



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 276 OF 2024

Ajit Prabhakar Kulkarni,
Age: 48 years, Occu: Social Service,
R/o. Flat No.601, Disha Residency,
Vijay Deshmukh Nagar,
Vijapur Road, Solapur.

.....Petitioner

Vs.

1. State Of Maharashtra,
(Through Mohol Police Station,
Vide C.R.No.1192/2022).
(Notice to be served upon A.P.P.
High Court, A.S., Bombay)

2. Prashant Subash Bedase,
Age: 37 years, Occu: Tahsildar Mohol,
R/o: Tal Mohol, Dist.: Solapur.

.....Respondents

Mr. Ritesh Thobde with Zubi Ansari, with Ms. Ankita Rai, for the Petitioner.
Mr. Vinit A. Kulkarni, APP, for Respondent No.1-State.
Mr. V. N. Upase, PHC, Mohol Police Station is present.

CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.

DATE : 1st JULY, 2024.

JUDGMENT (Per Dr. Neela Gokhale) :-

- 1) Petitioner seeks to quash the F.I.R. No.1192 of 2022 dated 23rd December 2022 registered with the Mohol Police Station, Solapur Rural, for offences punishable under Sections 353, 384, 387, 500 and 504 read with 34 of the Indian Penal Code (I.P.C.).
- 2) The Petitioner claims to be a social crusader working for betterment of the downtrodden and vulnerable section of society in Solapur

District. The Respondent No.2 (Complainant) is a former Tehsildar in the Mohol Tehsil Office.

3) It is the case of the complainant as discerned from the F.I.R. that, the complainant was working in the Tehsil office since 21st September 2021 as Tehsildar. He is a hardworking Officer attending office even on public holidays. On 20th October 2022, one Vaibhav Javale came to his office and complained that, no action was being taken on illegal mining done by some Company. The complainant informed him that, his office had taken necessary steps to prevent any person from indulging in illegal mining activities in his area of operation. The complainant also conveyed that, documents in that regard will be made available to any person applying under the Right to Information Act. Despite clarification in that regard, said Javale called the Petitioner on phone and handed over the phone to the complainant. The Petitioner then demanded an amount of Rs.50,000/- from the complainant and threatened to start a protest if his demands were not met. It is also the case of the complainant that, the Petitioner along with his accomplice continued to send him intimidating messages threatening to commence protests and other such activities if the complainant did not pay him money as per his demand. He went to the extent of spreading canards about the Petitioner in text messages and forwards defaming the complainant on various news portal via social media. On 23rd December 2022, as usual when the complainant was in his

office, at about 11.30 am. Vaibhav Javale came to his office and again started making demand of money. The Petitioner once again threatened to initiate protest and defame the complainant during the ensuing Legislative Assembly Session in Nagpur. He also called him on phone innumerable times with threats and further demands of money. The complainant being fed up with such threats and demands, complained to the police of the Mohol Police Station. They set up a trap for the Petitioner and caught him red-handed while accepting an amount of Rs.8,000/- in the form of 40 currency notes of 200 denomination from the complainant. It is thus the case of the complainant that, the Petitioner and his accomplice used criminal force on him being a public servant in the execution of his duties as a public servant with an intent to prevent him from discharging his duties. The complainant has thus lodged the F.I.R. impugned herein.

4) Mr. Thobde, learned counsel appears for the Petitioner and Mr. V. A. Kulkarni learned APP represents the State.

5) Mr. Thobde contends that, the allegations in the F.I.R. do not make out any case for trial and that they are inherently improbable. He submitted that, ingredients of the offences as alleged are not even prima facie made out against the Petitioner. He further argues that, raising grievances in a democratic manner by protesting against illegal action or inaction of public servant does not amount to any offence. He raises a strange ground that, the Petitioner has only acted in furtherance of

fundamental right bestowed upon him and hence he urges us to quash the F.I.R. as it is sheer harassment to the Petitioner to undergo the rigors of the trial.

6) Mr. Kulkarni, learned APP drew our attention to the contents of the F.I.R. clearly revealing the recovery of Rs.8,000/- (40 currency notes of 200 denomination) from the Petitioner in pursuance of a trap laid by the police. The trap was laid by the police on the basis of the information provided by the complainant in respect of the Petitioner and his accomplice extorting money from him. He thus supports the case of the complainant and urges us to dismiss the Petition.

7) A plain but careful reading of the F.I.R. clearly indicates that, Rs.8,000/- were actually recovered from the Petitioner in pursuance of a trap laid by the police. The allegation of the complainant in the F.I.R. thus inspires confidence as it is duly corroborated by a seizure of the said ransom amount on the spot. The Supreme Court in the case of *Isaac Isanga Musumba & Ors. v. State of Maharashtra & Ors.*¹ has observed that, unless the property is delivered to the accused person pursuant to a threat, no offence of extortion is made out. In the present case, cash demanded by the Petitioner from the complainant has been recovered and allegation of the complainant has been witnessed by the persons from the raiding party. The specific ingredients of the offences as alleged are clearly made out.

¹ (2014) 15 SCC 357.

8) The present case is suggestive of an emerging trend by persons such as the Petitioner herein, who with the aid of modern-day technologies devise a *modus operandi* to commit such offence. Hiding behind the screen of social media, irresponsible acts are done which have the propensity to effectively intimidate and cause a person to do acts which they would not otherwise lawfully do. All this while maintaining a veil of deniability of the act. The threat to use social media sites as a platform to intimidate and threat given by the petitioner and his accomplice is real enough to scare the complainant *albeit* a public servant ignoring their demands only at the risk of being defamed or facing an engineered protest.

9) Section 353 of the I.P.C. makes use of criminal force to any person being a public servant in the execution of his duty or with intent to prevent or deter him from discharging his duties, an offence. The act of the Petitioner in intimidating the complainant by threatening to defame him on social media site as well as engineering artificial protest also falls within the scope and ambit of the word 'criminal force' used in the Section. Threats of using social media site to intimate is a manifestation of the intention of the Petitioner to abuse modern day technology by 'virtually' using criminal force on the complainant. The ulterior motive is to deter him from discharging his public duty. In such circumstances 'criminal force' must not be restricted to only include physical force, but must bring within its ambit 'virtual force'. Section 353 cannot be interpreted in a narrow or parochial manner and a

myopic view cannot be taken of the same. Such acts do not merely threaten the victims of crime but also defeats the very purpose of the criminal justice system. As in the case at hand, a public servant is at his tether's end to find a resolution to the constant threats and demands of money by the Petitioner. Finally, he found courage enough to approach the police who set up the trap to ensnare the Petitioner.

10) It is most unfortunate that, a public servant has been threatened and intimidated by defamatory material being circulated on social media to lower his reputation in the eyes of the right-thinking members of the society. A Tehsildar in a district is a respected public officer and is expected to discharge important functions in revenue matters. He is required to command obedience from the public at large visiting his office. If the repute of his office is lowered in the environment over which he has jurisdiction, there is a probability of chaos and disruption in the discharge of his duties. The threat of spreading false narrative by way of engineered protests in present times is bound to be quite a scary proposition for a public servant such as the complainant. The intent of the Petitioner in giving the threats and cause concern to the complainant would easily amount to an obstruction of a public servant from carrying out his public duties, particularly when the threats are coupled with aggressive and menacing acts on the part of the Petitioner and his accomplice. The F.I.R. also reveals the threat given by the Petitioner of organizing a protest during

the Legislative Assembly Session in Nagpur which gives the entire act of the Petitioner a political color. This is reason enough for the complainant to be disconcerted and place him in fear of injury to his person and reputation. These acts are deprecated and need to be discouraged at their very inception, justifying prosecution.

10.1) We have recorded our above observations in detail only to bring to the fore the dangers of public servants being intimidated while discharging their public duty. Public faith in public servants cannot be allowed to erode. Such acts must be viewed seriously.

11) In view of the aforementioned facts, we are of the considered opinion that, the F.I.R. prima facie discloses ingredients of the offences as alleged. We are thus not inclined to allow the Petition.

12) The Petition is accordingly dismissed.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)