

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL WRIT PETITION NO. 37 OF 2020

Shubham S/o Premkishor Mozare,
Aged about 25 years, Occu. - Education
and Business, R/o. Kathora Naka,
Main Square, Amravati,
Tahsil and District Amravati.

.... **PETITIONER**

// VERSUS //

- 1) The State of Maharashtra,
through its Police Station Officer,
Police Station Gadgenagar, Amravati,
Tahsil and District Amravati.
- 2) Shri Shushrut S/o Rajeshwar Nistane,
Aged about 27 years, Occu. Business,
R/o. 14-B, Surabhi Vihar, Opposite
Bhagyashri Vidyalaya, Near Pundlik
Bana Nagar, Tower Line Road,
Kathora Naka, Amravati,
Tahsil and District Amravati.

.... **RESPONDENTS**

Shri V. M. Kulsange, counsel for the petitioner.
Shri N. R. Patil, A.P.P. for the respondent/State.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 12.02.2021.

ORAL JUDGMENT : (Per : Sunil B. Shukre, J.)

1. Heard. **Rule.** Rule made returnable forthwith.

2. Heard finally by consent of the learned counsel appearing for the parties.

3. The offence registered in the present case vide Crime No. 966 of 2019 at Police Station, Gadge Nagar, Amravati against the petitioner is the one which is punishable under Section 387 of the Indian Penal Code (for short "I.P.C."). This offence has been registered against the petitioner along with a few more of his associates with the aid of Section 34 of the I.P.C.. The First Information Report, a copy of which is available on record, discloses that there was demand of money accompanied by a threat of dire consequences if the demand was not met. But, the First Information Report does not disclose any actual delivery of money or the property or actual fulfillment of the demand of money. This position is also not disputed by the Investigating Officer, as seen from the reply filed in the matter. Law on the point is well settled. Whenever a complaint regarding commission of offence of extortion punishable under Section 384 is filed and in the complaint there is no mention that pursuant to such demand, any amount was delivered to the accused by the complainant, no offence of extortion is made out and F.I.R. for the offence punishable under Section 384 cannot be registered. Useful reference in this regard is made to be law laid down by the Hon'ble Apex Court in the case of *Isaac Isanga Musumba and Ors., Vs. State of Maharashtra and Ors., (2014) 15 SCC*

357. In the instant case, offence punishable under Section 387 has been registered which is an aggravated offence of extortion and therefore, the aforestated law declared by the Supreme Court would have its square application to the facts of the case which disclose that there is neither any mention in the complaint of any amount having been delivered pursuant to demand nor is there any material available on record showing that pursuant to the demand accompanied by threat any amount was delivered.

4. In the result, we find that no offence punishable under Section 387 of I.P.C. could have been registered against the present petitioner and this petition deserves to be allowed.

5. The Writ Petition is allowed to the extent of the petitioner. The offence registered vide Crime No. 966 of 2019 at Police Station, Gadge Nagar, Amravati, is hereby quashed and set aside in so far as it is registered against the petitioner.

Rule is made absolute in these terms.

(AVINASH G. GHAROTE, J.)

(SUNIL B. SHUKRE J.)