

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 1036/2018

Kamal Kant Kumhar S/O Raja Ram, B/C Kumhar, R/o 3, STR
Gharsana, Nai Mandi, Gharsana, Ganganagar, Rajasthan

----Petitioner

Versus

1. State Of Rajasthan
2. Jyoti Meghwal W/o Shri Doongarram, Aged 28; R/o Ward No.10, 3 STR, Gharsana,Nai Mandi, Gharsana, Ganganagar, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Rajak Haidar
For Respondent(s)	:	Mr. Vikram Sharma, PP Mr. D.S. Gharsana for Respondent-2

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN**Order**

ORDER RESERVED ON	:::	06/02/2023
ORDER PRONOUNCED ON	:::	27/02/2023

BY THE COURT:-

The present petition has been preferred by the accused-petitioner being aggrieved by the registration of an FIR No.311/2017 registered at the police Station Nai Mandi, Gharsana, District Sri Ganganagar for the offence under Section 384 of the IPC.

Brief facts of the case are that respondent No.2-complainant filed an FIR alleging that she is a Sarpanch and present petitioner has demanded Rs.3 lacs and if not paid to him then he would proceed to institute false cases and proceedings against her. After registration of FIR, investigation was carried out and police has drawn a charge sheet with finding that offence under Section 384





IPC is made out against the petitioner. An additional affidavit on behalf of the then Investigating officer Late Shri Anwar Khan was filed by Shri Vikram Chouhan.

Learned counsel for the petitioner would submitted that from bare perusal of FIR no prima facie case of extortion is made out against the petitioner and the petitioner, a RTI activist, was unnecessarily been implicated in the instant matter under the political pressure by the complainant, who is a Sarpanch. He would further submitted that extortion is defined under Section 383 of the IPC wherein unless any valuable property is delivered or anything is signed or converted into a valuable security, the process of extortion is not completed. He would submitted that as per allegations in FIR only threat was given to respondent No.2 but no demand or delivery of valuable security was effected by victim thus, it is nothing but an abuse of process of law. To support his contention learned counsel has relied upon the pronouncement of Hon'ble Court in the case of **Vena Ram Vs. State of Raj. 2002 (2) WLN 628** and upon the judgment delivered by the High Court of Chhattisgarh in case of **Shatrughan Singh Sahu Vs. State of Chattisgarh through the Secretary, Department of Law and Legislative Affairs, 2021 0 Supreme (Chh) 243.**

Aforesaid contentions were opposed by the learned Public Prosecutor as well as learned counsel for the respondent No.2-complainant.

Learned counsel for the complainant-respondent No.2 would submitted that police after investigation, prima-facie found involvement of present petitioner and once the offence is proved, then FIR cannot be quashed. He relied upon the judgment of a





Coordinate Bench of this Court rendered in the case of **Sanjay Singh Vs. State of Rajasthan** passed in **S.B. Criminal Misc. Petition No.508/2023** decided on **25.01.2023**. He would further submitted that petitioner demanded Rs.3 lacs from respondent No.2 and on nonfulfillment of demand he filed several false complaints to higher officials and also threaten to viral these allegation on social media network thus ingredients under Section 383/ 384 IPC are made out against the petitioner.

Heard learned counsel for petitioner as well as learned Public Prosecutor for State and learned counsel for respondent No.2-complainant. Perused the material available on record.

Before proceeding further, it would be appropriate to peruse the facts of the FIR for which, the same is reproduced as under:-

"आज दिनांक 23.10.2017 के वक्त 8.33 पीएम पर श्रीमति ज्योति मेघवाल पत्नि श्री डुंगरराम जाति मेघवाल उम्र 28 साल निवासी वार्ड नं 10, 3 एसटीआर पुलिस थाना नई मण्डी घडसाना जिला श्रीगंगानगर हाल सरपंच 24 एस-सी ने हाजीर थाना होकर एक टाईप शुदा लिखित रिपोर्ट बदीमजमुन, प्रार्थना पत्र श्रीमान थानाधिकारी महोदय पुलिस थाना घडसाना विषय - मुकदमा दर्ज कर कानुनी कार्यवाही करने बाबत। श्रीमान जी उपरोक्त विषयान्तर्गत निवेदन है कि प्रार्थीया वर्ष 2015 से ग्राम पंचायत 24 एस-सी की सरपंच है। प्रार्थीया को पिछले 2 वर्ष से कमल कान्त पुत्र राजाराम जाति कुम्हार निवासी 3 एसटीआर आये दिन बिना किसी कारण के प्रार्थीया को धमकी देता है कि यदि आपने 3,00,000/- रुपये नहीं दिये तो मैं खिलाफ झूठे तथ्यों पर मुकदमा दर्ज करवा दूंगा, एवं लगातार प्रार्थीया को मानसिक रूप से प्रताडित कर रहा है।

आज से करीब 7 रोज पुर्व कमल कान्त प्रार्थीया को मिला तो कहा कि मे आरटीआई कार्य करता हुं यदि मुझे 3,00,000/-रुपये नहीं दिये तो मैं आपके खिलाफ झुठा मुकदमा दर्ज करवाउंगा, प्रार्थीया द्वारा कमल कान्त की उक्त मांग पूरी नहीं किये जाने पर कमल कान्त ने शोसल मीडिया पर प्रार्थीया के विरुद्ध झुठी सुचना प्रकाशित की जिससे प्रार्थीया के उच्च अधिकारियो ने इस सम्बन्ध में प्रार्थीया के विरुद्ध मुकदमा दर्ज करने एवं जांच करवाने हेतु चेतावनी दी, जिससे प्रार्थीया को भारी मानसिक एवं समाजिक प्रताडना का सामना करना

पडा कमल कान्त ने रुपये मांगने के लिये उक्त कार्यवाही की है एवं झुठी





शिकायत भ्रष्टाचार निवारक विभाग को दी है। कमल कान्त आदतन झुठी शिकायत कर लोगों से रुपये ऐंठता है। सूचना देती हूं कार्यवाही की जावे। कृपा होगी दिनांक 23.10.2017 SD ज्योति प्रार्थीया ज्योति मेघवाल पत्नि डुंगर राम, जाति मेघवाल निवासी वार्ड नं 10, 3 एसटीआर, तहसील घडसाना, जिला श्रीगंगानगर राज०। मो नं 9672989112 पेश की मामला रिपोर्ट से जुर्म धारा 384 आईपीसी का घटित होना पाया जाता है। जिस पर मुकदमा नंबर 311/17 धारा उपरोक्त में दर्ज कर तफ्तीश शुरू हुई। प्रतिया एफआईआर नियमानुसार जारी की गई।"

It is on record that no payment was made to the present petitioner by respondent no. 2 in pursuant of alleged demand. It was further revealed that there is no record which could establish that anything was made viral on any social media. Additional affidavit filed by Mr. Vikram Chouhan indicates that entire investigation was carried out by the then IO Late Shri Anwar Khan and it was only on the basis of statement of complainant, offence under Section 384 IPC was found proved against the petitioner. Thus there was no other material collected during investigation to support the charge under section 384 IPC.

Section 384 IPC lays down for punishment for extortion whereas the extortion is defined under Section 383 IPC which is reproduced as under:-

Section-383 of the Indian Penal Code, 1860:-

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.

Illustrations:

- a. A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.





b. A threatens Z that he will keep Z's child in wrongful confinement unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

c. A threatens to send club-men to plow up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

d. A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security. A has committed extortion.

In the case of **Vena Ram** (Supra) this Court while dealing with the charge under Section 384 of the IPC has discharged the petitioner on the ground that there was no actual delivery of demanded amount or valuable security as provided under Section 384 of the IPC. Similarly, in the case of **Shatrughan Singh Sahu** (Supra), the High Court of Chhattisgarh while dealing with the case of extortion and also various judgments including the judgment of Hon'ble Supreme Court in the case of **Isaac Isanga Musumba & Ors. Vs. State of Maharashtra** reported in (2014) **15 SCC 357** wherein Paras 3 & 4 of same were extracted and it was held that if any property is not delivered to the accused-person in pursuant to threat, no offence of extortion is made out. It further lays down that for constituting an offence of extortion, the transaction must be proved and same has to be on account of being putting in fear or injury. Ultimately, the High Court has quashed the proceedings terming it to be an abuse of process of law.





In the case of **Dhananjay @ Dhananjay Kumar Vs. State of Bihar** 2007 (1) Supreme (SC) 922; equivalent citation (2007) 14 SCC 768, the Hon'ble Supreme Court lays down that a bare perusal of provision relating to extortion would demonstrate that following ingredients would constitute the offence, which are as under:-

1. The accused must put any person in fear of injury to that person or any other person.
2. The putting of a person in such fear must be intentional.
3. The accused must thereby induce the person so put in fear to deliver to any person any property, valuable security or anything signed or sealed which may be converted into a valuable security.
4. Such inducement must be done dishonestly.

The facts in each and every case are different but herein, when we look at the investigation carried out so far, it clearly indicates that there was only a bald statement of complainant which was recorded by the Investigating Officer and no overact was found proved by the Investigating Officer. The record does not indicate that any false complaint was made or any information on social media was published or circulated by the petitioner, therefore, on simple allegations of threat and demand as levelled by the complainant, without supporting evidence how Investigating Officer can substantiate the charge under Section 384 of the IPC. Thus there is no material to substantiate the allegation and mere bald statement will not be sufficient to justify offence under section 384 IPC.

In case of **Sanjay Singh** (Supra), a Coordinate Bench of this Court without going into the details of Section 383 IPC and the judgments as laid down by the Hon'ble Supreme Court regarding ingredients of extortion, has formed opinion on the basis of





findings of investigating agency and not found a fit case for quashing the FIR. The facts of case in hand may be different from the aforesaid case of **Sanjay Singh** (Supra). Thus, there is no applicability of the principles laid down in the case of **Sanjay Singh** (Supra) in the present case.

In view of the aforesaid discussions and deliberations, no case under Section 384 IPC is made out from the allegations in FIR against the petitioner. Hence the Misc. Petition is allowed. All proceedings initiated in pursuance to the FIR No.311/2017 registered at the Police Station Nai Mandi, Gharsana, District Sri Ganaganagar are hereby quashed and set aside.

(ASHOK KUMAR JAIN),J

47-mamta/-