

Emperor Vs. Chaturbhuj

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SooperKanoon Citation : sooperkanoon.com/451219

Court : Allahabad

Decided On : Aug-03-1922

Reported in : (1923)ILR45All137

Judge : Stuart, J.

Appellant : Emperor

Respondent : Chaturbhuj

Judgement :

Stuart, J.

1. This application in revision arises out of the following facts. On the 29th of April, 1922, which was market day in the town of Chhibramau, in the Farrakhabad district, Bachan Lal, a cloth merchant, was carrying on business in his shop. The applicant and another person came to the shop of Bachan Lal and said to him that if he continued to sell foreign cloth, they would put pickets on to his shop to prevent his doing so. Bachan Lal replied that as long as foreign cloth was available, he would sell it. The applicant and his companion then told him that, if he did so, he would be fined 5 per cent, of the value of his stock. He refused to pay the fine and pickets were accordingly put upon his shop, who, apparently without using actual violence, prevented effectively any customer reaching the shop of Bachan Lal for a matter of two hours. Owing to this circumstance he lost two hours' trade and the consequent profit. After two hours he paid the fine,

obeyed the order not to sell foreign cloth and was left unmolested for the time. He made complaints to the police and the Tahsildar. During the days following the incident of the 29th of April, he was molested by certain persons and threatened by one or more in respect of his having made complaints. There are other circumstances, but I need not deal with them. These facts have been found by the Magistrate who tried the case and by the Sessions Judge. Now the applicant approaches this Court in revision upon the ground that on the facts no offence is disclosed. He has been convicted under Section 385 and sentenced to nine months imprisonment and a fine.

2. The words of Section 385 are these:

Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

3. The definition of 'extortion' is given in Section 383 as follows:

Whoever intentionally puts any person in fear of injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits extortion.

4. The word 'injury' is defined in Section 44:

'The word 'injury' denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

5. The first point is what injury, if any, might have been apprehended by Bachan Lal. I am leaving out of account the loss of profit. It is an arguable point whether such loss of profit was or was not an injury under Section 44. I express no opinion on that point. There is next the more important factor in this case of the fine which Bachan Lal was compelled to pay. There can be no doubt to my mind that injury in a legal sense was not only apprehended by him but caused to him by paying that fine. There was further a reasonable apprehension of personal violence. What

then did the applicants do? They intentionally put Bachan Lal in fear of injury. Their action would clearly suggest to Bachan Lal that if Bachan Lal did not do what they wanted, Bachan Lal would not only suffer in business and in pocket but might suffer in person. No other common-sense view is possible. The learned Counsel for the applicant addressed me on the subject of what he called peaceful picketing and referred to what he stated was the practice in England. I do not consider that a discussion of the English practice, even if correctly stated by him, would assist me in arriving at a decision. In India any man who is told that he is going to be picketed peacefully has every reason for apprehending possible physical discomfort as a not unlikely result. It is clear that Bachan Lal was put in fear of injury to his person. He was also put in fear of injury to the actual money in his till, for if he did not pay the fine at once, he had every reason for supposing that fine might be increased. It is clearly made out on facts (sic) applicant intentionally put him in fear of that injury. (sic) was the result? Bachan Lal was thereby induced to pay (sic) the fine. Was he dishonestly induced? He was clearly dishonestly induced within the meaning of the law, for the word 'dishonestly' is denned in Section 24 of the Code as follows:

Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing 'dishonestly'.

6. Wrongful gain is gain by unlawful means of property to which the person gaining it is not legally entitled. Wrongful loss is the loss by unlawful means of property to which the person losing it is legally entitled. These are the definitions in Section 23. Now it is clear that the applicant or anybody else was not entitled to that fine which was taken from Bachan Lal, and it is equally clear that Bachan Lal was legally entitled to the money which he paid as that fine; and the means used, being threats directed against the man's business explicitly and against his person impliedly, were unlawful. So I find that every ingredient in the offence of extortion was made out and the conviction might very well have been under Section 384 for the actual commission of the offence. The conviction under Section 385 is equally good. Bachan Lal was put in fear of injury in order to the commission of extortion. The conviction is thus a good Conviction.

7. I wish to be clearly understood upon the subject of picketing. The point is not whether picketing in itself is illegal. I do not propose to discuss this large subject exhaustively. 'Picketing' is not, as far as I know, a word that has ever been legal defined. It may have been, but I am not aware of it. The word means different things to different people. If all that is meant by picketing is that a certain number of well-intentioned and law-abiding persons wish, to argue in a legitimate and peaceful manner with a man, pointing out to him that in his own advantage he should not follow a certain course, there can be no doubt that such a proceeding is not only harmless¹ but, in many cases, it may be laudable, and if picketing to the ordinary mind meant nothing more than that, the fear of picketing would not be fear of injury within the meaning of the law. But when, unfortunately, the word picketing has come to be associated with another word 'boycotting', and when the boycotting is apt to proceed from ostracism to active annoyance and when the active annoyance has been known, in many instances, to culminate in bodily injury, then I take it that a man who is threatened with picketing and knows that picketing can be of such a nature, is put in fear of injury within the meaning of Section 385. It could never be suggested that a man had legally been put in fear of injury because he had been told that a respectable gentleman, who was the exponent of advanced religious views, was coming to discuss, his views with him. That would not put anybody in fear of injury legally. But when a man is told that certain men are going to watch his shop and he knows that, in many instances, the watching of shops not only leads to loss of business but has frequently led to loss of actual money and occasionally to personal injury to the shop-keeper, he legally must apprehend injury. If I considered that the matter were otherwise than perfectly plain, I should have admitted this application upon the point of law, but, to my mind, the matter presents no difficulty. With regard to sentence, I see no reason to interfere. I dismiss the application.