

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1280 of 2016

T.S. Marathe S/o Sonu Marathe Aged About 70 Years R/o Block - 10/ A, Street No. - 29, Sector -5, Bhilai, Tahsil & District Durg Chhattisgarh

---- Petitioner

Versus

1. Jyoti Marathe W/o Late Ramdas Marathe Aged About 65 Years R/o - Block - 1, Quarter No. 18, Street No. 6, Sector -5 Bhilai, Tahsil & District Durg Chhattisgarh
2. State Of Chhattisgarh District Magistrate, Durg Chhattisgarh

---- Respondents

Shri Ashish Gupta, counsel for the petitioner/s.

Shri P.K.Patel, counsel for respondent No.1.

Shri Neeraj Sharma, Dy.G.A. for the State / respondent No.2.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

01/03/2017

Heard on admission.

Learned counsel for the petitioner argued that initiating criminal proceedings by taking cognizance of commission of offence under Section 506 of IPC are abuse of the process of law. It is submitted that the complainant and the petitioner herein are related to each other and because of trivial dispute between the parties, only in order to wreck vengeance, on afterthought grounds, report was lodged in the police station but the police did not find any case for registration of offence, whereafter, a complaint was submitted before the Magistrate. It is argued that the learned Magistrate, acting mechanically on the complaint and without appreciating that the allegations were inherently improbable and statements made at different stages were contradictory, took cognizance of offences against the petitioner for alleged commission of offences under Section 294 and 506 IPC.

2. Upon revision preferred, though learned Revisional Court has partly allowed

the revision quashing the order of taking cognizance in so far as allegation of commission of offence under Section 294 IPC is concerned, the revision has been dismissed as against registration of offence under Section 506 of IPC.

3. Learned counsel for the petitioner submits that the statement of the complainant – Jyoti Marathe and other witnesses, even if it is taken on its fact value, there is no ingredient of commission of offence under Section 506 IPC made out and if the petitioner is subjected to agony of trial, it would be sheer abuse of the process of law. It is also added that the present petitioner is the brother-in-law of the complainant – Jyoti Marathe and there is dispute with regard to ownership of the property which is sought to be converted into a criminal case only to exert undue pressure on the petitioner to agree on the terms of the complainant.

In order to appreciate the submission of learned counsel for the petitioner, it is necessary to look into the provisions under Section 503 IPC which defines criminal intimidation –

“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.”

4. The element of threat of any injury either to the person, reputation or property, amongst others, with intent to cause alarm to that person or to cause that person to do any act which 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 execution of such threat would complete ingredients of commission of offence of criminal intimidation.

As the definition itself speaks, actual assault is not necessary ingredient of criminal intimidation. The preliminary statement of complainant's witness (complainant herself) has been placed on record. In her statement, complainant – Jyoti Marathe has stated that she is being threatened by her brother-in-law – T.S. Marathe (the accused). She has also been assaulted earlier regarding which, she lodged report. According to her statement, after death of her husband, quarter of

Bhilai Steel Plant was allotted to her which was given by her to the family of her brother-in-law and she and her brother-in-law were residing in another small house. According to her, on 27/05/2015, she was called by Shri S. Kundu Prasad, the Deputy General Manager of Bhilai Steel Plant and when she reached his office, her brother-in-law (the accused) was also sitting along with his sons. When she requested Kundu Prasad to give back the same quarter, the accused stated that she would not be given the same house and threatened to assault her and thereafter, on number of occasions, the accused attempted to assault her due to which, she became afraid of his activities. If the aforesaid statement of the complainant taken as it is, without any other appreciation, does make out a *prima facie* case. Whether such allegation is liable to be believed or not, is a matter of trial where the complainant and accused, both will have opportunity to lead their respective evidence for being appreciated by the Magistrate. At this stage of registration of offence and taking cognizance by the Magistrate, a *prima facie* case is sufficient. Therefore, I do not find any illegality or infirmity in the order passed by the learned Court below in registering offence against the petitioner for alleged commission of offence under Section 506 IPC. Therefore, this petition is without any merit and is, therefore, dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge