

106+228 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-1337-2022 (O&M)
DATE OF DECISION:-15.02.2023

Manik Khanna

...Appellant.

V.

State of Punjab and another

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Prateek Pandit, Advocate,
for the appellant.

Mr. Ravinder Singh, AAG, Punjab.

Mr. Sunny Deep Joneja, Advocate,
for the complainant.

HARKESH MANUJA, J. (ORAL)

CRM-7381-2023

Prayer in this application is for incorporating offences under Sections 406, 420 and 120-B IPC in the prayer clause as well as in the order dated 01.08.2022.

Heard.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed and offences under Sections 406, 420 and 120-B IPC (added at the time of presentation of challan) are ordered to be incorporated in the prayer clause as well as in the order dated 01.08.2022, whereby interim relief was granted to the appellant.

Main case

Present appeal has been filed against the order dated 06.07.2022, passed by learned Additional Sessions Judge-I-cum-FTC (POCSO), Jalandhar, vide which, application filed on behalf of the appellant seeking anticipatory bail in case FIR No.60, dated 17.03.2022, under Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "1989 Act") as well as Sections 406, 420 and 120-B IPC (added later on), registered at Police Station Basti Bawa Khel, Jalandhar, was dismissed.

Learned counsel for the appellant submits that appellant was neither the purchaser nor the signatory to the agreement in question. While referring to the contents of FIR and the final report under Section 173 Cr.P.C., learned counsel submits that there was no allegation against the appellant of having received the amount of sale consideration.

Learned counsel also points out that even no specific date was mentioned as to when, the alleged phone call was exchanged between the appellant and the complainant, resulting into registration of FIR in question and thus, prays for grant of anticipatory bail.

The prayer made in the present appeal has been opposed at the instance of learned State counsel and Mr. Davinder Kumar, Advocate appearing for the complainant by submitting that appellant is flouting the conditions of interim bail granted to him by this Court vide order dated 01.08.2022, as he is extending death threats to the complainant.

Learned counsel representing the complainant further submits that the appellant is even directly related to the vendor of the property in

question being the brother-in-law of the son of the original owner. Learned counsel also submits that the complainant has even got recorded his statement regarding the specific role of the appellant in the entire incident before the investigating agency in June 2022.

I have heard learned counsel for the parties and gone through the paper book with the able assistance of learned counsels representing the respective parties. I find substance in the submissions made on behalf of the appellant.

A perusal of entire FIR besides the report under Section 173 Cr.P.C., which has been appended as Annexure P-4 in CRWP-1401-2023, one can trace out that the appellant is neither owner of the property, which is the subject matter of the dispute, nor he is signatory to the agreement. Furthermore, the appellant does not even appear to be a witness to the said agreement and there are even no allegations of any exchange of money at the instance of complainant in favour of the appellant.

As regards the allegations under Section 3 of 1989 Act, no date has been mentioned in the FIR or even in the report under Section 173 Cr.P.C. about the alleged telephonic conversation made between the complainant and the appellant. In addition to that, under similar circumstances, this Court in CRR-1354-2019, titled as ***“Pardeep Kumar vs. State of Haryana and another”*** while observing that “merely uttering such wrong words in the absence of any public view does not show any intention or *mens rea* to humiliate the complainant”, even proceeded to quash the FIR.

With regard to threat perception allegedly having been extended

at the hands of appellant to the complainant, no substantive material has been placed on record at the instance of the complainant connecting the appellant with any such act. Moreover, such allegations have been vehemently denied/disputed at the instance of the appellant during the course of hearing and cannot be thus adjudicated upon in the present appeal in the absence of specific pleadings from both the sides.

With respect to the threat being made by the appellant, the complainant shall be at liberty to approach appropriate authorities, in case, any such act has been done/committed by the petitioner and the same shall be decided on its own merits after giving opportunity to both the parties.

More than that, the investigation in the present case already stands concluded with the filing of challan, followed by framing of charges on 06.01.2023 and the appellant is already appearing before the court concerned, facing trial.

In view discussion made hereinabove, the order dated 06.07.2022 passed by the court of Additional Sessions Judge-I-cum FTC, Jalandhar is set aside, the appeal stands allowed with the order dated 01.08.2020 passed by this Court, made absolute.

15.02.2023

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No