

**Judgment reserved on: April 29, 2009**  
**Judgment delivered on: May 13, 2009**

Manoj Kumar .... Respondent  
Through: Sarfaraz Khan, Advocate

1. Petitioner is a Director of M/s Pahwa International Private Limited and he has been summoned as an accused vide impugned order of 8<sup>th</sup> August, 2005, in a criminal complaint No. 1208/2001, titled as 'Manoj Kumar vs. S.K. Pahwa' for the offence under Section 506 of the Indian Penal Code (hereinafter referred to as the 'IPC').

2. Petitioner claims to be a senior citizen and a person of high repute, having high esteem in business circles and is said to be the pioneer of Pahwa Group of Companies. The allegations against the petitioner in the aforesaid complaint are that respondent/complainant company- M/s Cyber Power (I) Limited had supplied diesel generator sets to petitioner's company, i.e. M/s Pahwa International Private Limited and as per the terms and conditions specified, ninety per cent of the value of these four diesel generator sets were paid by the petitioner's company to the respondent/complainant company. However, the balance payment of ten per cent was not released because the sub-standard parts of the diesel generator sets were not replaced. This led the filing of criminal complaint under Sections 406/420/506/120-B of the IPC by the respondent/ complainant.

3. Respondent/complainant alongwith the aforesaid complaint, had filed an application under Section 156(3) of the Cr.P.C. and the trial court called for a report on this application and as per report, Annexure P-2, the local police informed the trial court that no FIR has been registered on respondent's complaint as the subject matter of the complaint is a civil dispute. The trial court, upon perusal of the aforesaid Report, Annexure P-2 of the local police, vide order of 16<sup>th</sup> August, 2004, directed the respondent/

complainant to lead evidence and accordingly respondent/complainant deposed before the trial court and copy of his deposition has been placed on record as Annexure P-3. Thereafter, the trial court vide impugned order of 8<sup>th</sup> August, 2005, Annexure P-4, has chosen to summon the petitioner for the offence under Section 506 of the IPC and not for the offences under Section 406/420 of the IPC.

4. Learned Counsel for the petitioner relies upon the decision of the Apex Court in '*Pepsi Food Limited and another v. Special Judicial Magistrate and others*' **1998 SCC (Cri.) 1400** to contend that summoning of an accused in a criminal case is a serious matter and the summoning order must reflect that the Magistrate has applied his mind to the facts of the case and the law applicable thereto. The grievance of the petitioner is that the petitioner has been summoned vide impugned order in mechanical manner by the trial court and without any application of mind. It is pointed out that the allegations of the respondent/complainant of petitioner going to the office of the respondent/complainant and of threatening the respondent/complainant with dire consequences, is not supported by the police report of 15<sup>th</sup> August, 2005. It is contended on behalf of the petitioner that the bald allegations of respondent/complainant of

petitioner threatening him is all concocted and infact the stand of the petitioner's company has been all through out that it is willing to make the balance payment on replacement of sub-standard AMF Panel and Canopy of the generators, supplied by the respondent / complainant. Lastly, it is submitted by learned Counsel for the petitioner that it is highly improbable and unbelievable that a person of petitioner's status, would go to respondent's office to threaten him with dire consequences, merely because the respondent/complainant has alleged to have demanded the balance payment. Thus, quashing of the criminal complaint, Annexure P-1, is sought in this petition.

5. Learned Counsel for the respondent has drawn the attention of this court to the statement of the respondent recorded by the trial court to show that there is a specific allegation against the petitioner that he had visited the office of the respondent/complainant with three or four *gundas* on 6<sup>th</sup> August, 2004, at about 3:00 p.m., in the presence of Tarun Sahni, Tilak Raj and Ganpati Sahni and had threatened the respondent/ complainant with dire consequences. It is also pointed out that the statement of the eye witnesses- Tarun Sahni( CW-2) corroborates the version of the respondent/ complainant.

6. Reliance has been placed upon the decisions reported in **AIR 1978 Supreme Court 1568 & 1997 IV AD (Delhi) 649** to contend that when it is alleged that a threat has been given to give up a claim of money due, then *prima facie* offence under Section 506 is made out and the FIR cannot be quashed.

7. After having heard both the sides and upon perusal of the record of this case, I find the allegations which are said to be constituting an offence under Section 506 of the IPC, deserves to be noticed and they are as under:-

“The accused threatened the complainant to the effect of loss of the life, liberty and property, when visited office of complainant with other three-four *gundas* on 6<sup>th</sup> August, 2004, at about 3:00 p.m., in the presence of Tarun Sahni, Tilak Raj and Ganpati Sahni”.

8. Tarun Sahni (CW-2) has dittoed the aforesaid averments made by the respondent/claimant before the trial court. The averment made in the complaint, Annexure P-1, regarding the offence under Section 506 of the IPC, are contained in Para-10, which reads as under:-

“The accused company has been continuously threatening to face the dire consequences if any demand of payment in respect of the generators in

future. He also threatened to beat and disrepute the Complainant in Complainant's office. In addition Mr. S.K. Pahwa director of the accused company also threatened the Complainant to the effect of loss of the life liberty and property. When he visited office of the Complainant on 06.08.2004 at about 3:00 PM in the presence of one Sh. Tilak Raj and another Sh. Ganpat Saini."

9. Aforesaid averments, *prima facie*, disclose commission of a cognizable offence and in a somewhat similar case of '*Bhim Sen Garg vs. State*' **1997 IV AD (Delhi) 649**, threats were extended to the Complainant to give up the claim of money due and the FIR for the offence under section 506 of Indian Penal Code was not quashed by this court.

10. In the case of '*Inder Mohan Goswami & Anr. Vs. State of Uttaranchal & Others*', **AIR 2008 SC 251**, Apex Court has outlined the scope of the exercise of powers under section 482 of Cr. P.C. in the following words:-

*"Inherent powers under Section [482](#) Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this*

*section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the Court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the Statute.”*

11. At this stage, the truthfulness or the falsity of the allegations leveled against the Petitioners cannot be gone into and while taking the allegations on their face value, it cannot be said that the ingredients of the offence under section 506 of Indian Penal Code are lacking. No case for exercise of inherent powers to quash the FIR in question is made out.

12. This petition is devoid of merit and is dismissed with the observations that anything stated herein shall have no bearing on merits at trial.

13. This petition as well as the pending application stands disposed of accordingly.

**Sunil Gaur, J.**

**May 13, 2009**  
rs/pkb