

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.7101 OF 2016

Mr.Yadvendra s/o Dilip Sharma,
age: 31 years, Occ: Business,
R/o Anandsagar, Near Bharat Gas,
Newasa Road, Shrirampur,
Tq.Shrirampur, District Ahmednagar. Applicant

Versus

01 The State of Maharashtra,
through In-charge,
Kranti Chowk Police Station,
Aurangabad, District Aurangabad.

02 Smt.Surekha Kachru Dedwal,
age: 34 years, Occ: Household,
R/o Plot No.75, "Dattakrupa",
Naiknagar, Beed By Pass Road,
Aurangabad, District Aurangabad. Respondents

Mr.V.D.Sapkal, advocate for the applicant.
Mr.S.R.Yadav Lonikar, A.P.P. for Respondent No.1.
Ms.S.V.Gaikwad, advocate for Respondent No.2.

**CORAM : R.M.BORDE AND
A.M.DHAVAL, JJ.
DATE : 06th July, 2017.**

ORAL JUDGMENT (Per R.M.Borde, J.) :

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The applicant is praying to quash the proceedings initiated against the applicant in pursuance to lodging of First Information Report by Respondent No.2, bearing Crime No.1131 of

2016, dated 27.10.2016, registered at Kranti Chowk Police Station, Aurangabad, alleging commission of offence punishable under Sections 354-D and 507 of the Indian Penal Code.

3 In the First Information Report lodged by Respondent No.2-complainant, it is alleged that on 26.10.2016, while she was working at the office of Regional Transport Office, Aurangabad, one unknown person came and enquired about his pending work. It was informed by Respondent No.2 that due to work of upgradation of online process, there is some difficulty and work got delayed. The unknown person thereafter requested her to talk with his master on his mobile hand set. It is alleged that that the applicant herein, who was on the other side, threatened the complainant. He asked her as to why the work is delayed and how much money she want for doing the work. He further stated that tomorrow the Commissioner of Transport as well as Hon'ble Minister for Transport will call her on phone about the pending work. It is alleged that the applicant herein, who talked with the complainant on the the handset of his employee, was talking in such a manner, which amounts to offence within the ambit of Section 354-D of the Indian Penal Code.

4 Section 354-D describes "Stalking", as, any man who follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking.

5 In the instant matter, on perusal of the First Information Report, it cannot be inferred that the applicant followed Respondent No.2 and established a contact or attempted to establish contact with a view to foster personal interaction repeatedly despite clear indication of disinterest by respondent no.2. Firstly, it must be noted that the applicant herein did not himself established contact with the complainant. It is alleged that the employee of applicant called his master on phone and requested the complainant to talk with him. Therefore, it cannot be said that the applicant contacted or attempted to contact the complainant to foster personal interaction repeatedly despite a clear indication of disinterest by the complainant.

6 Section 507 of the Indian Penal Code relate to criminal intimidation by an anonymous communication. It is provided that whosoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence under Section 506 of the Indian Penal Code.

7 In the instant matter, it is not the case of complainant that the alleged criminal intimidation is by an anonymous communication. According to the complainant, the applicant has disclosed his identity. There was also no allegation that there was any precaution taken by the applicant to conceal his identity.

8 On perusal of the First Information Report, there does not appear to be any allegation relating to extending of threats to the complainant at the instance of applicant. What is recorded in the First Information Report, is that one Mr.Shelke, RTO official, informed the complainant that the caller on mobile number 9552460003, which allegedly belongs to the applicant, had extended threats to the complainant. On consideration of the allegations recorded in the First Information Report, neither the offence under Section 354-D nor under Section 507 of the Indian Penal Code can be said to have been made out.

9 For the reasons recorded above, criminal proceedings initiated against the applicant at the instance of complainant – Respondent No.2 herein, bearing Crime No.1131 of 2016, dated 27.10.2016, registered at Kranti Chowk Police Station, Aurangabad, alleging commission of offence punishable under Sections 354-D and 507 of the Indian Penal Code, deserves to be quashed and same are accordingly quashed.

10 Rule is made absolute in the aforesaid terms.

A.M.DHAVALÉ
JUDGE

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R.M.BORDE
JUDGE