

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23013-2016

Date of decision: July 13, 2016.

Mulakraj Arora

... **Petitioner**

v.

State of Haryana and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Vivek Goyal, Advocate for the petitioner.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

A.B. Chaudhari, J. (Oral):

Heard learned Counsel for the petitioner who has assailed the judgment and order passed by the learned Sessions Judge reversing the order of the trial Judge framing the charge under Section 385 IPC. Following are the reasons in para 10 and 11 which have been recorded by the learned Sessions Judge in revisional jurisdiction to hold that Section 385 IPC is not attracted:-

“10. After perusal of definition of extortion as given in Section 383 IPC, this court is to see whether allegations contained in the complaint Ex.PW2/A are such that offence under Section 385 IPC is disclosed. To appreciate the point in dispute, it would be quite useful to go through the illustrations

appended thereto. Upon doing so, it is clearly made out that for making out an offence of extortion punishable under Section 385 IPC, it has to be alleged and shown that accused had put any person in fear of injury to that person or any other person intentionally and accused in this manner dishonestly induced the person so put in fear to deliver any property and such inducement must be dishonest.

11. In the present case, allegations against the accused are that he had approached son of complainant for a stamp paper and after doing so, he had got the same typed from another son of complainant but when son of complainant asked for the charges, he refused and threatened to defame them by publishing libel in a newspaper being published by him. Thus, it becomes clear that accused had not issued any threat and, thus, had not put the sons of complainant into fear prior to obtaining the stamp paper and getting the matter typed. He issued the alleged threats to defame only when money was demanded by the son of complainant. For offence of extortion to be complete, threat has to be issued and person concerned has to be put in fear of injury to him or any other person in first instance thereby inducing him dishonestly to deliver any person any property or valuable security. It is not so in the present case and therefore, offence of extortion punishable under Section 385 IPC is not made out from the allegations contained

in the complaint and other material available on the file. At the most, present is a case where accused issued threat to sons of the complainant to defame them by publishing libel in the newspaper and for that, present may be as case for framing charge for offence of criminal intimidation under Section 506 IPC. Thus, learned trial court does not seem to have applied its judicial mind to the facts and circumstances of the case and wrongly framed charge under Section 385 IPC.”

I have carefully gone through the provisions of Section 385 IPC and the reasons recorded by the learned Sessions Judge in revision.

Looking to the facts, which have been seen by the learned Sessions Judge in the order, particularly recited in para 11 of his judgment, I am fully satisfied that Section 385 IPC, which is a very serious offence, is not at all attracted. The learned Sessions Judge rightly found in revision that the complainant wanted to utilize Section 385 IPC obviously with oblique motive, though the same was not at all attracted as there was no question of extortion, as alleged by him. In that view of the matter, the view taken by the revisional court is possible on the facts of the case for reversing the order framing charge by the trial Judge.

No interference is required to be made.

Dismissed.

July 13, 2016.
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[A.B. Chaudhari]
Judge