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

**Cr. miscellaneous application No.05/6 Of 2019**

Bismillah Khan vs SHO

Date of Institution: 03/09/2019

Date of Decision: 19/09/2019

**ORDER**  
**19.09.2019**

Mr. Abid Ali advocate counsel for petitioner present. Syed Amir Shah APP for the state present. Comments/report of the SHO already received and placed on file.

The petitioner Bismillah Khan s/o Hassan Khan r/o Tapa Char Khela Satar Kaly Upper District Orakzai seeks to invoke the jurisdiction of this Court u/s 22-A Cr. PC for issuing directions for registration of FIR against respondents.

Brief facts of the case as per contents of the petition submitted by the petitioner under section 22-A Cr.P.C are that, the petitioner is the resident of Upper District Orakzai, that on 02/07/2019 in the absence of petitioners, the respondents cut down more than two thousands trees from the forest on the mountains worth 20 lakh to 30 lakh, that the petitioner is sharer of two shares whereas the trees has been cut without of the permission of the petitioner; that on 01/07/2019 he asked the respondents not to cut the trees upon which the respondents extended threats to the petitioner, that later on the petitioner submitted application to the DPO Orakzai on 02/07/2019, however no action was taken against the respondents, that in order to stop

the cutting of trees the petitioner also submitted application to the DFO, DCO Orakzai and others concerned officers but in vain, that the respondents caused damage to the forest of the locality and its beauty and have also cut the trees of his share in the forest by causing huge financial loss to the petitioner. The petitioner invoked the jurisdiction of this Court u/s 22-A Cr.P.C seeking directions of this Court for registration of FIR against respondents.

Arguments of learned counsel for the petitioner and learned APP for the state heard and record perused.

The petitioner claims his share in the trees of the joint forest and the main dispute between the parties is over the cutting of trees. The petitioner contends that he is owner to the extent of two shares in the joint forest and the respondents are not entitled to cut the trees without the consent of the petitioner. The contents of application show that the respondents have also their shares in the joint disputed forest along with the petitioner. Furthermore, the comments submitted by the SHO also shows that there is a dispute over the partition and separation of share in the joint forest between the parties, however the respondents are ready to hand over the share of petitioner and have not denied his entitlement in the forest. The contents of application and comments submitted by the SHO reflects that the dispute between the parties is of civil nature; over the separation/partition of share of the trees in the joint forest. The petitioner has also instituted civil suit to that effect and the civil court has issued injunction order in favor of the petitioner as stated by the learned counsel for the petitioner during

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arguments. It can be safely held that the matter between the parties falls in the jurisdiction of civil court where the dispute between the parties can be finally decided after recording evidence, therefore the petitioner is required to knock the door of the court of competent jurisdiction, if so advised. So far as threats are concerned, only criminal intimidation does not constitute any cognizable offence unless the threats are such to cause death or grieves hurt or to cause the destruction of any property by fire and any overt act has been done in consequences of such threats. Civil matter could not be converted into criminal litigation by invoking the jurisdiction u/s 22-A Cr.P.C, therefore, in such circumstances the registration of criminal cases cannot be directed. Besides that, the petitioner has also the alternative and efficacious remedy to file a criminal complaint against the respondents before the court of criminal jurisdiction to proceed against the respondents. At present no case has been mad out before this court for issuing directions to the SHO for the registration of FIR against the respondents.

In view the above facts and discussion this court is not inclined to issue directions for the registration of FIR against the respondents, hence the instant petitioner stands dismissed.

File be consigned to District Record Room after necessary completion and compilation

**Announced**  
**19-09-2019**



**(SHAUKAT ALI)**  
Additional Sessions Judge-II/  
Justice of Peace,  
Orakzai at Babar Mela

**SHAUKAT ALI**  
Addl: District & Sessions Judge-II,  
Orakzai at Hangu