

(2011) 05 GUJ CK 0011
In the Gujarat High Court

Case No : Special Criminal Application No. 1218 of 2010

Shailendra Yashwant Karat

APPELLANT

Vs

Pradip Bhaskar, Director and Another

RESPONDENT

Date of Decision : 13-05-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 384, 506, 511

Citation : (2011) 05 GUJ CK 0011

Hon'ble Judges : Akil Abdul Hamid Kureshi, J

Bench : Single Bench

Advocate : Raj Panjwani and E. Shailaja, for Bhushan B. Oza, for the Appellant; N.D. Nanavaty and Hriday Buch, for Respondent 1 and D.C. Sejpal, APP for Respondent 2, for the Respondent

Final Decision : Dismissed

Judgement

Akil Kureshi, J.—Petitioner is the original accused in FIR bearing C.R. No. 292/02 filed before Umbergaon Police Station, Dist: Valsad by Respondent No. 1 herein. The Petitioner in the present petition has challenged the judgment and order dated 15th March 2010 passed by the learned Judge, Fast Track Court, Valsad in Criminal Revision Application No. 48/04. By the said judgment, the learned Judge allowed the revision application of Respondent No. 1 herein and set aside the order dated 5.8.04 passed by the learned Judicial Magistrate, First Class, Umbergaon discharging the present Petitioner in Criminal Case No. 425/03.

2. Shortly stated, facts are as follows:

2.1 Against the present Petitioner, FIR bearing C.R. No. I-292/02 came to be registered at the instance of Respondent No. 1 before Umbergaon police station alleging offence punishable under Sections 384, 511 and 506 of the Indian Penal Code. In the said FIR dated 25.8.2002, the complainant stated that he was working as Director, Jai Research Foundation. In the year 1998, against Jai Research Foundation, residents of village Valvada had filed different applications

alleging that the said Foundation is spreading pollution. Pursuant to such complaints, an inquiry was undertaken. However, since Jai Research Foundation had no plant which would cause pollution, report was in its favour. Thereupon, Jai Research Foundation had initiated proceedings for defamation against the residents of the said village. During this period, when the complainant was sitting in the office of the Foundation on 3rd September 2002, in the morning hours at about 10.30 one person came to office of the Foundation and introduced himself as Shailendra Yashwant, a press reporter (present Petitioner). He told the complainant that he is in a position to settle the cases between the Foundation and the villagers. However, Jai Research Foundation would have to make some arrangement to ensure that no false propaganda is spread against the Foundation in newspapers or amongst the people of the village. The complainant could not understand the meaning of this statement. When pursued, the visitor stated that he would have to pay Rs. 10 lacs. When the conversation was going on, Personnel Officer of the Foundation one Shri A.K. Gowda came to the cabin of the complainant for some discussion. He was asked to wait for a while. The visitor repeated the demand of Rs. 10 lacs or else he would spread the news through media that Jai Research Foundation is spreading poisonous pollutants and damaging farmers crops and he would see to it that Jai Research Foundation is shut down. The complainant thereupon asked the visitor to leave the office. With these allegations, said FIR was filed.

3. Upon completion of the investigation, chargesheet was filed on 23rd February 2003 before the Chief Judicial Magistrate, Umbergaon where Criminal Case No. 425/03 was placed for trial. The Petitioner herein filed an application for discharge before the learned Magistrate, who by order dated 5.8.2004 allowed the application for discharge. This order was challenged by Respondent No. 1 before the learned Additional Sessions Judge and Fast Track Court, Valsad by filing Criminal Revision Application No. 48 of 2004. The said revision application was allowed by the judgment and order dated 15.3.2010. Thereupon the present Petitioner, original-accused approached this Court in the present proceedings.

4. I have heard learned Counsel for either side at length. The case of the Petitioner is that there was no evidence on record to proceed further against the Petitioner. Learned Magistrate, therefore, rightly ordered discharge. The Sessions Court committed an error in revising such order. It is also the case of the Petitioner that FIR was lodged only to harass the Petitioner since he is active in pursuing the cases of pollution against Jai Research Foundation in which the complainant is a Director. Several documents have been produced on record to show that the foundation is facing several pollution cases.

5. On the other hand, case of Respondent No. 1 is that the learned Magistrate ordered discharge without even a notice to the complainant, that there was sufficient evidence on record and that the revisional order requires no interference. It is also the case of Respondent No. 1 that the Petitioner had tried to extract money from Respondent No. 1. There was sufficient evidence on

record against the Petitioner.

6. From the record, I find that the learned Additional Sessions Judge in the impugned judgment has given detailed reasons to come to the conclusion that the present is a fit case to permit full fledged trial. The learned Judge was of the opinion that there was sufficient evidence to hold that this is not a fit case for discharge. In addition to the version of the complainant, through investigation, the Investigating Agency had also recorded the statement of other witnesses. One such witness is Abhaykumar Pitambar who according to the complainant entered his cabin when the Petitioner and the complainant were having the alleged dialogue. This witness has also supported the case of the complainant. He has stated that in his presence, the accused had demanded Rs. 10 lacs for not spreading allegations about pollution being caused by the Foundation. The learned Additional Sessions Judge also perused other documents on record pertaining to disputes between the Foundation and the accused with respect to the pollution allegedly caused by the Foundation. The learned Judge was, therefore, of the opinion that it cannot be concluded at this stage that there is no evidence to proceed further against the accused.

7. I am in broad agreement with the view expressed by the learned Additional Judge. The entire issue is based primarily on the statements of the complainant and eye witness Abhaykumar Pitambar. I do not find that the learned Judge committed any error. In view of the limited scope of the present petition to reappreciate the evidence already perused and examined by the learned Additional Sessions Judge, I do not find that this is a fit case calling for interference. The petition is, therefore, dismissed. Interim relief is vacated.