

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

CRIMINAL APPLICATION NO. 1915 OF 2017

1. Bharat s/o Satwaji Khanderao ... **Applicants**
Age 42 years, Occu: Service, (Orig.Accused)
R/o Malegaon Road, Amdar Nagar,
Taluka & Dist. Nanded
2. Gopal s/o Ganpatrao Ingle
Age 43 years, Occu:Service
R/o Zilla Parishad Colony,
Shahaji Nagar, Taroda (Bk)
Taluka & Dist. Nanded

VERSUS

1. The State of Maharashtra
Through Police Station
Vazirabad, Nanded Dist. Beed.
2. Balaji s/o Dharmaji Boddawar ... **Respondents**
Age 56 years,Occu: Service,
R/o Babanagar, House No.2, Om
Nagari Guruji Chowk,
Purna Road, Nanded.

Mr. Rahul A. Tambe, Advocate for the applicants
Mr. S. B. Pulkundwar, APP for the respondent State.
Mr. M. A. Golegaonkar, Advocate for respondent No.2

WITH

CRIMINAL APPLICATION NO. 2660 OF 2017

1. Name as per FIR: Ashok ... **Applicants**
Satwajirao Gaikwad (Orig.Accused)
Correct Name: Ashok Deelip
Gaikwad Age 31 Years,Occu:Pvt.
Service,R/o Swami Vivekanand
Nagar, Taroda (Kd.) Dist.Nanded

VERSUS

1. The State of Maharashtra
Through Police Station
Vazirabad, Nanded Dist. Beed.

2. Balaji s/o Dharmaji Boddawar ... **Respondents**
Age 56 years, Occu: Service,
R/o Babanagar, House No.2, Om
Nagari Guruji Chowk,
Purna Road, Nanded.

Mr. Satyajit S. Bora, Advocate for the applicant
Mr. S. B. Pulkundwar, APP for the respondent State.
Mr. M. A. Golegaonkar, Advocate for respondent No.2

CORAM : T. V. NALAWADE AND
K. L. WADANE, JJ.

DATE: : 11th June, 2018

JUDGMENT (Per K. L. Wadane, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, the applications are taken up for final hearing.

2. Present proceedings are filed under section 482 of Criminal Procedure Code for relief of quashing of First Information Report bearing Crime No.93/2017, registered in Vazirabad Police Station, Dist. Nanded for the offence punishable under section 384 read with 34 of Indian Penal Code.

3. The complainant Balaji Dharmaji Boddawar, who is serving as Office Superintendent in the office of the District Vocational Education and Training Officer, Nanded, lodged the first information report on

17.03.2017 alleging that since last four months he used to take apple vinegar medicine, 15 Ml. daily alongwith water for heart disease. While the complainant was taking the medicine in office, accused Gopal Ingale recorded video shooting on his mobile and forwarded the said video on the mobile of accused Bharat Satwaji Khanderao. Thereafter, the accused Bharat Khanderao and Ashok Gaikwad prepared a compact disk (CD) of the said video shooting and shown the same to the Principle Secretary of the concerned Department at Mumbai alongwith representation falsely stating that complainant used to drink liquor in the office and also used to abuse and harass them and therefore he may be suspended immediately. Pursuant to the said C.D. departmental enquiry is going on against the complainant since 14.03.2017.

4. It is alleged that on 14.03.2017, the complainant had been to Anuradha Palace at about 07.00 p.m. to meet his friends. At that time, the accused Bharat Satwaji, Gopal Ingale and Ashok Gaikwad, who are colleagues of complainant, came there and told the him that they had created a C.D. of the video which was recorded while he was drinking liquor in office;

pursuant to which departmental enquiry is going on against him and if complainant wants that they should not write anything against him, he should pay Rs.5 to 10 thousand to them. Complainant told them that at present he don't have money and would see tomorrow and left. It is alleged that on 15.03.2017, at about 1.00 p.m, accused Ashok Gaikwad made a phone call to the complainant and asked him that accused Gopal Ingale and Bharat Khanderao wanted the complainant to pay Rs.5/10 thousand for not giving statement against the complainant and asked the complainant to pay the money immediately. The complainant requested him not to do so, tried to convince him and put his mobile off. After some times thereafter, again Ashok Gaikwad made a call on the mobile of complainant and threatened him that if the amount is not given immediately, they would give statements against him.

5. It is alleged that since the complainant was not desirous of giving money, the complainant had cut the phone call of accused and then he made a call from his another mobile handset which was having call recording facility and thereby recorded all conversation with the accused persons and prepared a C.D. of the same.

Thereafter, the complainant lodged a complaint of extortion against the accused and produced the said C.D. On the basis of the said complaint, crime as referred above came to be registered against the accused persons/applicants.

6. During investigation, the Investigating Officer has recorded statement of witnesses Sunil Jayram Kapure, Puran Chavan to whom the complainant has narrated the incident dated 14.03.2017, so also prepared the panchanama of Mobile conversation between the accused and complainant. The mobile conversation shows that there had been talk about the demand of money from the complainant.

7. Investigating Officer Shrikant Bharate, PSI, ATS Mumbai filed affidavit on record. He stated that statement of the complainant was recorded and crime was registered on 17.03.2017. The C.D. of conversation on mobile between complainant and accused persons, as produced by the complainant was seized from him and three mobiles were seized from the three accused on 18.03.2017. The Investigating Officer has further stated that the Mobile Numbers of accused persons and complainant were sent to Cyber cell to obtain call

Detail Record. During Police custody of the accused, samples of voice of all the three accused and also the sample of voice of the complainant Balaji Boddawar were recorded in Digital Voice recorder in presence of two witnesses by expert from Nanded and were sent to Forensic Laboratory. Report of Regional Forensic Science Laboratory shows that the voices of accused Ashok Gaikwad and accused Gopal Ingale are positive.

8. It is alleged in the FIR that the accused Ashok Gaikwad made a phone call to the complainant and put him under fear of making statements against him and asked the complainant to pay them Rs.5/10 thousand for the accused persons. Offence of extortion punishable under Section 384 IPC is registered against the accused persons. To establish the offence punishable under section 384 I.P.C., following ingredients need to be there:(1) the accused must put any person in fear of injury to him or to any other person; (2) the putting of a person in such fear must be intentional; (3) the accused must thereby induce the person so put in fear to deliver to any person any property or anything signed or sealed which may be converted into a valuable property;(4) such inducement must be done dishonestly.

9. On perusal of the first information report and evidence on record, prima facie, it appears that the accused persons, made a call to the complainant and put him under fear of making false statement against him and asked him to pay Rs.5/10 thousand. As such, prima facie, the accused put the complainant under fear to extract some valuable property, dishonestly.

10. In view of the above and looking to the nature allegations and contents of affidavit of the investigating officer, it cannot be said that there is no prima facie case against the present applicants. In view of seriousness of the allegations, it is not desirable to prevent the police from making further investigation and to reach to the conclusion. This Court finds no reason to interfere in the matter at this stage. Criminal applications stand dismissed. Rule is discharged.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC