

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28166 of 2012

Arising Out of PS.Case No. -2395 Year- 2011 Thana -null District- PATNA

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Dr. Sachin Sinha S/O Sri Manoj Kumar Sinha R/O Mohalla-Purandarpur, B.M.Das Road, P.S.-Pirbahore, Distt-Patna, At Present Residing At Narain Oral And Dental Care, 492, 4th Cross , Sam Pige Road, Malleshwaram, P.S.-Malleshwaram, Bangalore-3

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rakesh Kumar Sinha, Advocate S/O Late Lalan Prasad R/O Mohalla-Purandarpur, B.M.Das Road, P.S.-Pirbahore, Distt-Patna

.... Opposite Party/s

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Appearance :

For the Petitione : Mr. Arvind Kumar, Advocate.

For the Opposite Party : Mr. Rakesh Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 22-08-2017

1. Heard learned counsel for the petitioner and learned counsel appearing for opposite party No. 2.

2. This petition has been filed to quash the order dated 21-01-2012 passed by learned Judicial Magistrate-Ist Class, Patna in Complaint Case No. 2395 (C) of 2011 whereby the learned Magistrate has found prima facie case against the petitioner for the offence under Section-506 of the Indian Penal Code.

3. It has been submitted on behalf of the petitioner that he is son of cousin brother of the complainant. The petitioner resides in Bangalore and works as Dental Surgeon. The complaint has been filed due to land dispute between the parties. Counsel for the petitioner has



further submitted that Poonam Sinha, wife of the complainant has stated in her statement during inquiry u/S 202 of the Cr.P.C., that there is land dispute between the complainant and father of the petitioner. Counsel for the petitioner has further submitted that there is no ingredient of Section-506 of the Indian Penal Code.

4. It is alleged in the complaint petition that complainant received call on his mobile from Mobile No. of the petitioner at 10.45 p.m. in the night, by which, threat was given to kidnap and kill the son of complainant. The son of complainant was doing the course of B.Tech. in Bangalore. The petitioner also used filthy language on the telephone.

5. The notice was issued to opposite party No. 2. The opposite party No. 2 has appeared through lawyer, whose name is appearing in daily cause list. But none appeared on behalf of opposite party No. 2 during course of argument of this case. Xerox copy of S.A. of the complainant and the statement of two other witnesses recorded in course of inquiry, have been filed along with supplementary affidavit.

6. On perusal of the S.A. of the complainant, it appears that he has stated that the complainant received call on his mobile phone at 10.45 p.m. from the petitioner regarding threat of kidnapping and killing of his son, Gaurav who was studying in Bangalore. Poonam



Devi, wife of the complainant has stated in her statement during inquiry that on 02-09-2011, an altercation has taken place between her husband and her agnates, when her husband had gone to see his land. She has further stated that at 11.00 p.m. in the night, her husband received call on his mobile from this petitioner, giving threat of kidnapping his son, Gaurav, who was studying in Bangalore. This witness to court question has stated that there is land dispute between her husband and father of this petitioner. The brother of the informant, Murli Manohar Prasad has stated that his brother received call on his mobile from the petitioner giving threat that he will get his son kidnapped, who was studying in Bangalore. This witness has also stated in his statement that on the same day at about 5.30 a.m. an altercation has taken place between his brother i.e. complainant and the other agnates. To court question, he has stated that Sachin is his cousin nephew and he is Dentist in Bangalore. He has further stated to court question that he has dispute with regard to house.

7. The court below, on the basis of S.A. of complainant and statement of other witnesses, found prima facie case for the offence under Section-506 of the Indian Penal Code against the petitioner.

8. The necessary ingredient of criminal intimidation is mentioned in Section-503 of the Indian Penal Code, which is quoted below:



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.”

9. In the instant case, from the allegation in the complaint and the statement of witnesses, this court does not find any ingredient that the petitioner has committed any offence of criminal intimidation. The complainant has merely alleged that he received call on mobile from the petitioner, giving threat that his son will be kidnapped but no call detail of such mobile call has been filed by the complainant during S.A. in the court below. The complainant has stated orally in his S.A. that he received call from the petitioner, giving threat to get his son kidnapped. Similar statement has been made by other witnesses. It is mentioned in complaint petition itself that the complainant informed about such incident to other two witnesses namely, Poonam Devi wife of the complainant and brother of the informant, Murli Manohar Prasad.

10. Therefore, this court is of the view that the impugned order dated 21-01-2012 passed in Complaint Case No. 2395 (C) of 2011 by which, learned Magistrate has found prima facie case against



the petitioner for the offence u/S 506 of the Indian Penal Code is not in accordance with law. Accordingly, the impugned order dated 21-01-2012 passed by learned Judicial Magistrate-Ist Class, Patna in Complaint Case No. 2395 (C) of 2011 along with entire criminal proceeding with respect to the petitioner is, hereby, quashed.

11. This Cr. Misc. Application *is allowed*.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	31-8-2017
Transmission Date	31-8-2017

