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**IN THE COURT OF ADDITIONAL SESSIONS JUDGE/JUSTICE OF PEACE  
ORAKZAI, AT BABAR MELA**

**Cr. Miscellaneous Application No.4/4 Of 2022**

Moeen Ali vs Ghafar Ali etc.

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
1	2	3
Order	25/04/2022	<p>Petitioner Moeen Ali along with counsel and Mr. Javid Akhtar Wazir, Sr. PP for the State are in attendance. Arguments have already been heard; whereas, this is the disposal of petition submitted under Section 22-A of the Code of Criminal Procedure, 1898.</p> <p>2. Petitioner Moeen Ali son of Momeen Ali, resident of Qaum Mani Khel, village Mamani of District Orakzai reported the incident of murder of his brother Naseeb Ali against Ghafar Ali and Waseem Ali as accused. Complainant and his son Rehan Ali have been stated to the ocular evidence of reported crime. Resultantly, FIR No. 01 dated 01.01.2022 of u/s 302/34 of the Pakistan Panel Code, 1860 was registered in Police Station Kalaya. The case is under investigation. Meanwhile, an application for transfer of investigation is presented which is under consideration.</p> <p>3. Petitioner contends the Inspector Menhaz Ali has malafidely detracted from actual line of investigation so as to give undue benefit to the accused party. His son Rehan was the eyewitness and has already been shown so in the contents of FIR but his statement u/s 161 Cr.PC has not been recorded by the Investigation Officer. This matter was dragged to the Office of the SP Investigation and after getting directions on application of complainant, the investigation officer recorded statement u/s 161 Cr.PC; that</p>

**SAYED WADOOD**  
Adcl. District & Sessions Judge  
Orakzai at Hangu

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too, on his own without consulting the eyewitness. The pointation memo has been prepared without consulting the complainant or eyewitness. It was concluded that the Investigation Officer has joined hands with the accused party and that may be transferred to some other Investigation Officer.

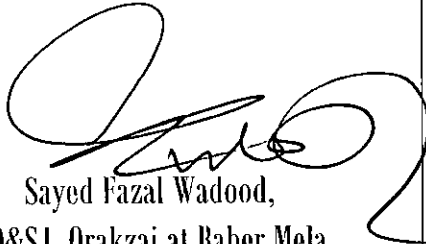
4. Comments of Station House Officer of Police Station Kalaya, Orakzai have been received and learned counsel for petitioner as well as Sr. PP for State have been heard at length.

5. Record available on file reflects that the site plan is disputed. The contents of the statement recorded u/s 161 Cr. PC are not being confirmed by the maker of it. The timing the recording of such statement is also controversial. Confidence over a person investigating the crime by a person who is the ultimate suffer of this crime is obviously a matter that cannot be overlooked.

6. For what has been discussed above, by attracting jurisdiction u/s 22-A of the Code of Criminal Procedure, 1898, petition in hand stands allowed. Consequently, the Office of The SP Investigation, Orakzai is directed to transfer the investigation of the case cited above to some other Investigation Officer. File be consigned to District Record Room after necessary completion and compilation within span allowed for.

**Announced in open Court**

25/04/2022

  
Sayed Fazal Wadood,  
AD&SJ, Orakzai at Baber Mela