

223 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
 AT CHANDIGARH
 CRR-2607-2016
 Date of Decision:25.08.2023

Mohinder Singh

...Petitioner

Vs.

State of Haryana and Anr.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Sandeep Verma, Advocate
 for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

1. The petitioner has filed the present petition against the impugned judgment dated 09.05.2016 passed by the Court of Additional Sessions Judge, Gurgaon and the judgment dated 01.10.2015 passed by the Court of JMIC Kosli, whereby the respondent No.2 was ordered to be acquitted of the charge under Section 506 IPC.

2. The FIR in the present case was got registered by the petitioner/complainant by alleging that in November 2005, the petitioner had purchased building material and had paid a sum of Rs.70,000/- for the material purchased, to the respondent No.2/accused. But inspite of the payment, the respondent No.2 used to demand his money and used to abuse him. He even threatened to kill the petitioner by calling from his mobile No.9896390248 on his mobile number 9416416133. It was also mentioned in the complaint by the petitioner that since 10.10.2012, the respondent No.2 was continuously using vulgar language on phone and was regularly threatening him to kill and prayed for an action against the respondent No.2. With these allegations, the FIR was

ordered to be registered under Sections 294 and 506 of IPC against the respondent No.2.

3. The Trial Court as well as the Ist Appellate Court held that the prosecution had miserably failed to prove the charge under Section 506 IPC. In fact, the ingredients of the offence under Section 506 were completely missing and the petitioner had failed to prove that the threat extended by the respondent No.2 on phone had caused any alarm in the mind of the petitioner.

4. Learned counsel for the petitioner contended that both the Courts had failed to examine the entire evidence on record and failed to consider that the petitioner had examined three witnesses, who had supported the case of the prosecution beyond reasonable doubt. The respondent No.2 had repeatedly extended threats to the petitioner and the evidence clearly suggested that the offence under Section 506 IPC was clearly made out against the respondent No.2.

5. I have heard the learned counsel for the parties and with their able assistance, I have gone through the Trial Court record carefully.

6. Both the Courts had correctly held that the threat was extended by respondent No.2 to the petitioner on mobile, but no evidence was led by the petitioner/complainant in this regard. Further, the law is well settled that empty threats do not make out an offence under Section 506 IPC. In fact, the alleged threat extended by respondent No.2 on phone was not followed by any overt Act nor such threat on phone had caused any alarm in the mind of the present petitioner. Thus, the ingredients of the offence under Section 506 were completely missing in the present case and the respondent No.2 has been correctly acquitted.

7. Further, in the present case the prosecution could not lead any evidence to prove the conversation between the petitioner and respondent No.2 on mobile phone in absence of a certificate under Section 65-B of the Indian Evidence Act. Thus, in absence of any proof of call connecting the petitioner with respondent No.2 on mobile phone, the very basis of the offence could not be proved. Even otherwise, I have gone through the impugned judgments passed by both the Courts and there is no illegality or perversity in the impugned judgments, calling for interference by this Court. Findings no merits, the present petition is ordered to be dismissed.

25.08.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No