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Bhim Sen Garg Vs. State

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Court : Delhi

Decided On : Aug-04-1997

Reported in : 1997IVAD(Delhi)649; 68(1997)DLT135; 1997(42)DRJ559

Judge : Jaspal Singh, J.

Acts : Constitution of India - Article 226; Indian Penal Code (IPC), 1860 - Sections 506

Appeal No. : Criminal Writ Appeal No. 163 of 1996

Appellant : Bhim Sen Garg

Respondent : State

Advocate for Pet/Ap. : Siddharth Luthra,; I.L. Kapoor,; S.K. Agarwal and;

Judgement :

Jaspal Singh, J.

(1) The petitioner has sought the quashing of the First Information Report registered under section 506 of the Indian Penal Code at the instance of one Ms.Jyotana Gandotra.

(2) Ms. Jyotana Gandotra used to work for a company known as Garment Craft. It was owned by the petitioner. On February 20, 1996 she lodged a written complaint

with the Station House Officer, Greater Kailash-1 that instead of giving her yearly increment and the Commission due on turn-over, the petitioner rebuked and insulted her and in the month of October, 1995 obtained her resignation under duress. The rest of what she alleged in that complaint needs to be narrated in her own words. She complained:

'Mr.Bhim Sain (the petitioner) has been regularly visiting his factory and also M/s. Progetti Kautan and has been every time threatening me and demanding from me full and final settlement of accounts and has also been sending Harbhajan Singh Along with two other persons to my house to threaten and harass me. Finally on 7th February, 1996 Mr.Bhim Sain Garg called my father and myself and had a meeting with us in office my boss Mr.Kauten and asked me to give my full and final settlement of accounts. I demanded my dues which he refused to pay and threatened me that he will fabricate a case and implicate me and drag me to the courts. He also said that he will fabricate a case of fraud against me and put me behind the bars as I was alone handling the Delhi office.

THERE AFTER it has become a regular affair from Harbhajan Singh together with his two other suspicious looking persons to halt my car and rebuke me and threatening telephone calls at my residence.

Iam a girl and have to work late night, do lot of traveling I am terribly scared of bad intention of Mr.Bhukm Sain Garg and his people.

MR.BHIMSain Garg is a very rich and highly influential person in Jaipur and can cause me any kind of harrassment or can kidnap me.

I request that I may be given police protection and that Mr.Bhim Sain Garg and Mr.Harbhajan Singh may be warned not to cause any harassment to me and that Mr.Bhim Sain Garg should give my dues like pay for notice peirod. P.Fund, Gratuity medical, bonus, rent for using my house as his office and my commission so that I can do my full and final settlement.'

(3) On the complaint as noticed above, a case was registered under section 506 of the Indian Penal Code.

(4) The learned Counsel for the petitioner has submitted that as the First Information Report does not disclose commission of an offence under section 506 of the Indian Penal Code, thereforee, the same deserves to be quashed.

(5) Though ordinarily, criminal proceedings instituted against an accused must be tried under the provisions of the Indian Penal Code, there surely are some categories of cases where the High Court in exercise of its inherent jurisdiction, may legitimately quash the proceedings and one such category would consist of such cases where the allegations in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged. Is the present one a case which falls in that category?

(6) Section 506 of the Indian Penal Code provides punishment for the offence of criminal intimidation. Criminal intimidation as defined in section 503 of the Indian Penal Code consists in:

(1)threatening another person or any one in whom he is interested, with injury to his person, reputation or property; or

(2)threatening another with the intention of causing alarm to him; or

(3)to cause that person to do any act which he is not bound to do or to omit to do any act which he is bound to do, to avoid execution of such threat.

(7) One thing is certain and it is that the intention must be to cause alarm to the victim. Whether as a matter of fact the victim was actually alarmed or not cannot affect the liability either under section 503 or under section 506. It also does not matter whether the threat given is direct or not. Even if it is got communicated through another person it would suffice provided the other ingredients are present.

(8) Does the First Information Report in the case in hand disclose the commission of an offence under section 506? It appears from the First Information Report that the complainant has a dispute with the petitioner over the salary and commission due to her and that though she was made to resign from her job she has still not given up her claim. On the other hand the petitioner appears to be adament upon

getting a declaration of full and final settlement of claim from her and to achieve it he has not only been himself visiting her office and 'threatening' her 'every time' but has also been sending to her house one Harbhajan Singh Along with two persons 'to threaten and harass' her. She claims that on February 7, 1996 the petitioner had threatened that he would fabricate a case and implicate' her and to put her 'behind the bars'. It is alleged by the complainant that after that incident of February 7, 1996 it has become a 'regular affair' for Harbhajan Singh and his two other 'suspicious looking' companions to stop her car, to rebuke her, and to give her 'threatening telephone calls' at her residence.

(9) Though the learned counsel for the petitioner was of the view that the Fir did not disclose the commission of an offence under section 506 of the Indian Penal Code, I find myself unable to make myself agree with him. As I read the First Information Report, I feel that the allegations contained therein do go to show that the petitioner himself and so also through Harbhajan Singh and others has been threatening the complainant with injury to her person and reputation and property with an intention to cause alarm to her and so as to make her give up her claim of dues towards salary and commission. In support I seek to draw force from a judgment of the Calcutta High Court which though slightly distinguishable on facts, does throw sufficient light on the point in issue. It is Chandi Charan v. Bhabataran 1964 (2) Cri Lj 85. In that case the petitioner was a bullion merchant. The opposite party was an ex-employee under him. The said employee started threatening the petitioner that unless he was paid Rs.7000.00 by way of compensation he would make some fictitious entries in the books of accounts which he had in his possession and produce them before Sales Tax and Income tax authorities. It was held that section 506 was attracted. In the present case too the complainant was allegedly being threatened to either issue a full and final settlement claim declaration or else face a 'fabricated' case and be ready to be 'behind the bars'. Not only this, the petitioner is allegedly threatening and harassing the complainant through Harbhajan Singh and others who have been stopping her car, rebuking her and giving her 'threatening calls' at her residence.

(10) True, the court may quash a First Information Report where the allegations made therein, even if they are taken at their face value and accepted in their

entirety, do not prima facie constitute any offence or make out a case against the accused but the First Information Report before me does contain allegations which disclose the commission of a cognizable offence. This being the position the petition is dismissed.

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