



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO.1621/2024

Shri. Naresh s/o Wasudeo Thakre
Age- 51 years, Occupation- Service
Resident of : Plot No.:-84-B, Pande Layout,
Khamla Road, Nagpur – 440025.

... **APPLICANT**

...**VERSUS**...

1. State of Maharashtra,
Through Police Station Officer,
Police Station Ranapratap Nagar,
Nagpur.
2. Shri. Ashwin s/o Mohanrao Karne
Age- Major, Occupation – Private,
Resident of :- Kelibagh Road, Badkas
Chowk, Mahal, Nagpur

...**NON-APPLICANTS**

Shri B.H. Tekam, Advocate for applicant
Shri M.J. Khan, APP for non-applicant No.1/State
Shri S.P. Bodalkar, Advocate (appointed) for non-applicant No.2

CORAM : PRAVIN S. PATIL, J.

DATED : 10.02.2026

ORAL JUDGMENT

Heard. By consent of the parties, this matter is taken
for final disposal at admission stage.

2. By this application, the applicant is seeking quashment of the proceedings registered in S.C.C. No.14559/2024 arising out of First Information Report No.194/2024 registered with Police Station Ranapratap Nagar, Nagpur for the offence punishable under Section 385 of the Indian Penal Code.

3. The applicant approached before this Court on the ground that there is a civil dispute pending between the parties and to resolve the civil dispute, he has given a proposal to non-applicant No.2. As such, there are no elements, which are attracted for the offence punishable under Section 385 of the Indian Penal Code. Hence, according to him, even First Information Report is accepted in its entirety, the offence under Section 385 of the Indian Penal Code is not made out in the matter and, therefore, seeks indulgence of this Court to quash and set aside the criminal proceedings registered against him.

4. The case of the prosecution in short is that non-applicant No.2 lodged a complaint with Police Station on 07.05.2024 alleging therein that he being a partner of M/s Inventive Construction Company Pvt. Limited, had purchased 20

acres of land Survey No. 16,21, 22, 23/1, 24/1, 25/1 of Mouza Junapani, Khata No.91, Tahsil Hingana, District Nagpur, in auction proceedings held on 03.03.2023 from State Bank of India, Branch Ravinagar, Nagpur, for a valuable consideration of Rs.6,93,00,000/-. It is also stated that in view of the purchase through proper channel, the possession of the land was also handed over to the complainant.

5. After taking possession of the land, the present applicant along with his 4-5 associates illegally entered in to the suit property and abused the security guard. They asked to stop the work in the field by stating that he is the owner of the land and also tried to fix the board over the said land. Hence, on this count, the dispute arose between them in the matter. Later on, in the meeting held at one Matadin Rambhandar Hotel, Pratap Nagar, Nagpur, on 13.02.2024, wherein the applicant asked him either to give possession of the said land or pay him the amount of Rs.1,50,00,000/- to withdraw the Civil Suit filed by him in respect of the suit property. As such, on these allegations, offence under

Section 385 of the Indian Penal Code came to be registered in the matter.

6. The applicant, who approached before this Court has relied upon Section 385 of the Indian Penal Code and pointed out that to attract the offence under Section 385 of the Indian Penal Code, the necessary ingredients are that accused must put the person in fear of any injury or dishonestly induces the person to put in fear to deliver any property. If these ingredients are not spelt out by the complainant, then offence under Section 385 of the Indian Penal Code is not attracted in the matter. For perusal of Section 385 of the Indian Penal Code is reproduced as under:

“Section 385.- Putting person in fear of injury in order to commit extortion.-

Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

7. The applicant in support of his submission has relied upon the following case laws:

i) ***Isaac Isanga Musumba and others Vs. State of Maharashtra and others reported in (2014) 15 SCC 357***

ii) Shatrughan Singh Sahu Vs. State of Chhattisgarh through the Secretary, Department of Law and Legislative Affairs and others reported in 2021 SCC OnLine Chh 2648

iii) Sri. N. Hanumegowda Vs. State of Karnataka and another in Writ Petition No.15546 of 2019 (GM-RES)

8. The non-applicant No.2 has strongly opposed the present application. According to the non-applicant No.2 while considering the present case, the *modus operandi* of the non-applicant No.2 is required to be taken into consideration, because he is habitual in lodging such complaint against the builder who purchased the land property, or if he gets knowledge about such transaction that there are disputes in the properties then he used to follow the same modus operandi by filing the civil suit and extort the money from property dealers.

9. In support of this submission, the non-applicant No.2 has relied upon one First Information Report registered against the present applicant at Police Station Dhantoli, in the year 2021 vide Crime No.0039/2021. The perusal of the said First Information Report shows that the offence under the Money Lending Act and under the provisions of Sections 384, 386 and 364-A of the Indian Penal Code, the offence is registered against the present applicant.

He has also relied upon one of the complaints filed by Gandhi Builder and Developers to the Police Station Pratap Nagar, dated 12.01.2024, wherein also the present applicant has filed Regular Civil Suit No.774/2009 regarding the title and possession of the property. The said suit was dismissed by recording the finding that the case of the applicant was based on forged and manipulated documents. As such, according to the non-applicant No.2, considering entire documents which he has collected in the matter, it is clear that it is a *modus operandi* of the present applicant and, therefore, considering this *modus operandi*, the offence of extortion is attracted in the matter.

10. The non-applicant No.2 in support of this submission, has relied upon the judgment of ***Balaji Traders Vs. State of Uttar Pradesh and another reported in (2025) 10 SCC 638***, particularly in paragraph Nos.10 and 14 of the judgment, which reads as under:

“10. Section 383 defines "extortion", the punishment therefor is given in Section 384. Sections 386 and 388 provide for an aggravated form of extortion. These sections deal with the actual commission of an act of extortion, whereas Sections 385, 387 and 389 IPC seek to punish for an act committed for the purpose of extortion even though the act of extortion may not be

complete and property not delivered. It is in the process of committing an offence that a person is put in fear of injury, death or grievous hurt. Section 387 IPC provides for a stage prior to committing extortion, which is putting a person in fear of death or grievous hurt "in order to commit extortion", similar to Section 385 IPC. Hence, Section 387 IPC is an aggravated form of Section 385 IPC, not Section 384 IPC.

14. Thus, it can be said in terms of Sections 386 (an aggravated form of Section 384 IPC) and Section 387 IPC that the former is an act in itself, whereas the latter is the process; it is a stage before committing an offence of extortion. The legislature was mindful enough to criminalise the process by making it a distinct offence. Therefore, the commission of an offence of extortion is not sine qua non for an offence under this section. It is safe to deduce that for prosecution under Section 387 IPC, the delivery of property is not necessary."

11. Learned APP has supported the submission made by the non-applicant No.2 and stated that the complaint is rightly registered against the present applicant on the basis of specific allegation raised by the complainant, therefore, at this stage, it is not a fit case to interfere by this Court in the matter.

12. In view of this, I have firstly perused Section 385 of the Indian Penal Code and the judgment of the Hon'ble Supreme Court of India in the case of *Isaac Isanga Musumba and others (supra)*,

wherein the Hon'ble Supreme Court has considered the Section and recorded its finding in paragraph No. 3, which are reproduced as under:

"3. We have read the FIR which has been annexed to the writ petition as Annexure P-7 and we find therefrom that the complainants have alleged that the accused persons have shown copies of international warrants issued against the complainants by the Ugandan Court and letters written by Uganda Ministry of Justice and Constitutional Affairs and the accused have threatened to extort 20 million dollars (equivalent to Rs 110 crores). In the complaint, there is no mention whatsoever that pursuant to the demands made by the accused, any amount was delivered to the accused by the complainants. If that be so, we fail to see as to how an offence of extortion as defined in Section 383 IPC is made out. Section 383 IPC states that:

"383. Extortion.- Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits 'extortion'."

Hence, unless property is delivered to the accused person pursuant to the threat, no offence of extortion is made out and an FIR for the offence under Section 384 could not have been registered by the police."

13. So also the Hon'ble Supreme Court in the case of ***Salib @ Shalu @ Salim Vs. State of U.P. and ors. reported in 2023 INSC***

687, has occasioned to consider this provision and in this regard in paragraph No. 22, the Hon'ble Supreme Court has observed as under:

“22. So from the aforesaid, it is clear that one of the necessary ingredients of the offence of extortion is that the victim must be induced to deliver to any person any property or valuable security, etc. That is to say, the delivery of the property must be with consent which has been obtained by putting the person in fear of any injury. In contrast to theft, in extortion there is an element of consent, of course, obtained by putting the victim in fear of injury. In extortion, the will of the victim has to be overpowered by putting him or her in fear of injury. Forcibly taking any property will not come under this definition. It has to be shown that the person was induced to part with the property by putting him in fear of injury. The illustrations to the Section given in the IPC make this perfectly clear.”

14. From the consistent view of the Hon'ble Supreme Court, it is clear that the necessary ingredient to attract the offence of extortion is that the victim must be induced to deliver to any person any property which has been obtained by putting the person in fear of any injury. So also, the will of the victim is required to be overpowered by putting him in fear of injury. The Hon'ble Supreme Court has held that forcibly taking any property will not come under this definition. It has to be shown that the person was

induced to part with the property by putting him in fear of injury. Hence, for attracting this offence, the one of the important ingredients is that the person must be induced and must be put in fear of injury, then only the offence under Section 385 of the Indian Penal Code is attracted in the matter.

15. In the present case, though non-applicant No.2 has pointed out the *modus operandi* of the applicant of extorting the various persons, it is pertinent to note that at the time of lodging complaint or during the investigation, all these facts were not brought to the notice of the investigating officer. So also, the investigating officer did not collect any such incriminating material in the entire investigation. Hence, this submission, in my opinion, which is made first time before this Court by the non-applicant cannot be accepted.

16. It is pertinent to note that the investigating officer has recorded the statements of the persons who were present in the meeting dated 13.02.2024. The statements of the said persons are namely Sandip Vinod Samrudhe, Suraj Bhalavi. The perusal of the statements of these persons clearly established the facts that there

was a healthy discussion in the meeting and there was an exchange of proposals between them as the civil dispute is pending between the parties. Therefore, considering the statements of both the witnesses, *prima facie*, it is clear that the offence under Section 385 of the Indian Penal Code is not made out against the applicant in the matter.

17. It is also pertinent to note that the civil suit, which is alleged to be filed with certain ulterior motive, after its perusal shows that the said suit has been pending before the Civil Court since 2009. The property which is purchased by the non-applicant No.2 in the auction in the year 2023, therefore, it cannot be said that this suit was filed with an ulterior motive by the present applicant in the matter.

18. The non-applicant No.2 pointed out criminal antecedents of applicant. The bare perusal of the said chart shows that most of the offences are registered against the present applicant as a money lender. Therefore, the facts and circumstances of those cases may be of a different nature and same cannot be considered in the present case. The applicant in this regard has

rightly relied upon the judgment of the Hon'ble Supreme Court of India in case of ***Mohd. Wajid and another Vs. State of Uttar Pradesh and others reported in (2023) 20 SCC 219***, wherein the Hon'ble Supreme Court has specifically observed in paragraph No.43 as under:

“43. The learned Additional Advocate General appearing for the State vehemently submitted that considering the gross criminal antecedents of the appellants before us, the criminal proceedings may not be quashed. The learned Additional Advocate General appearing for the State in her written submissions has furnished details in regard to the antecedents of the appellants. A bare look at the chart may give an impression that the appellants are history-sheeter and hardened criminals. However, when it comes to quashing of the FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings. An accused has a legitimate right to say before the Court that howsoever bad his antecedents may be, still if the FIR fails to disclose commission of any offence or his case falls within one of the parameters as laid down by this Court in Bhajan Lal, then the Court should not decline to quash the criminal case only on the ground that the accused is a history-sheeter. Initiation of prosecution has adverse and harsh consequences for the persons named as accused.”

19. In light of the above said factual position, I am of the considered opinion that the offence under Section 385 of the Indian

Penal Code is not made out against the present applicant and, therefore, it will not be proper to continue the criminal proceedings against the present applicant. For the reasons stated above, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The proceedings registered in S.C.C. No.14559/2024 arising out of First Information Report No.194/2024 registered with Police Station Ranapratap Nagar, Nagpur for the offence punishable under Section 385 of the Indian Penal Code is hereby quashed and set aside.
- iii) Fees to the appointed Counsel be quantified as per Rules.

20. The application stands disposed of. No order as to the costs.

(PRAVIN S. PATIL, J.)

R.S. Sahare