



2024:DHC:9695



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 16.12.2024

+ **CRL.M.C. 3754/2019**

SMT. MEENA GILL

.....Petitioner

versus

SH. PRADEEP GUPTA AND ANR.

.....Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. K. Sunil, Advocate (Through V.C.).

For the Respondent : Mr. Sanjay Goel, Ms. Shriya Sirohi & Ms. Akanksha Gupta, Advocates along with Respondent-in-Person.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed challenging the order dated 12.03.2019 (hereafter '**the impugned order**'), passed by the learned Additional Sessions Judge ('**ASJ**'), Tis Hazari Courts, Delhi, whereby the revision petition filed by the petitioner, Smt. Meena Gill, against the summoning order dated 03.02.2018 passed by the learned Additional Chief Metropolitan Magistrate ('**ACMM**') was dismissed. The learned ACMM had summoned the petitioner to face trial for the alleged offence of criminal intimidation under Section 506 of the



Indian Penal Code, 1860 ('IPC') in a complaint filed by Respondent No.1, Sh. Pradeep Kumar Gupta.

2. Briefly stated, Respondent No.1/Pradeep Kumar Gupta, filed a complaint on 04.04.2016, alleging that the petitioner had threatened him during an office meeting. He alleged that the petitioner had marked her attendance in the attendance register in a fraudulent manner and, when confronted, threatened to implicate him in a false sexual harassment case. The petitioner allegedly said that she would defame him by making false allegations against him, thereby causing harm to his reputation and career.

3. Following this incident, Respondent No.1 filed a written complaint to his superiors, including a complaint to the General Manager through email, and later lodged a formal complaint with the SHO of Pahar Ganj Police Station, New Delhi, on 11.04.2016 stating that he had been living under the fear of being falsely implicated in a sexual harassment case and had been threatened by the petitioner.

4. On 05.05.2016, Respondent No.1 filed a complaint under Section 200 of the Code of Criminal Procedure, 1973 ('CrPC') and simultaneously filed an application for the registration of an FIR under Section 156(3) of the CrPC. The application under Section 156(3) of the CrPC was dismissed by the learned ACMM by order dated 03.10.2016, after considering the initial complaint. The learned ACMM observed that the facts did not warrant the registration of an FIR, but permitted the case to proceed as a criminal complaint under Section 200 of the CrPC.



5. After the complaint was examined and statements of witnesses were recorded, the learned ACMM summoned the petitioner by order dated 03.02.2018 to face trial for criminal intimidation under Section 506 of the IPC.

6. Thereafter, revision petition was filed by the petitioner, challenging the summoning order on the grounds that it was passed without considering the established legal principles. The petitioner contended that the learned ACMM had failed to apply the correct legal standards in determining whether a case for criminal intimidation had been made out.

7. As noted above, the learned ASJ, by the impugned order, dismissed the revision petition and upheld the summoning order passed by the learned ACMM. Aggrieved by the same, the petitioner preferred the present petition before this Court.

8. The learned counsel for the petitioner submitted that that the allegations made against the petitioner do not fulfill the essential ingredients of the offence of criminal intimidation as defined under Section 503 IPC. To establish an offence under Section 506 of the IPC, it is necessary to prove that the accused threatened the victim with injury to their person, reputation, or property, or to someone in whom the victim is interested, with the intent to cause alarm or to compel them to act in a way they are legally bound or entitled to act. In the present case, the alleged threat made by the petitioner lacks the requisite intent to cause alarm to the respondent.



9. The learned counsel submitted that Respondent No.1 has failed to present any evidence of a real and credible threat made by the petitioner. The petitioner's statement allegedly made during the office meeting does not indicate any form of credible threat or alarm.

10. He submitted that, after considering the allegations made in the complaint and the evidence presented, there is no *prima facie* case for criminal intimidation under Section 506 of the IPC. The learned ACMM has failed to appreciate the lack of sufficient evidence to support the charges, and the learned ASJ has erroneously dismissed the revision petition without considering the key aspects of the statutory requirements of Section 506 of the IPC.

11. *Per contra*, the learned counsel for Respondent No.1 vehemently opposed the present petition and submitted that a *prima facie* case for criminal intimidation under Section 506 of the IPC has been clearly made out. Respondent No.1 has alleged that the petitioner, during an office meeting, threatened to falsely implicate him in a sexual harassment case, which amounts to criminal intimidation under Section 503 of the IPC. Respondent No.1 further asserted that the petitioner's threat was made with the intent to harm his reputation, create alarm, and force him to act in a manner contrary to his legal rights.

12. The learned counsel submitted that the threat made by the petitioner was not a mere statement or a general expression of dissatisfaction but the petitioner's words were intended to cause harm to Respondent No.1's reputation and professional standing. The



learned counsel argued that the petitioner's words were intended to create fear and alarm in the mind of Respondent No.1, which is precisely the essence of criminal intimidation. The threat to falsely accuse Respondent No.1 of sexual harassment is a specific and malicious threat that goes beyond simple defamation or vague accusations.

13. The learned counsel contended that there is no illegality or infirmity in the order passed by learned ACMM as well as by learned ASJ while upholding the order of summoning the petitioner in a case under Section 506 of the IPC, therefore the present petition filed by the petitioner is liable to be rejected outrightly.

ANALYSIS

14. The first issue that falls for the consideration of this Court is whether the petitioner having already availed the remedy of revision should be allowed to take recourse to Section 482 of the CrPC as a substitute for initiating a second revisional challenge which is clearly barred under Section 397(3) of the CrPC which reads as follows:

“(3) If an application under this section has been made by any person either to the High court or to the Sessions Judge, no further application by the same person shall be entertained by the either of them.”

15. At the outset, it is relevant to note that while it is settled law that a second revision cannot be filed in terms of the bar under Section 397 of the CrPC, the inherent power of this Court under Section 482 of the CrPC has a wide ambit and can be exercised in the interest of justice. It is settled law that the power under Section 482 of the CrPC is to be



exercised cautiously and sparingly, especially when Sessions Judge has already exercised revisional power under Section 397 of the CrPC.

16. The Hon'ble Apex Court, in the case of **Krishnan v. Krishnaveni : (1997) 4 SCC 241**, had observed as under:

*“8. The object of Section 483 and the purpose behind conferring the revisional power under Section 397 read with Section 401, upon the High Court is to invest continuous supervisory jurisdiction so as to prevent miscarriage of justice or to correct irregularity of the procedure or to mete out justice. **In addition, the inherent power of the High Court is preserved by Section 482. The power of the High Court, therefore, is very wide. However, the High Court must exercise such power sparingly and cautiously when the Sessions Judge has simultaneously exercised revisional power under Section 397(1). However, when the High Court notices that there has been failure of justice or misuse of judicial mechanism or procedure, sentence or order is not correct, it is but the salutary duty of the High Court to prevent the abuse of the process or miscarriage of justice or to correct irregularities/incorrectness committed by inferior criminal court in its juridical process or illegality of sentence or order.**”*

(emphasis supplied)

17. In the present case, the petitioner, challenges the summoning order dated 03.02.2018, which was upheld by the learned ASJ by the impugned order alleging that she committed the offence of criminal intimidation under Section 506 of the IPC. The basic constituent of an offence under Section 506 of the IPC is to punish a person for the offence of criminal intimidation, which lays down the cases where threat to death or grievous hurt be caused. Section 506 IPC reads as under:

*“Section 506. Punishment for criminal intimidation.—
Whoever commits the offence of criminal intimidation shall be*



punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.— and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 8[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”

18. The Hon’ble Apex Court in **Vikram Johar v. State of Uttar Pradesh : (2019) 14 SCC 207**, held that:

“25. Now, reverting back to Section 506, which is offence of criminal intimidation, the principles laid down by Fiona Shrikhande [Fiona Shrikhande v. State of Maharashtra, (2013) 14 SCC 44 : (2014) 1 SCC (Cri) 715] has also to be applied when question of finding out as to whether the ingredients of offence are made or not. Here, the only allegation is that the appellant abused the complainant. For proving an offence under Section 506 IPC, what are the ingredients which have to be proved by the prosecution? Ratanlal & Dhirajlal on Law of Crimes, 27th Edn. with regard to proof of offence states the following:

“... The prosecution must prove:

(i) That the accused threatened some person.

(ii) That such threat consisted of some injury to his person, reputation or property; or to the person, reputation or property of someone in whom he was interested;

(iii) That he did so with intent to cause alarm to that person; or to cause that person to do any act which he was not legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat.”

19. Respondent No.1 herein has alleged that the petitioner threatened to falsely implicate him in a sexual harassment case, which is *prima facie* a serious accusation that could lead to substantial reputational damage and harm.



20. Section 506 of the IPC classifies criminal intimidation into two categories: lesser and graver forms. The primary element of the offence is the act of threatening the victim, and the intent behind the threat plays a crucial role in determining whether the offence falls within the lesser or graver category. The intention to cause alarm or compel the victim to take certain actions is a critical aspect of the offence. However, the determination of the accused's intent is a matter that can only be fully assessed after the evidence is presented and examined during the trial. Therefore, at the stage of summoning, it is not necessary for the court to decide the exact intent, but rather to establish whether a *prima facie* case exists to proceed with the trial. This will be conclusively determined after the evidence is led in the trial court.

21. It is settled law that at the stage of issuance of process, the learned Trial Court is supposed to apply its mind to the facts at hand as well as the relevant law. After examination of the allegations and material on record, the learned Trial Court is required to record its satisfaction that sufficient grounds exist for proceeding against the accused. The Hon'ble Apex Court, in the case of ***Pepsi Foods Ltd. v. Special Judicial Magistrate : (1998) 5 SCC 749***, had observed as under:

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate



summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

22. In the considered opinion of this Court, once the Trial Court has exercised its discretion, it is not for this Court, to substitute its own discretion for that of the learned ACMM or to examine the case on merits with a view to find out whether the allegations in the complaint, if proved, would ultimately end in conviction of the accused. The Hon’ble Apex Court in the case of **Dy. Chief Controller of Imports & Exports v. Roshanlal Agarwal : (2003) 4 SCC 139**, held as under :

*“9. In determining the question whether any process is to be issued or not, what the Magistrate has to be satisfied is whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons.....
The legislature has stressed the need to record reasons in certain situations such as dismissal of a complaint without issuing process. There is no such legal requirement imposed on a Magistrate for passing detailed order while issuing summons. The process issued to accused cannot be quashed merely on the ground that the Magistrate had not passed a speaking order.”*



23. Further, in the case of ***U.P. Pollution Control Board v. Dr. Bhupendra Kumar Modi*** : (2009) 2 SCC 147, the Hon'ble Apex Court held as under :

“23. It is a settled legal position that at the stage of issuing process, the Magistrate is mainly concerned with the allegations made in the complaint or the evidence led in support of the same and he is only to be prima facie satisfied whether there are sufficient grounds for proceeding against the accused.”

24. In the present case, the allegations made by the complainant, supported by the witnesses, is sufficient to establish a *prima facie* case of criminal intimidation. The complainant's statement regarding the petitioner's threat to falsely implicate him in a sexual harassment case satisfies the threshold for issuing summons. Furthermore, the learned ACMM considered the statements of the witnesses who corroborated the complainant's allegations, based on which the summoning order was passed. This Court primarily ought to see as to whether any *prima facie* case has been made against the petitioner or not and in the considered opinion of this court, the courts below had found *prima facie* material available on record to summon the petitioner.

25. The learned ASJ, dismissed the revision petition against the summoning order after taking into consideration the statements of the witnesses, rightly noted that the proceedings were not an abuse of process or vexatious and there is no evidence to suggest that the complaint was filed with malicious intent or for ulterior purposes.

26. It is pertinent to take into consideration that the complainant's witnesses, specifically CW-1, CW-2, and CW-3, have corroborated



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the version of the complainant. During their examination, they provided consistent statements that support the complainant's allegations regarding the threat made by the petitioner. They have testified that they were present at the meeting in which the alleged threat was made. These testimonies are sufficient to establish a *prima facie* case of criminal intimidation.

27. The inquiry into the truth of the matter will have to be made during further proceedings before the trial court and, therefore, no further observations in the present case are called for.

28. In view of the above, this Court finds no reason to interfere with the impugned order.

29. The petition is, therefore, dismissed.

AMIT MAHAJAN, J

DECEMBER 16, 2024