

**COURT OF SHEIKH RASHID MAJEED,
SESSIONS JUDGE/ EX-OFFICIO JUSTICE OF PEACE,
MUZAFFARABAD, AJ&K**

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File No: 124-Misc. Criminal
Date of Institution: 18.07.2017
Date of Decision: **03.10.2017**

Abdul Kareem S/O Sofi, R/O Seri Darra, Tehsil &
District Muzaffarabad.

(PETITIONER)

VERSUS

(1) SSP, Muzaffarabad,(2) SHO, Police Station,
City, Muzaffarabad.

(RESPONDENTS)

PETITION UNDER SECTION 22-A OF CR.P.C

PRESENT:

1. Muhammad Arshaad Khan, Advocate for the
Petitioner
2. PP on behalf of the State

JUDGMENT:

Brief facts necessary for disposal of instant petition are that petitioner has filed this petition for registration of FIR against proposed accused.

It was stated in the petition that proposed accused are law-breaking persons, who without any lawful authority, are interfering in the land owned and possessed by the petitioner. Proposed asked have been asked time and again not to interfere in the suit land, but they are continuously interfering in the possession of petitioner. On 04.05.2017, proposed accused cut the trees and gross from the disputed land. About said incident, petitioner approached

concerned local police for taking legal action, but in vain. On 02.06.2017, proposed accused again interfered in possession of petitioner, about which petitioner again approached police but no action has been taken by concerned police. Proposed accused are committing cognizable offences time and again about which registration of FIR is requirement of law. Lastly, it was prayed that by accepting instant petition, respondents be directed to register an FIR against proposed accused.

2. On institution of above said petition, parawise comments were invited from concerned police. In compliance of Court order, parawise comments were submitted which are part of file.

3. Arguments heard.

4. I have heard the learned Counsel for the petitioner and the Public Prosecutor. Parawise comments submitted by police and relevant provisions governing registration of criminal case are also examined. According to S. 154 of Cr.P.C, Station House Officer (SHO) of concerned police station is duty bound to register an FIR about commission of any cognizable offence. After registration of criminal case, investigating officer can frame an opinion about genuineness of the case. In this regard there no concept of inquiry or investigation before registration of criminal case.

It is alleged in the petition that suit land was handed over to the petitioner on the orders of the Court. Respondents/ proposed accused are law breaking elements and interfering in the suit land which is in possession of petitioner. Proposed accused cut the trees and grass from the disputed land. Petitioner has produced photostate copies of applications presented before SSP, Muzaffarabad. According to law, SHO of concerned police station is legally bound to register the application in relevant register about commission of any cognizable offence. In the case in hand, respondent/ SHO has failed to perform his duty.

It is worth mentioning here that SHO is bound to register FIR, irrespective of the facts that allegations levelled in application are true or false. After registration of FIR, police can investigate the matter. If petitioner/ complainant produces any solid piece of evidence, then police is legally bound to proceed according to law, otherwise, in case of failure on behalf of complainant, Investigating Officer can recommend proceedings against the complainant. In this regard it has been observed as under:-

(c) Criminal Procedure Code (V of 1898)

--- S. 154 --- Information in cognizable cases --- S.H.O not empowered refuse registration of F.I.R --- Officer Incharge of police station is bound to register F.I.R under S. 154, Cr.P.C. and he has no power

to refuse to register the same if from the information a cognizable offence is made out --- Immaterial whether the information is false or correct --- Condition precedent for recording F.I.R. is that information must disclose a cognizable offence and that too a cognizable cone.

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HENCE, this petition is hereby accepted. Official respondents are directed to register an FIR against the proposed accused and proceed according to law.

Copy of this judgment be sent to official respondent for compliance. File be consigned to record room after its due completion. Order announced.

(Sheikh Rashid Majeed)
Sessions Judge/ Ex-Offico
Justice of Peace, Muzaffarabad