

(2017) 09 BOM CK 0130
In the Bombay High Court
Case No : 313 of 2017

Mr. Rajesh @ Dhammesh s/o Ghanshyam Chawan

APPELLANT

Vs

State of Maharashtra, & Anr.

RESPONDENT

Date of Decision : 07-09-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 385](#),
[Section 384](#), [Section 383](#) - Putting
person in fear of injury in order to commit extortion - Punishment for extortion -
Extortion

Citation : (2017) 09 BOM CK 0130

Hon'ble Judges : Vasanti A Naik, M. G. Giratkar

Bench : DIVISION BENCH

Advocate : R. R. Vyas, A. M. Joshi

Final Decision : Dismissed

Judgement

1. Heard.

2. By this criminal application, the applicant seeks the quashing and setting aside of the First Information Report bearing No. 180/2017, registered against the applicant for the offence punishable under Section 385 of the Penal Code.

3. The applicant claims to be the whistle blower who provides information to the police and revenue authorities from time to time, about the illegal excavation of sand. A report was lodged by the nonapplicant no. 2 alleging therein that being a lessee of the sand ghat at Parseoni, when he was approaching the same, the applicant asked him to pay a sum of Rs. 1,00,000/to him or else he would ensure that the lease of his sand ghat would be cancelled through the Collector. It is alleged that the applicant threatened the nonapplicant no. 2 to pay the sum of Rs. 1,00,000/on the same day or else, the sand ghat of the nonapplicant no. 2 would be raided and he would be implicated in the crime for using the Pokland machine on the sand ghat. It is alleged in the report that in view of the threats given by the applicant, the nonapplicant was very scared and hence he had

lodged the report. On the report lodged by the nonapplicant no. 2, an offence was registered against the applicant under Section 385 of the Penal Code.

4. Shri Vyas, the learned counsel for the applicant submitted that the offence under Section 385 of the Penal Code cannot be prima facie made out against the applicant, even if the allegations in the FIR are accepted at their face value in the entirety. It is submitted that for committing the offence of extortion, the person who is put in fear of injury by the accused should have been induced to deliver any property or valuable security. It is submitted that an offence of extortion could be made out against the applicant only if the nonapplicant no. 2 had parted with the sum of Rs. 1,00,000/that was allegedly demanded by the applicant from him.

5. We are afraid that the first information report registered against the applicant cannot be quashed on the basis of the submission made on behalf of the applicant. Section 383 of the Penal Code defines extortion. It is no doubt true that for committing an offence of extortion, a person should put the other person in fear of injury and thereby dishonestly induce the other person to deliver any property or valuable security to the person who puts the other person in fear of injury. Section 384 of the Penal Code provides for the punishment for extortion. We are however, concerned with Section 385 of the Penal Code as the offence is registered against the applicant under the said Section. Section 385 may come into play before the offence of extortion is committed. The said provision could be attracted in a case where a person, in order to commit extortion puts any other person in fear or attempts to put any person in fear of any injury. The ingredients of the offence under Section 385 of the Penal Code could be satisfied when, with a view to commit extortion or in order to commit extortion a person puts any other person in fear or attempts to put the other person in fear of any injury. The punishment for extortion is provided under Section 384 of the Penal Code whereas the punishment for putting a person in fear of injury in order to commit extortion is provided under Section 385 of the Code and the said punishment is lesser than the punishment for extortion. Section 385 of the Code provides the punishment for an attempt to commit extortion, when the attempt has failed to induce the delivery of the property or valuable security. In an offence punishable under Section 385, the threat or intimidation is intended to induce the delivery of the property but without success. In the instant case, though the nonapplicant no. 2 had not parted with the property or valuable security, as the amount of Rs. 1,00,000/was allegedly demanded by the applicant and the nonapplicant was allegedly put in fear of injury the offence punishable under Section 385 could be registered against the applicant.

6. Since we do not find any merit in the only submission made on behalf of the applicant for quashing and setting aside the first information report registered against the applicant for the offence punishable under Section 385 of the Penal Code, the criminal application is liable to be dismissed. We dismiss the same accordingly.