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IN THE COURT OF **ABDUL BASIT**
ADDITIONAL SESSIONS JUDGE-II, ORAKZAI

Order---04

07.02.2024

Petitioner with counsel present. Dy.PP for State present.

Respondents are absent.

Arguments heard and record perused.

Rehmattullah son of Noorullah resident of Quom Sheikhan, Tappa Samozai, Dakkhana Mishti Mela Saranika, Tehsil Central, District Orakzai, the petitioner, has filed the instant petition under section 22-A CrPC to direct respondent no. 2 of Kurez Boya Police Station Orakzai to register a criminal case against Haleef Khan son of Itibar Khan resident of Chappar Mishti, Tehsil Central, District Orakzai, the respondent no. 1, under relevant sections of law.

Concise facts of the case are that was the owner Hino Truck registration no. Z-7162-Peshawar, which he had delivered to his driver Khaista Mir; that respondent no. 1 has called upon his driver for transportation of coal from the mines situated at Chappar Mishti Orakzai but when his driver drove away the truck there, respondent no. 1 not only forcibly snatched the keys from his driver and retained the truck but also spelt abuses and issued life threats; that his driver informed him about the occurrence on 21.01.2024 at 09.00 am, whereat, he submitted a written application to respondent no. 2 for registration of case on following day, however, the SHO refused to register the case despite fact that cognizable offence was committed; therefore, he prayed for issuance of direction to respondent no. 2 for the registration of FIR against respondent no. 1.

On receipt of petition, the comments were sought from SSP and SHO of Kurez Boya Police Station, Orakzai: SHO submitted the comments.

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Abdul Basit
Addl. District & Sessions Judge-II
Orakzai at Baber Mela,
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The scope for disposal of petition under section 22-A CrPC as per law and verdicts of august Supreme Court of Pakistan is very much restricted and being ex-officio justice of peace, I have only to consider the factum that whether any cognizable offence appeared to has been constituted or not. SHO is required and bound to register the FIR of petitioner under section 154 CrPC. He has absolutely no power to refuse to register the case if from the information/statement a cognizable offence is made out. It is immaterial whether the information is false or correct but the condition precedent for recording the FIR under section 154 CrPC is that information must disclose an offence and that too cognizable one. No doubt, after registration of the FIR investigation process starts and it is for the investigation officer to ascertain whether the information is true or false under the law. If information is false then police office is empowered to register a case against the complainant under the relevant provisions of PPC. If information discloses an offence, which is not cognizable by the police even then SHO is required and bound under section 155 CrPC to record it in a station diary of the police station and refer the informant to the Magistrate having territorial jurisdiction. In no circumstance, police officer can refuse to enter the information under section 154 CrPC or in station diary of the police station except on one condition that from information no offence at all is made out.

07/02/2024
Abdul Basit
Addl. District & Sessions Judge-II
Orakzai at Eber Mela,
Haragu

The contents of petition clearly provides that petitioner has alleged the ownership of truck in question, which he had delivered to his driver, who was called upon by respondent # 1 for transportation of the coal from Chappar Mishti Orakzai, where the respondent no. 1 has allegedly snatched the keys forcibly, retained the truck, spelt abuses and caused life threats to driver of petitioner. More so, the

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comments so received further depict that respondent no. 1 has allegedly retained the truck to claim his dues, which fact is also endorsed by respondent no. 1 and his counsel before the court, which appears to constitute commission of a cognizable offence; therefore, it is held that SHO had no choice to refuse the registration of FIR especially when contents furnished by petitioner otherwise speaks about constitution of a cognizable offence. In view of above, SHO Kurez Boya Police Station, Orakzai is directed to register a criminal case against alleged accused/ respondent no. 1 named in the petition as per contents of petition under relevant provisions of law and submit copy of FIR to the undersigned within five days of this order for court perusal. Need not to stress that investigation agency shall inquire into the matter afresh in view of the allegations of petitioner in accordance with law without any fear and favour. Copy of this order sent to DPO, Orakzai with direction to take necessary legal action against delinquent officials, who despite knowledge of fact of the commission of cognizable offences etc. are reluctant to pen down the reports of aggrieved parties, which results into loss of confidence of public to public offices.

Copy of this order along with copy of petition sent to SHO concerned for the needful. Moharrir of the court is directed to intimate the undersigned about receipt of copy of FIR and place the same in separate file for record.

File consigned to record-room after necessary completion and compilation.



Announced
07.02.2024

(Abdul Basit)
Addl. Sessions Judge-II/Justice of Peace,
Orakzai