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IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1168 of 2014

Prasant Mallick

....

Petitioner

Mr. Yeshan Mohanty, Advocate

-Versus-

State of Odisha and another

.... Opposite Parties

Mr. D.R. Parida, ASC

CORAM:

JUSTICE R.K.PATTANAİK

DATE OF JUDGMENT : 07.04.2022

R.K. Pattanaik, J

1. Instant application under Section 482 Cr.P.C. is filed by the petitioner challenging the legality and judicial propriety of the impugned order of cognizance dated 13th September, 2013 passed in C.T. Case No.360 of 2013 by the learned S.D.J.M., Athagarh on the grounds *inter alia* that the offence for which he has been charge sheeted is not at all made out even after considering the FIR and materials on record.

2. In fact, an FIR was lodged by the informant, namely, O.P.No.2 alleging therein that the petitioner, while was the Managing Director of the named company, harassed and threatened him to submit resignation, as a result of which, he had to succumb and resign. It has been alleged therein that on 27th June, 2013, the petitioner abused O.P.No.2 in vulgar language and threatened him with dire consequences, if resignation was not tendered. On such lodging of FIR, Khuntuni P.S. Case No. 59(3) dated 5th July, 2013 was registered under Section(s) 294 and 506 IPC. After investigation was concluded, charge sheet only under Section 506 IPC was submitted against the petitioner. Thereafter,

the learned court below took cognizance of the offence and consequently, passed the impugned order dated 13th September, 2013 i.e. Annexure-3.

3. Heard Mr. Yeeshan Mohanty, learned senior counsel appearing on behalf of the petitioner and Mr. D.R. Parida, learned ASC for the State. None represents O.P.No.2.

4. The learned court below has taken cognizance of the offence under Section 506 IPC against the petitioner under Annexure-3. It is contended that the allegation against the petitioner to be falsehood and a story was cooked up to falsely implicate the petitioner. It is also contended that the petitioner never threatened O.P.No.2 and pressurized him to tender resignation and the evidence collected during the investigation does not make out a prima facie case, the fact which was lost sight of by the learned court below and therefore, the impugned order under Annexure-3 is liable to be set aside.

5. Mr. Mohanty, learned senior counsel for the petitioner by referring to the documents made available in WPCRL No.1061 of 2013 submitted that O.P.No.2 himself tendered resignation and was not coerced or in any way threatened. It has been pleaded therein that rather O.P.No.2 was alleged of misconduct on number of occasions which had been brought to the notice of the Management of the company and despite that he was given opportunity to improve the standard of his work. In fact, in the aforesaid case, which was disposed of by order dated 28th November, 2017, the petitioner had filed certain documents to show that O.P.No.2 was not threatened in any manner whatsoever and on his own accord, he had tendered resignation. Mr. Mohanty further contended that by taking judicial notice of all such

documents and circumstances leading to the resignation of O.P.No.2, even assuming for the sake of argument that the petitioner called and abused him, there was indeed no real threat administered so as to invite prosecution under Section 506 IPC.

6. On the other hand, Mr. D.R. Parida, learned ASC contends that after investigation and evidence collected, it was prima facie made to appear that the petitioner had threatened O.P.No.2 with dire consequences, if the latter did not submit resignation and considering the same, learned court below rightly took cognizance of the offence under Section 506 IPC under Annexure-3 and therefore, it suffers from no legal infirmity.

7. O.P.No.2 stated to have submitted his resignation on 1st July, 2013. A copy of the resignation letter is at Annexure-5 series in WPCRL No.1061 of 2013. On a bare perusal of the same, it does not appear that O.P.No.2 had in fact resigned on account of any such threat being administered by the petitioner. Nevertheless, the circumstances under which such resignation was obtained stands described in the charge sheet i.e. Annexure-2. Furthermore, in the FIR, it is alleged that petitioner had called O.P.No.2 to his chamber on 27th June, 2013 which is situated inside the plant premises and abused him filthy language and also threatened him with dire consequences, if resignation was not tendered and some time thereafter, it was obtained under duress. The FIR was lodged on 5th July, 2013 whereas O.P.No.2 said to have submitted resignation on 1st July, 2013 after the alleged incident dated 27th June, 2013. In WPCRL No.1061 of 2013, the petitioner had produced documents under Annexure-6 and 7 to suggest that post resignation by O.P.No.2, the company had taken steps to finally settle his dues. According to petitioner, the above circumstances suggested that

there was no any threat that was administered to O.P.No.2 for the purpose of and with an intention to force him to resign. According to Mr. Mohanty, O.P.No.2 was not threatened with any grave consequence so that a case under Section 506 IPC can be made out.

8. Section 503 IPC explains that whoever threatens another person or a person they are interested in with injury to such person, reputation or property; or to cause alarm to that person and makes them do something which he is legally not bound to do or to omit to do any act which he is legally entitled to do, to avoid execution of such threat amounts to an act of criminal intimidation. In the instant case, the petitioner is alleged of threatening O.P.No.2 to submit the resignation without any serious consequence being mentioned in the FIR. Even assuming that the petitioner did some mischief or overt acts forcing O.P.No.2 to tender resignation, in the considered view of the Court, it may not be sufficient to visit him with a criminal action for an offence of Section 506 IPC.

9. The alleged incident during which O.P.No.2 was misbehaved and subjected to threat is dated 27th June, 2013, where after, he said to have tendered resignation on 1st July, 2013. It is claimed by O.P.No.2 that before he could put his signature on the letter on resignation, it was taken away and later on, utilizing the same, resignation was shown to have been accepted. From the charge sheet, it is made to reveal that the resignation letters were seized by the I.O. The actual reason for compelling O.P.No.2 to tender resignation, as reflected in the charge sheet, is stated to have been on account of non-fulfillment of monetary demands made by the petitioner. But the Court finds that the F.I.R. is completely silent regarding any direct consequence to follow which O.P.No.2 would have faced, had he not tendered resignation under

compulsion. There is no tenebrosity in the settled position of law that mere threat is not sufficient so as to bring any such act or mischief within the purview of Section 506 IPC. If any threat is administered without any intent to cause alarm or harm to the person concerned, then the essential ingredients of Section 506 IPC cannot be said to have been satisfied. Mere expression of words or empty threat without any real and harmful consequence, Section 506 IPC cannot be attracted. In this regard, a decision of the Madras High Court in **Ezhilarasai Vrs. Rajasekaran** (decided on 30th November, 2021) may be referred to, in which, in similar circumstances, where threat was alleged but not to be real held that such is not sufficient to attract a prosecution for an offence under Section 506 IPC. Similarly, in **Anil Mehra Vrs. Ajmer Singh** reported in 1991(1) RCR (Criminal) 699, the Punjab & Haryana High Court held that criminal proceedings on the ground of empty threats without mens rea to cause injury would not amount to an offence under Section 506 IPC. There are plethora of decisions on the point which are not reproduced to burden the judgment in the present case. In the instant case, the petitioner is alleged of pressurizing and threatening O.P.No.2 in order to compel him to resign from service which he ultimately managed to procure. But, then the allegation that the petitioner threatened O.P.No.2 with dire consequences, if he did not tender resignation, by itself would not be sufficient so as to sustain an action for an offence under Section 506 IPC. As already discussed, the offence of criminal intimidation as defined in Section 503 IPC elucidates that the person to whom the threat is administered must be with an intent to cause injury to that person, or person's reputation or property, etc. with a direct consequence that it would cause alarm to him or to cause that person to do any act which he is not legally bound to do as means

of avoiding the execution of such threat. The petitioner, though, alleged of having threatened O.P.No.2 but then, by the nature of allegation made to appear in the FIR, hardly it indicates any element of mens rea for causing alarm carrying any harmful consequence in the event the resignation was not tendered. It is not revealed from the FIR that O.P.No.2 in any way was subjected to threat with any injury to his person and was forced to submit the resignation. Having gone through and carefully examined the materials on record, without referring to the evidence produced in WPCRL No.1061 of 2013, the Court arrives at a logical conclusion that even assuming that the allegation of threat to be true by accepting the same at its face value, then also, it has to be held as an empty threat and not real one without any serious consequence to follow and therefore, the offence under Section 506 IPC cannot be said to have been attracted.

10. Accordingly, it is ordered.

11. In the result, application under Section 482 Cr.P.C. stands allowed. As a necessary corollary, the impugned order of cognizance dated 13th September, 2013 under Annexure-3 passed in C.T. Case No.360 of 2013 by the learned S.D.J.M., Athagarh is hereby quashed for the reasons discussed herein before.

(R.K.Pattanaik)
Judge