

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 934 OF 2020

Pankaj S/o Ramji Shivbhagat .. APPLICANT

VERUS

The State of Maharashtra & another ... RESPONDENTS

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Mr. Angad L. Kanade, Advocate for applicant
Mr. R.B. Bagul, APP for respondent No. 1 - State
Mr. Mahesh Bhosle, Advocate for respondent No. 2

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CORAM : T. V. NALAWADE AND
M.G. SEWLIKAR, JJ.

DATE : 1st DECEMBER, 2020

ORDER :-

1. Present application is filed for relief of quashing the first information report bearing crime No. 22 of 2020 registered with Itwara Police Station, Nanded, Taluka and District Nanded for the offences punishable under Sections 385 and 504 of the Indian Penal Code. Both the sides are heard.

2. The crime is registered on the basis of report given by respondent No. 2, first informant. In the report dated 27-01-2020, the respondent No. 2-first informant has made allegations against the present applicant that, the applicant is trying to extract money from him. It is contended that the informant is a building contractor and recently he had taken work of construction of Girl's Hostel, at Ahmedpur, District Latur. It is contended that work was allotted to "*Vishwakarma Infrastructure, Nanded*" and then the contractor had sub-let the work to him. It is contended that by giving calls on mobile phone, the applicant had given threat to informant that he

would make a complaint against him, that the work is not as per the standard prescribed in the contract and it is sub-standard and to make money he has made such construction. It is contended that the applicant demanded Rupees Ten Lakh as extortion money for not pressing allegations against the informant. It is contended that such specific calls were made on mobile handset on 10th April, 2019, 15th April, 2019 and 16th April, 2019 and on those dates a demand of Rupees Ten Lakh was made. It is contended that after last occasion when he avoided to take call, the applicant approached the informant near his residential place and there he gave threats. It is contended that the applicant then visited the sites where the work was going on and in presence of Engineers he gave threats and asked them to stop the construction. It is contended that in their presence also he demanded extortion money and he compelled them to stop the work. It is contended that at other sites also applicant is harassing the informant and he is demanding extortion money for every work. Due to such allegations, the crime is registered for aforesaid offences.

3. Learned counsel for the applicant submitted that applicant is a social worker and is doing his work as President of *Prajasatak Samajwadi Bharat Party*. It is contended that prior to June, 2019 the applicant had given complaint against the informant that the work of construction of Girl's Hostel is not upto the mark and in future there will be danger to the life of girl students, who would be occupying the said Hostel. He drew attention of this Court to the copies of such complaints made to the Chief Engineer of Public Works Department, Division Aurangabad. He further drew attention of this Court to the complaint made in September, 2019 to

the Government against the applicant. It is contended that the Government had informed the applicant vide communication dated 24-06-2019 that appropriate action would be taken against the applicant. It is contended that this correspondence shows that even before alleged incident the complaints were made by the applicant against informant, so it cannot be said that applicant was harassing for extracting extortion money. Learned counsel for the applicant also drew attention of this Court to the incident of December, 2019 when his four wheeler was burnt by somebody. He has contended in the complaint that he had suspicion against the person like informant as he was making complaints against him.

4. Learned APP has produced the record of investigation. The record contains statements of witnesses, who witnessed the incident of demand of extortion of money as contended by the informant. The papers contain CDR record in respect of mobile phones of both the informant and the applicant. The CDR record is consistent with the allegations made by the informant. The CDR record of those dates show that repeated calls were made by present applicant to the informant. If the applicant had no intention to extract the money and he had already made complaints to the authorities and he wanted to press them, in ordinary course, he would not have called the informant repeatedly. There is no explanation with the applicant on this circumstance. Thus, there is record in support of the allegations made by the informant against the applicant.

5. Learned APP submitted that the applicant is not co-operating with Police. He drew attention of this Court to the summons given against the applicant under Section 41(1) of the Code of Criminal Procedure. The

record shows that though the applicant was called many times by the Police to make inquiry into the allegations made against him, however, he did not turn up. In view of these circumstances, this Court holds that no relief can be given to the applicant. In the result, the application stands dismissed.

Sd/-

[M.G. SEWLIKAR]
JUDGE

Sd/-

[T. V. NALAWADE]
JUDGE

MTK