

Order. No. 04
08.11.2022

APP for the state present. Accused namely Naimat Ullah, Hassan Gul, Ameer, Rangeen Khan, Muhammad Tariq and Abdul Wali on bail present. Remaining accused absent.

Record shows that accused are charged in case F.I.R No. 39 Dated: 10.01.2021 U/S 188 PPC PS, Mishti Mela, District Orakzai. Allegations against the accused are that vide notification bearing endorsement No. 1477/C/DC-Ork, dated 18.06.2021, on the recommendation of Divisional Forest Officer, Orakzai Forest Division, the Deputy Commissioner, District Orakzai imposed ban on the transportation of timber/firewood and cutting of forest except the allowed species inside the District and the accused nominated in the FIR violated the said order of the competent authority. On the strength of memo report, the above cited case was registered against the accused. Accused were arrested and later on, were released on bail by the court.

As per law, no court can take cognizance of an offence punishable U/S 188 PPC except on the complaint in writing of the public servant concerned or of some other public servant to whom he is subordinate. The relevant provisions of law are Section 195 (I) Cr. PC.

As per Section 195 (I) Cr. PC, no court shall take cognizance of an offence punishable U/S 172 to 188 of the Pakistan Penal Code, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is subordinate.



08/11/2022
ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

In the instant case, F.I.R has been lodged against the accused by the SHO, PS Mishti Mela. There is no order of competent authority for the registration of the case against the accused. Cognizance on the report of police is an abuse of process of law. Police officer was not authorized to register F.I.R against the accused for the violation of order of competent authority. APP for the state was confronted with the facts and circumstances of the case and he also conceded that F.I.R cannot be lodged against the accused on the report of a police official. Keeping in view the above facts and circumstances and legal position, accused named above are hereby discharged from the charges leveled against them. They are on bail. Their sureties are discharged from their liabilities. Case property if any, be dealt with in accordance with law.

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

Announced:
08.11.2022



Zahir Khan
JMIC, Tehsil Kalaya, Orakzai