

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6942 of 2013

Arising out of PS.Case No. -749 Year- 2011 Thana -COMPLAINT CASE District- BANKA

1. Awadhesh Kumar, S/O Sri Jugal Paswan, R/O Village - Anaypar, P.S. Kashichak, Distt. – Nawada. At present Block Agriculture Officer, Dhoraiya, Distt. – Banka.
2. Kiran Kishore Prasad, S/O Late Sudama Thakur, R/O Village - Chouki Nimamatpur, P.S. Nath Nagar, Distt. – Bhagalpur. At present District Agriculture Officer, Banka, District – Banka.

.... Petitioners.

Versus

1. The State of Bihar.
2. Deepak Kr. Jaiswal, S/O Late Krishna Bihari Jaiswal, R/V Village- Titimanger, P.S. Dhoraiya, District- Banka.

.... Opposite Parties.

Appearance :

For the Petitioners : M/S. Sanjay Kumar Jha, Rana Pratap Singh and Satyaveer, Advocates.

For the O.P. No. 2 : None.

For the State : Mr. Navin Kumar Pandey, A.P.P.

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

5 05-05-2015 Heard learned counsel appearing on behalf of the petitioners. None appears on behalf of the Opposite Party No.2 in spite of notice having been served upon him.

The petition is directed against order dated 21.04.2012 passed by the learned Chief Judicial Magistrate, Banka by which he summoned the petitioners for standing trial for committing offences allegedly under Sections 504 and 506 read with 34 of the Indian Penal Code.



The petition of complaint alleged that the complainant come to know that the government was supplying paddy seeds to farmers on subsidized price. Many calls to the two petitioners independently were given by the complainant to know about the status of the information, on which it is alleged that firstly, the complainant was abusively threatened on telephone by petitioner no.1 and subsequently by petitioner no.2. The complainant went to the Block Office and talked to petitioner no.1 who happened to be the Block Agricultural Officer and he was equally abusive in talking to the complainant when he was requested to make available the required information so much so that he threatened the complainant to get him arrested and remanded to custody. There are many facts stated but they are not germane to the present discussion.

Submission is that on facts offences under Sections 504 and 506 IPC are not made out. Section 504 IPC reads as under:-

“504. Intentional insult with intent to provoke breach of the peace.- Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

As may appear from the perusal of the above provision one has to intentionally insult the other and thereby give a



provocation to him intending or knowing that the provocation was likely to cause the person provoked to break the public peace or to commit any other offence. Even assuming the words of the complainant to be true, that he had talked to petitioner no.2, firstly, and thereby petitioner no.1 on telephone as also personally, there is no fact stated by the complainant in his petition that after having been insulted by being abused, he was provoked to take the law in his own hand to break the public peace or that he was so infuriated or provoked to commit a particular offence. Thus, the ingredients of offence, which is made punishable by Section 504 IPC is not made out.

So far as offence under Section 506 IPC is concerned, it punishes criminal intimidation which offence have been defined by Section 503 IPC:-

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.”

On a consideration of the definition of “criminal intimidation” it is found that one has, firstly, to threaten the other with any injury either to his person or to his reputation or to his



property or to the person or reputation of any one in whom that person holds some interests and that threat must be held out with an intention to cause that person not to do a legitimate act or to cause that person to do any act which he is not legally bound to do or to omit to do which he is legally entitled to do. Now, on considering the above definition of 'criminal intimidation' on the facts alleged presently, there does not appear any threat held out to the complainant except that he was abused. When the provision talks of threats being held out, it also talks of the purpose for which the threat is given to the other. The purpose as per the provision is to cause injury either to the person himself or to his reputation or to his properties or to the person or reputation both of a person in whom he holds some interest. Legally speaking injury does not really convey some corporal harm as is defined by Sections 319 or 320 Indian Penal Code; it in fact, signifies injury as is broadly accepted in terms of harming someone's reputation or interest either in his person or the property or those of the other in whom he holds some interest.

There is a statement made in the complainant petition that the Block Agricultural Officer, i.e., petitioner no.1 had on phone indeed abusively threatened him to send him to custody, but there is no further statement that the intention of giving out threat



was such as to target the person or reputation of the complainant. Reputation of a person in another parlance could be construed as the respect which is attached to a person and that in other terms could also be one of the elements of the reputation of the person. Besides, the law of criminal intimidation also appears taking notice wing some invisible aspects of the personality of a person which may be incorporated in his reputation or property. When the Court is to consider the injury to the property, then it has to be seen in terms of the reputation which is carried by a person who holds certain valuable property and commands respect which in turn imports to him reputation. These are some of the aspects of the offence of criminal intimidation and facts have to be stated clearly so as to attracting those ingredients which constitute the offence of criminal intimidation.

On scanning of the facts stated in the petition of complaint what this Court finds is that they do not constitute the offence of criminal intimidation as well which could be punishable under Section 506 IPC. Thus, what appears is that the facts stated do not appear constituting offences for the trial of which the Court had issued summons to the two accused persons.

The petition appears of merit and, as such, is allowed. The order of summoning passed in Complaint Case No.749 of

2011 by the learned Chief Judicial Magistrate, Banka, by his order dated 21.04.2012, is hereby quashed.

(Dharnidhar Jha, J)

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