

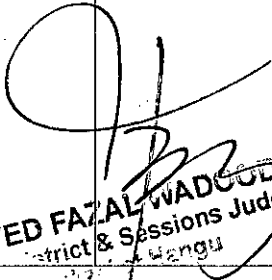
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IN THE COURT OF ADDITIONAL SESSIONS JUDGE/JUSTICE OF PEACE
ORAKZAI, AT BABAR MELA

Cr. Miscellaneous Application No.07/4 Of 2023

Sair Muhammad vs SHO Kalaya.

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	15/05/2023	Petitioner in person and APP for the State are in attendance. Comments of SHO Police Station Kalaya have already been received and arguments heard. This is the disposal of petition submitted under Section 22-A of the Code of Criminal Procedure, 1898. 2. Petitioner Sair Muhammad Afridi son of Din Muhammad Afridi, permanent resident of Hassan Khel, Orakzai contends that he and his brother are lease holders of Coal Mine in Chapri Feroz Khel Marghio Chan area of District Orakzai. Coal mining is in progress at the allotted area where respondents are interfering with intervals that led to bringing criminal law into motion against them. They have been booked in different FIRs registered at different time space. The civil litigation initiated by respondents have already been taken off the file as well. It was 31st of December, 2022 when the Respondent No. 1 to 9 have forcibly intercepted loaded with coal mine vehicle (Truck) bearing registration No. 0403 followed by direction to track their own vehicle bearing No. U4146 led towards Peshawar. Besides the driver and other employees, the incident was also witnessed by one Riaz son of Abbas Khan and Mir Wali son of Ashaq Mir. They have allegedly beaten the petitioner and deboarded him from his vehicle

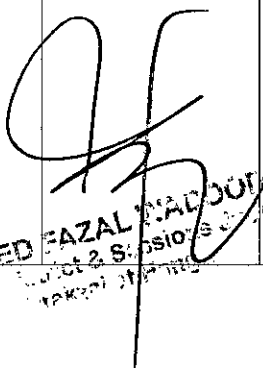

SAYED FAZAL WADOOD
District & Sessions Judge
Orakzai

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followed by illegal confinement snatching of valuables and intimidated them criminally. The incident was promptly reported to the Police which was incorporated in Daily Diary vide Madd No. 10 dated 31-12-2022 but no FIR has been registered so far.

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

4. Record available on file reflects that the SHO Police Station Kalaya has confirmed the plea of registration of different cases as well as the entry of the incident into Daily Diary Madd No. 10 dated 31-12-2022. However, he has negated the guilt of respondents and termed the incident as concocted one. Neither he has annexed any investigation nor inquiry conducted on such Daily Diary of the petitioner nor had advanced valid reason for disbelieving the story of the petitioner. It is well settled notion of the Law that once the allegation with respect to the commission of a cognizable offence is communicated to the Police, the Police is duty bound to register a case; and, in case of refusal or delaying tactics, the aggrieved person is well within his rights to recourse to petition under Section 22A of Code of Criminal Procedure, 1898. The story narrated in the contents of petition read with the comments of SHO concerned are information leads to the conclusion that a cognizable offence is discernible. The


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information disclosed by the applicant constitutes cognizable offence.

5. 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, SHO of Police Station Kalaya is directed to register report of the petitioner under the relevant provision of law against respondents mentioned above and to proceed further in accordance with law. File be consigned to District Record Room after necessary completion and compilation within span allowed for.

Announced in open Court
15/05/2023



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