

(04)

Note Reader
22-09-2020

The presiding Officer is on casual leave. To come up on
23-09-2020.

Jamal

Reader
To ADJ-I, Orakzai

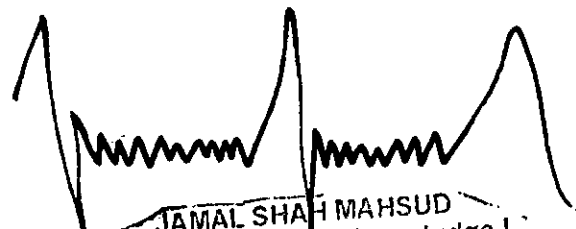
Or 03
23-09-2020

Present:

Petitioner, Muhammad Dawood, along with Jabir Hussain and
Insaf Ali Advocates
APP Syed Aamir Shah for State

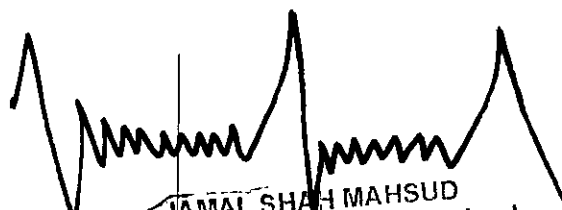
1. The petitioner (**Muhammad Dawood** s/o Kashmir Khan; caste Mishti; r/o village Badgor, tapa Darvi Khel, District Orakzai) has filed the instant petition u/s **22-A CrPC**; with prayer that directions may be issued, by the undersigned (Ex-officio Justice of Peace), to the respondent no. 3 (SHO of PS Lower Orakzai), for registration of criminal case (FIR) against respondents no. 1 & 2, Fazal Jamil and Syed Rasool (both sons of Dilber Khan), who are co-villagers of the petitioner.
2. Comments were sought from respondent SHO; which have been submitted, by ASHO, and placed on file. Notice was issued to respondents no.1 & 2; according to copy of notice returned they were informed telephonically, but they have not appeared before the undersigned today.
3. Arguments of the counsels for petitioner were heard and the available record, along with comments, has been perused.
4. Facts of the case, as alleged by the present petitioner are; that he had a civil dispute with respondent no. 1 & 2; that the civil court had granted injunction order in his favour; that despite this the respondents came to the site of disputed property, armed with weapons; that they demolished the construction and attempted to murder him; that they resorted to

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indiscriminate firing; that petitioner however, remained safe. The petitioner further alleges that he went to the local police and informed them about the offence; but that the police refused to register case. That he even filed an application before DPO Orakzai, but that no action was taken.

5. The perusal of copy of application given by the petitioner to the DPO Orakzai, clearly contain allegation of commission of cognizable offence/s. In such a situation there was no other option with the local police but to register an FIR in the case.
6. In his comments, the local ASHO has admitted that he made a local inquiry in person, and that he was told by the local people that the respondents had in fact resorted to firing, in order to criminally intimidate the present petitioner.
7. The wordings of section 154 CrPC are very clear, in respect of the procedure to be adopted by the police on receipt of information regarding commission of cognizable offence. 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.
8. It is strange that the ASHO admits that information in respect of cognizable offence was received and confirmed through inquiry, but still the local police has not registered an FIR in the case. Such conduct of local police clearly shows neglect by local police in performance of important duty, regarding information of cognizable offence. Needless to mention here that the local police had no authority to investigate the allegation about commission of cognizable offence without registering of FIR first.


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Orakzai at Hangu

9. In these circumstances, the instant petition is **accepted** and the respondent SHO of PS Lower Orakzai is directed to register the complaint of petitioner Muhammad Dawood; and thereafter to proceed further strictly in accordance with law.
10. Let a copy of this order be sent to the SHO of PS Lower Orakzai for compliance. Let a separate copy of this order be sent to DPO Orakzai for information and for taking notice of the neglect and failure committed by local SHO in respect of his functions and duties.
11. Let this file be consigned to record room after necessary completion and compilation.

Announced
23-09-2020


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