

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

306

CRM-M-52490-2019

DATE OF PRONOUNCEMENT: 16.03.2022

SHAILABH MENDIRATTA

... Petitioner(s)

Versus

STATE OF HARYANA AND ANR.

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Prabhdeep Singh Bhandari, Advocate and
Mr. Rubal Garg, Advocate for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Ankit Bishnoi, Advocate for respondent No.2.

ANUPINDER SINGH GREWAL, J.

1. The petitioner has sought quashing of FIR No.134 dated 07.03.2019, under Sections 386 & 506 IPC, registered at Faridabad Central, Faridabad (Annexure P-3), Report under Section 173(2) Cr.P.C. dated 03.06.2019 (Annexure P-5) and all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner submits that the petitioner, who is 26 years of age, graduated from the Maharashtra Institute of Technology (MIT Pune) in Computer Science and has worked with Google. The grandfather of the petitioner namely Amir Chand Mehndiratta and the father of the complainant namely Mehar Singh had a shared holding to the extent of half share each in M/s Friends Auto (India) Private Limited. The company has a turnover of Rs.250 crores and is in manufacturing of automotive parts at Faridabad. After the death of the grandfather of the petitioner, the father of the petitioner and his uncles became the owners being legal heirs of Amir Chand Mehndiratta to the extent of 38.40% of the total

share holding of the company. The company was, thus, being run by the members of the petitioner's family and the family of respondent No.2.

3. The son of respondent No.2 had been inducted as a Director in the year 2017 without informing the Board of Directors or taking its consent which led to a dispute. The petitioner filed a civil suit for injunction at District Court Faridabad but the same was dismissed on 14.06.2019 with a direction to approach appropriate authorities as per law. Thereafter, they had filed a company petition before the Company Law Tribunal and the NCLT Delhi Bench by the order dated 08.11.2019, had directed the parties to maintain *status quo* (Annexure P-6). The family members of the petitioner and complainant were trying to settle the dispute and in furtherance thereto the petitioner had sent a message on Whatsapp to respondent No.2 on 07.03.2019. The message is reproduced hereinunder:-

“62/B-II Mohan corporate indl estate + 50 crs for me
and my dad...

Boss to Boss

Straight shooter.”

4. Respondent No.2 then filed a complaint on 07.03.2019 to the Commissioner and on orders of Commissioner of Police, Faridabad an FIR was registered the same day. The petitioner was arrested on 07.03.2019 itself and was later granted regular bail by the trial Court.

Learned counsel submits that the message was only in furtherance to the talks of settlement. The property and the money mentioned in the message is commensurate with the share of the petitioner's father in the company.

5. The literal meaning of the term “straight shooter” is an “honest and straight forward person”. The term “Boss to Boss” means to sit face to face to solve a dispute. He has referred to the definition of “straight shooter” in various dictionaries and an American journal where the term has been used in the context of a straight forward person.

6. Besides the message, there is no other allegation that the petitioner had threatened respondent No.2 to face consequences in any manner whatsoever. The essential ingredients of offences under Sections 386 and 506 IPC are not made out and, therefore, the FIR and subsequent proceedings are liable to be quashed. He has relied upon the judgments of the High Court in the case of **Isaac IsangaMusumba and others. Vs. State of Maharashtra and others, 2013(3) RCR (Criminal) 795, Shatrughan Singh Sahu Vs. State of Chhattisgarh and Ors.,WPCR No.133 of 2017, decided on 07.09.2021, Shaikh Mujib Vs. State of Maharashtra, 2017(2) AIR, Bom.R (Cri) 361, Soma Ram and Others Vs. State of Rajasthan and another, 2006 (12) RCR (Criminal) 206 and State of Haryana and ors. Vs. Ch. BhajanLal and ors., 1991 (1) RCR (Criminal) 383.**

7. Learned counsel for respondent No.2 contends that respondent No.2 is 58 years old and he had received the message at 05:00 a.m. on 07.03.2019 from an unknown number. He had received threats in the past as well. Respondent No.2 had earlier been attacked by unknown persons in the year 2008. He had lodged an FIR No.36 dated 19.02.2008, under Sections 307 and 34 IPC and Sections 25, 54, 59 of the Arms Act and an untraced report was filed in the year 2014. He had been threatened in the year 2017 as well when a speeding car had stopped his vehicle.

8. He also contends that the offences under Sections 506 and 386 IPC would be made out. In the alternative, he had stated that even assuming an offence under Section 386 IPC is not made out even then, an offence under Section 387 IPC would be made out as there was clearly an attempt on the part of the petitioner to put respondent No.2 in fear of grievous hurt or death. He also contends that the petition in NCLT had been filed on 15.07.2019 which is four months after registration of the FIR. The petitioner had not done any business with respondent No.2 and, therefore, it was an attempt on the part of the petitioner to extort money by putting him in fear of grievous injury and death.

9. Heard.

10. The FIR is founded on the Whatsapp message sent by the petitioner to the complainant. The message begins with reference to the property and there is also a reference to a sum of money. In the latter part, the words “Boss to Boss” and “straight shooter” are used.

11. The dictionary meaning of the word “straight shooter” as per the revised, eleventh edition of the Oxford English Dictionary; page 1424 is defined as an honest and forthright person.”

12. The expression has also been used by publications of repute including the Harvard Business Review. The Harvard Business Review article titled “What Leadership Looks like in Different Cultures” written by Tomas Chamorro-Premuzic and Michael Sanger” published on May 06, 2016 elaborates about the communication style of a straight shooting leader. The relevant extract is reproduced hereunder:-

“The straight shooting leader. In some regions employees expect their leaders to confront issues straightforwardly. In Northeast

Asia and countries like the Netherlands, excessive communication is less appealing in the leadership ranks. People just want you to get to the point. Accordingly, task-oriented leaders are preferred. Impromptu performance review meetings with direct reports occur more commonly in these locations, and leaders address undesirable behaviors from team members as soon as they are observed. Straight shooting leaders tend to be less interpersonally sensitive.”

13. The “straight shooter” is, thus, a straight forward and a forthright person who would call a spade a spade. The definition does not refer to any violent activity or mean literally to shoot with a firearm.

14. The use of the slang is fairly common amongst the younger generation which is adept at messaging. It can be misunderstood if taken literally.

15. Often these messages may appear to be cryptic but the point is driven home. The art of letter writing with formation of sentences, punctuated with proper grammar is almost on the verge of extinction. One can say that from the standpoint of a semi-literate person, the message may seem threatening but viewed in the afore-noted factual backdrop, it is more plausible that it is part of the process of negotiation between the families of the shareholders of the company. The reference to the property has been made which is stated to be owned by the company wherein the petitioner’s family and the complainant are shareholders. It is also borne out that there is dispute with regard to the company’s affairs amongst the shareholders.

16. The respondent has submitted that the petition before the company-Board was filed after registration of the FIR in this case. However,

the counsel for the petitioner has submitted that the civil suit was filed earlier which was dismissed on 14.06.2019 by the Civil Court with the direction to approach the authorities as per law.

17. It is, thus, apparent that there is a dispute with regard to the share holding or in connection with the affairs of the company and the message was sent in pursuance to attempt to resolve it.

18. Furthermore even if a phrase or an idiom which has been sent through a message is capable of two interpretations, the one which is favourable to the accused would be acceptable. If a narrow and pedantic view is taken then it may curtail freedom of speech and expression. In a democracy, people are free to express their views. Freedom of speech and expression is one of the essential foundations of a democratic society, one of the basic conditions for its progress and for the self-fulfilment of an individual. Besides the aforementioned message in the instant case, there is no supporting material which would constitute a *prima facie* case under Section 387 IPC.

19. It is true that this Court does not have to embark on a detailed enquiry or examine the supporting material minutely while exercising jurisdiction under Section 482 Cr.P.C. Nonetheless, in the instant case, the Whatsapp message is the foundation of the FIR and the prosecution case. There is neither any material on file nor any submission has been made on behalf of the counsel for the respondent/complainant that besides the message, the petitioner has threatened or tried to extort money by any other unlawful means; physically, verbally or through any other mode of communication from respondent No.2.

Section 383 IPC is reproduced hereunder:-

“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”.

20. It is manifest that the essential ingredients of Section 383 IPC are a) intentionally putting a person in fear of injury, b) the purpose of which is to dishonestly induce the person and put him in fear, c) to deliver property or valuable security.

21. Section 386 IPC is reproduced hereunder:-

“Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

22. A bare look at the Whatsapp message in the attending facts and circumstances would not indicate that the complainant was put in fear of injury, or there was any inducement to deliver property or valuable security. The property has, of course, not been delivered to the accused and there is no allegation in this regard. An offence under Section 386 IPC would, thus, not be attracted.

23. Similarly, offences under Sections 387 and 506 IPC would not be made out as neither there was any intention on the part of the petitioner to put respondent No.2 in fear of grievous hurt or death to deliver property nor did he have any intention to threaten respondent No.2 with injury to his person, reputation or property.

24. It is noteworthy that the police has been overzealous in registering the FIR. The complaint was made on 07.03.2019 before the Commissioner of Police, Faridabad. The FIR was registered on 07.03.2019 and the petitioner was also arrested on the same day, although it has been held by the Supreme Court in the case of **Lalita Kumari Vs. Government of Uttar Pradesh and others**, reported as (2014) 2 SCC 1 that immediately on registration of the FIR it is not mandatory to arrest the accused.

25. In the challan filed by the police on 03.06.2019, it is recorded that the petitioner was arrested and in pursuance to his disclosure statement, mobile phone was taken into possession and DITECH report of the mobile phone is awaited. Although it is stated in the challan that there is ample evidence on record but there is no reference to any other incident or any supporting material which would indicate that the message was sent with the intention to threaten to put respondent No.2 in fear of death. Copy of the challan is at Annexure P-5.

26. Reference can be made to the judgment of the Supreme Court in the case of **State of Haryana Vs. Ch. Bhajan Lal and ors.** (supra) wherein it has been held that if a bare reading of the FIR does not disclose a *prima facie* case, the FIR can be quashed.

27. Therefore, I am of the considered view that when the message by itself cannot be construed to constitute a *prima facie* case under Section 386 IPC. To put the petitioner on trial would be unjust. Facing the rigour of criminal charges and to undergo trial would not only cause harm to the reputation but would also put him to immense hardship. It is easy to say that let the accused face trial and prove his innocence but this principle would be

applicable only when a *prima facie* case is apparent but to hold so in the instant case would cause grave injustice to the petitioner.

28. Consequently, the petition is allowed and FIR No.134 dated 07.03.2019, under Sections 386 & 506 IPC, registered at Faridabad Central, Faridabad (Annexure P-3) and all subsequent proceedings arising therefrom are hereby quashed.

(ANUPINDER SINGH GREWAL)
JUDGE

16.03.2022

SwarnjitS

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



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