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IN THE COURT OF ABDUL BASIT
ADDITIONAL DISTRICT & SESSIONS JUDGE-II/
JUDGE SPECIAL COURT, ORAKZAI

Case Title Ghulam Abbas vs SHO etc.

Order---04

27.02.2024

Petitioner alongwith counsel present.

Respondent no. 3 present in person who submitted wakalatnama in favor of Mr. Noor Kareem Advocate. Respondent no.2 is brother of Respondent no. 3 who is also in knowledge of the petition. Counsel for respondent requested for adjournment being freshly appointed. Adjournment granted.

Put up for arguments on 05.03.2024.


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Orakzai

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

Order---05

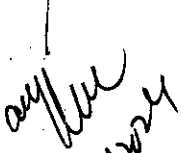
05.03.2024

Petitioner with counsel present.

Respondent no. 3 with counsel present.

Abbas Ghulam son of Muhammad Shah resident of Quom Bar Muhammad Khel Tappa Alat Khel, Village Khandu Tehsil Lower, District Orakzai, the petitioner, has filed the instant petition under section 22-A CrPC to direct respondent no. 1 of Mishti Mela Police Station Orakzai to register a criminal case against respondents no. 2 to 4 (named in petition) under relevant sections of law.

Brief facts leading to instant petition are that petitioner was a contractor by profession; that a contract was approved in favour of respondents no. 2-4 in 2020, which was purchased by him in sum of Rs. 2,800,000/- from them; that on completion of contract within a period of two years, respondent no. 3 has paid him an amount of Rs. 1,870,000/-, whereas, promised to pay the balance amount; that a


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jirga was convened between them, whereby, respondent no. 3 has agreed to pay the balance amount of Rs. 1,088,984/- on 12.10.2021, however, they have delayed the payment and finally issued cheque of Rs. 720,000/- on 26.08.2023; that when the cheque was presented to the concerned bank for encashment at different times, it was dishonored each time due to insufficient amount in the account; that since respondents no. 2-4 have issued him the cheque dishonestly, for which he has filed an application to DPO, Orakzai to lodge an FIR but no case is registered so far; therefore, he has prayed that since the respondents no. 2-4 have committed a cognizable offence so respondent no. 1 may be directed to register the case/FIR against respondents no. 2-4 under the relevant provisions of law.

On receipt of petition, the comments were sought. SHO of Mishti Mela Police Station, Orakzai. SHO submitted the comments.

Arguments heard and record perused.

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

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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.

The contents of petition clearly provides that petitioner has accused respondents no. 2-4 for issuance of a dishonest cheque to defraud him, that was dishonored due to insufficient amount in the account of respondents no. 2-4, which prima facie constitutes the commission of cognizable offence and SHO was bound to note down and lodge FIR against them, nonetheless, report of SHO nowhere suggests registration of FIR so far. In view of above, SHO Mishti Mela Police Station, Orakzai is directed to register a criminal case against alleged accused named in the petition as per contents of petition under relevant provisions of law and submit copy of FIR to 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 along with copy of petition sent to SHO concerned for the needful. File consigned to record room after necessary completion and compilation.



Announced
05.03.2024

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