reported that the SHO has refused to submit comments and stated that the SHO informed him that he (the SHO) wants to resolve the dispute between the parties through a Jirga; and that FIR will be registered only if the Jirga fails. A note to this affect, bearing seal of SHO concerned, has been attached with the notice returned to this court.
3. Arguments of the counsel for petitioner were heard and the petition has been perused.
4. Facts of the case are that the present petitioner filed an application, dated 22-04-2019, before the DPO Orakzai; wherein he alleged that, on 20-01-2019, some of the respondents and other unknown persons stole 25 girders, one water tank and other articles from his house and took away the same in a tractor. That these persons were apprehended by the Levies at Samana Check Post. That he made a report


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to the political administration but no action was taken. He prayed to the DPO for registration of FIR against the respondents for committing theft. It seems that no action was taken by the DPO on this application. Hence, the instant petition.

5. The perusal of application, dated 22-04-2019, given by the petitioner to the DPO Orakzai, clearly sets out an allegation of theft, which is a cognizable offence. In such a situation there was no other option with the local police but to register an FIR in the case.
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. In the circumstances, the instant petition is **accepted** and the respondent SHO of PS Upper Orakzai is directed to register the complaint of petitioner Said Wazir; and thereafter to proceed further strictly in accordance with law.
8. Let a copy of this order be sent to the SHO of PS Upper Orakzai for compliance.
9. The conduct of respondent SHO by refusing to submit comments before the undersigned is clearly in violation of his official duties. The other conduct of respondent SHO, whereby he is trying to resolve the matters pertaining to cognizable offences through private Jirga, without registering the same according to law is a clear violation of law. This shows that respondent SHO has created a parallel legal system of his own. Let separate copy of the instant order be sent to the DPO Orakzai for looking into the matter, for

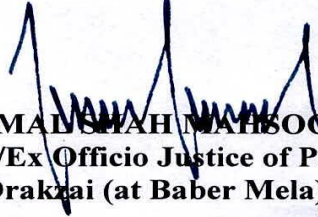

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initiating proper inquiry in the matter and for proceeding against the respondent SHO under KP Police Act, 2017, with intimation to this forum.

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

Announced
10-08-2019


JAMIL SHAH MAHSOOD
ASJ-I/Ex Officio Justice of Peace
Orakzai (at Baber Mela)