

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on: 27th January, 2017
Decided on: 7th July, 2017

+ **CRL.M.C. 2450/2010**

SUNIL SHETTY CHAIRMAN POPCORN
ENTERTAINMENT P.LTD.

.... Petitioner

Represented by: Dr. J.P. Dhanda and Mr. N.S.
Usmani, Advs.

versus

PURAN CHAUHAN & ANR.

..... Respondents

Represented by: Mr. Ram Lal, Adv. for R-1.
Ms. Meenakshi Chauhan, APP
for the State/R-2.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

1. Puran Chauhan/Respondent No.1 filed a complaint under Section 200 Cr.P.C. for taking cognizance for offences punishable under Sections 420 and 506 IPC against the petitioner, his company and three other accused. After examining Puran Chauhan/complainant, learned Metropolitan Magistrate vide the impugned order dated 15th January, 2010 though did not summon the petitioner for offence punishable under Section 420 IPC but summoned him alone for offence punishable under Section 506 Part-II IPC. Hence the present petition.

2. Allegations of Puran Chauhan in the complaint were in nutshell that he was a stuntman in the film industry and in March, 2007, the petitioner along with Harish Shetty, Huzefia Lakadwala and Joy Augustine approached him at his residence with the proposal and request to assist them in making a film based on the serial bomb blast that occurred in the year 2006 in Mumbai. Puran Chauhan refused to assist as an Assistant Director without

any remuneration. On 5th April, 2007 he was offered ₹50 lakhs in consideration for the work i.e. for the waiver by the Ministry of Railways for using the railway site and a further sum of ₹5,000/- per day was offered for working as Assistant Director. An offer for being cast as an actor in another film was also given to Puran Chauhan. Believing their representation, Puran Chauhan agreed to act as an Assistant Director and stuntman. Due to his hard labour and work, he obtained the necessary permission and waiver from the Railway Department for using their sites for shooting in the film. After getting the job done when Puran Chauhan asked for release of ₹25 lakhs, he was asked to come with documents at the Mumbai office. On reaching Mumbai office, he was asked to sign blank papers and on protest he was gheraoed and compelled to sign on blank papers. In this regard the Puran Chauhan made a complaint to the Mumbai police however, he was advised to go back to Delhi. After reaching Delhi, Puran Chauhan made a phone call to the petitioner who spoke in a very filthy and abusive language and threatened him with dire consequences. It is stated that since the threats were received by Puran Chauhan from the petitioner while speaking to him on the phone which Puran Chauhan received in Delhi, thus the court at Delhi had jurisdiction to try the complaint.

3. Learned Metropolitan Magistrate held that it could not be said that intention of the accused persons, right from the very beginning was to deprive the complainant of the legitimate fruits of his labour, therefore, did not take cognizance for other offences except Section 506 Part-II IPC. The allegations on the basis of which the petitioner has been summoned by the learned Trial Court are that during the course of conversation on phone, the petitioner abused Puran Chauhan by saying to him '*tu phone karke teri kabr*

khod raha hai aur kuch nahi kar raha hai. Dekh main kya karta hoon. Tu dekh bahan chod jo baat karna hai Joy se baat karo, mere se kabhi baat mat karna, maine aapse kabhi baat nahi kiya'.

4. Thus the short issue in the present petition is whether on the allegations as mentioned in the complaint and as deposed to by Puran Chauhan, whether ingredients of offence punishable under Section 506 Part-II IPC are prima facie made out warranting summoning of the petitioner as has been done by the learned Trial Court vide impugned order dated 15th January, 2010.

5. Though case of the petitioner is that the complaint filed by Puran Chauhan was as a counter blast to their complaints of extortion however, in view of the legal position that at this stage, the Court cannot go into the defence of the petitioner learned counsel for the petitioner submits that even on the face value the allegations in the complaint do not constitute the ingredients of Section 506 IPC for the reason that not only should the words be with intention to cause an alarm to a person threatened but the person should be threatened as well. Thus if it is not proved that pursuant to the alleged threat extended by the petitioner, alarm was caused to Puran Chauhan ingredients of offence punishable under Section 506 IPC are not made out. Reliance is placed on the decision of the Supreme Court reported as 20015 (4) SCC 423 Manik Taneja vs. State of Karnataka & Ors. and 2015 SCC OnLine Del 7312 : 2015 (2) JCC 1081 Sarvesh Chaturvedi & Ors. vs. State NCT of Delhi & Ors.

6. Per contra learned counsel for Puran Chauhan relying upon the decision reported as AIR 1983 SC 67 Municipal Corporation of Delhi vs. Ram Kishan Rohtagi & Ors. submits that at this stage since the ingredients

of offence are prima facie made out, this Court will not appreciate the evidence and quash the proceedings. Further whether the Puran Chauhan was actually threatened or not cannot be decided at this stage and it is the intention of the speaker which has to be considered in deciding whether what he stated comes within the mischief of Section 503 IPC. Reliance is also placed on AIR 1949 Madras 233 In Re: A.K. Gopalan.

7. Section 503 IPC defines 'criminal intimidation' as under:

503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

8. The Supreme Court in Manik Taneja (supra) while interpreting Section 503 IPC held:

14. A reading of the definition of "Criminal intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

15. In the instant case, the allegation is that the Appellants have abused the complainant and obstructed the second Respondent from discharging his public duties and spoiled the

integrity of the second Respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the Appellants to cause alarm in the minds of the second Respondent causing obstruction in discharge of his duty. As far as the comments posted on the Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of Appellants posting a comment on the Facebook may not attract ingredients of criminal intimidation in Section 503 Indian Penal Code.

9. The part of conversation as noted by the learned Metropolitan Magistrate cannot be read in isolation. A perusal of the complete telephonic conversation of the three calls placed on record by the Puran Chauhan will reveal that Puran Chauhan was repeatedly making calls to which the petitioner replied that he should not call him and whatever the matter was, he should sort out with Joy. Of course the language used by the petitioner was abusive but his grievance was with regard to the repeated calls being made to him. The continuous conversation reveals that Puran Chauhan was not alarmed by the words and he continued to engage the petitioner in conversation which he was recording.

10. As noted by the Supreme Court in Manik Taneja (supra) mere expression of any word even though abusive or threatening without any intention to cause any alarm would not be sufficient to bring the same within

the ambit of Section 503 IPC. The threat should be with an intention to cause alarm to the person threatened or it must be to cause that person to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

11. Reading the conversation between the parties in its entirety though abusive has neither raised an alarm to Puran Chauhan of threat nor was forcing him not to do any act which he was legally bound to do or omit to do any act which he was legally entitled to do.

12. Consequently, the complaint case No.162/2008 titled as *Puran Chauhan vs. M/s Popcorn Entertainment Pvt. Ltd. & Ors.* pending in the Court of learned Additional Chief Metropolitan Magistrate, Karkardooma Courts, Delhi and the proceedings pursuant thereto are hereby quashed.

13. Petition is disposed of.

(MUKTA GUPTA)
JUDGE

JULY 07, 2017
‘vn’