

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

905 CRIMINAL APPLICATION NO. 4885 OF 2017

1. Suresh Mukund Sonawane
2. Nisar Nijam Pande
3. Yunus Uttam Patel
4. Radhakisan Ramrao Gaikwad

... Applicants

Versus

The State of Maharashtra

... Respondents

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Mr. V.R. Dhorde, Advocate for applicants.
Mr. K.N. Lokhande, A.P.P. for respondent.

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**CORAM : V.L. ACHLIYA, J.
DATED : 23rd NOVEMBER, 2017.**

ORAL ORDER:-

1. The applicant nos. 1 to 4, apprehending arrest in connection with offences punishable u/s 384, 385, 386 and 387 of Indian Penal Code registered vide Crime No.I-222/2017 with Shrirampur City Police Station, District Aurangabad, preferred this application seeking pre-arrest bail. During the course of hearing, the application is withdrawn to the extent of applicant nos. 2 to 4 and presumed to the extent of applicant no.1.

2. Heard the learned counsel for the applicant no.1 and learned A.P.P. for the State.

3. Mr. V.R. Dhorde, learned counsel for applicant no.1 strenuously contended that, if the allegations made in the F.I.R

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are taken into consideration then it make out no offence u/s 384, 385, 386 and 387 of Indian Penal Code against the applicant no.1. He submits that, the allegations against the applicant no.1 restricts to causing threat to informant, which at most invite offence u/s 506 of Indian Penal Code against him. He further submits that, there is a delay in lodging complaint. The incident is alleged to have taken place in the month of June, 2017. The complaint was lodged on 28.8.2017. The allegations of demand of Rs. 30,00,000/- and consequences to follow in the event of non fulfillment of demand do not refers to applicant no.1. The said allegations are made against co-accused. It is further contended that, the applicant no.1 is the owner of land bearing old Survey No.101/2, which was re-numbered as new survey no.13/22. He has entered into an agreement to sale said land to Nisar Nijam Pande and Radhakisan Ramrao Gaikwad. He further submits that, the husband of informant is owner of adjoining land bearing Survey No.13/124. It is contended that, the applicant is a teacher by profession. He has no criminal antecedent. On account of encroachment and construction made over the portion of land owned by the applicant no.1, he visited the informant and requested her to remove their encroachment. The applicant is no way concerned with the alleged demand and threat given to informant. He submits that, if protection not is granted then there is every likelihood he may be arrested and humiliated for no offence committed on his part. It further submits that, the

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husband of the informant has filed Regular Civil Suit No.196/2017 in the Court of Civil Judge, Junior Division, Shrirampur only against Tauseef Dadabhai Shaikh seeking prohibitory injunction. The applicant is neither party to the suit nor any allegation has been made against him in the Civil Suit. In para 6 of the plaint, the plaintiff has made allegations that on 30.07.2017, the respondent i.e. Tauseef Shaikh gave threats to him. In this background, learned counsel submits that, the allegations made against the applicant no.1 in F.I.R are afterthought and made after due deliberation and discussion to falsely implicate the applicant no.1.

4. On the other hand, learned A.P.P opposed the application with contention that, the F.I.R prima facie, reveals that the applicant no.1 and the co-accused have acted in furtherance of common intention in causing threats and demanding ransom from informant. He submits that, the applicant no.1 has sold the land bearing Survey No.12/13 to Nisar Nijam Pande and Sultana Nisar Pande. He further submits that, the information gathered by the Investigating Officer from the service provider company reveals that, on 01.08.2017 and 02.08.2017, four calls were made from Mobile No.07776070508 to Mobile No.9421131658. He further submits that, during the course of investigation, it was revealed that in order to get the property vacated, the accused have caused threat to informant.

5. In order to appreciate submissions advanced, I have perused the F.I.R and papers of investigation as well as affidavit-in-reply filed by the Investigating Officer. Perusal of the F.I.R spell out that, the allegations made against the applicant no.1 refers to visiting the house of informant and forcing her to vacate the land. So far as, making of phone calls, and demand of money and causing threats are concerned, those are made against Taufeeq Shaikh and one Mohan Avhad, who made phone calls to complainant and demanded amount of Rs. 30,00,000/-. It appears from the F.I.R that, there is a dispute amongst the applicant no.1 and the informant on account of certain adjoining land. In the month of June 2017, the applicant along with two other persons visited the house of informant and asked her husband to remove the construction made over his land. The applicant no.1 has produced on record, the copy of registered sale deed dated 28.07.1965, in support of his contention that, father of applicant had purchased the land admeasuring 5 Gunthas out of Survey no.101/2 bearing Plot No.12 for valuable consideration. Since the year 1965 his father became the owner of said land. After death of his father, the applicant no.1, his mother and brother and sisters became the owners of said land as a legal heirs of deceased Mukund Sonawane. The mutation entry to that effect duly recorded in the revenue record. The said land was subsequently numbered as Survey No. 13/120. By agreement of sale deed dated 21.7.2017, the applicant agreed to

said sale Nisar Nijam Pande and Radhakishan Ramrao Gaikwad. It appears that, the husband of the informant is owner of adjoining land, which is numbered as Survey No. 13/22. Thus, the lands owned by applicant no.1 and informant though adjoining, but bears separate survey numbers. There appears to be substance in the submission of learned counsel for the applicant that, in order to remove the encroachment and structure erected over the portion of the land owned by applicant, the applicant visited the house of informant and requested her to remove the same. It further reveals that, the person with whom the applicant has entered into agreement of sale caused threat to informant and demanded the money. They have withdrawn the application.

6. Thus, considering the overall facts of the case, nature of allegations and the controversy involved on account of land dispute amongst the adjoining land owner, I am of the view, the case is made out to entertain the application to the extent of applicant no. 1. Hence, the following order is passed:

:ORDER:

- i) The application moved by the applicant nos. 2 to 4 dismissed as withdrawn.
- ii) In event of arrest of applicant no.1 vis-a-vis Suresh Mukund Sonawane, in connection with Crime No.I-222/2017 registered at Shrirampur City Police Station, District Aurangabad, for the offences punishable u/s

384, 385, 386, 387 of Indian Penal Code, the applicant be released on his furnishing bail in the sum of Rs. 25,000/- with one surety in the like amount, on following condition:

(a) The applicant no.1 shall appear before the Investigating Officer on 27.11.2017 at 11.00 a.m. thereafter as and when directed by the Investigating Officer and cooperate in the investigation.

(b) The applicant no.1 shall attend the Police Station, Shrirampur on every Sunday in between 10.00 a.m to 11.00 a.m to record appearance before the Officer in-charge of the Police Station till conclusion of investigation.

(d) The applicant no.1 shall not contact the complainant and indulged into any act amounting to tampering with the prosecution witnesses.

(e) The applicant no.1 shall not indulge into any act of similar in nature.

(V.L. ACHLIYA, J.)