

(2014) 06 BOM CK 0050

In the Bombay High Court

Case No : Criminal Writ Petition No. 325 of 2003

Shriram Satwaji Jadhav

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 26-06-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 383, 384

Citation : (2014) ALLMR(Cri) 3643

Hon'ble Judges : S.S. Shinde, J;P.R. Bora, J

Bench : Division Bench

Advocate : Amol S. Sawant, Advocate for the Appellant; S.G. Nandedkar, APP and D.G. Nagode, Advocate for the Respondent

Judgement

S.S. Shinde, J.—This Petition is filed praying therein to quash and set aside the First Information Report lodged by the respondent No. 3 in C.R. No. 85/2003 with Dharmabad Police Station registered under Section 384 of the Indian Penal Code and the proceedings in pursuance of the same. It appears that, this Court on 19th January, 2004 issued Rule and ad-interim relief was granted in terms of prayer clause (C).

2. It is case of the petitioner that, he is well educated and working as a lecturer in Lal Bahadur Shastri Mahavidyalaya, Dharmabad. He is also working as a member of the other Organization.

On 20th May, 2003, the news item was published in daily Ekmat with reference to the shifting of liquor shop from Yatala to Dharmabad. The respondent No. 3 i.e. original complainant lodged a complaint against the petitioner. It was alleged in the said complaint that, prior to one month of appearing of the said news item, the petitioner herein approached to the complainant when the complainant was accompanied with his two colleagues and demanded Rs. 10,000/- and also threatened to the complainant that, if the said amount is not paid, the false news item will be published against him. Thereafter on 30th April, 2003, at 7 p.m. when the complainant was accompanied with Shri. Swami Prakash Bhumaiyya,

the petitioner approached to the complainant and demanded amount of Rs. 10,000/- for non-publication of a false news against him. At the relevant time, the complainant convinced the petitioner and did not deliver/pay an amount as demanded by him.

3. On 20th May, 2014, a news item was published, therefore, the respondent No. 3 - complainant lodged a complaint against the petitioner. Hence this Petition for quashing the First Information Report.

4. The learned counsel appearing for the petitioner invited our attention to the provisions of Section 383 and 384 of the Indian Penal Code and submits that, unless the actual valuable or good is delivered, ingredients of the said sections are not fulfilled. In support of his contentions, the learned counsel appearing for the petitioner invited our attention to the reported judgment of this Court in the case of Sudarshan Kumar Luthra and others Vs. Madanlal Harichand Thapar and another and submits that, in the facts of that case also there was no actual delivery of any property or valuable security, and therefore, this Court held that, unless there is actual delivery of the valuable security or property, no offence under said section is attracted. It is further stated that, the false complaint is filed after thought. There is inordinate delay in filing the complaint, in as much, the complaint is filed on 20th May, 2003 and the alleged demand from the complainant by the petitioner was on 30th April, 2003 and earlier one month prior to said date. Therefore, the learned counsel appearing for the petitioner submits that, the Petition may be allowed.

5. The learned counsel appearing for the original complainant submits that, the further investigation needs to be carried out since the other two colleagues were present with the complainant when there was demand made by the petitioner for not publishing a false news item in the news paper. Therefore, he submits that, the Petition may be dismissed.

6. The learned Additional Public Prosecutor informs the Court that, in pursuant to the order passed by this Court, the investigation has not been carried out further.

7. We have considered the submissions of the learned counsel appearing for the petitioner, the learned counsel appearing for the original complainant and the learned Additional Public Prosecutor appearing for the State. With their able assistance, we have perused the pleadings in the Petition, annexures thereto and also relevant provisions and the judgment in the case of Sudarshan and others (supra). Upon perusal of the contents of the complaint, the alleged demand according to the complainant himself was on 30th April, 2003 and one month prior to said date. Thereafter, the complaint is lodged on 20th May, 2003. Therefore, we find considerable substance in the arguments of the learned counsel appearing for the petitioner that, there was inordinate delay in lodging the complaint and no justified reasons have been stated by the complainant so as to explain such delay. In the peculiar facts of this case, we find that, the delay of 20 days in lodging the first information report is one of the ground to hold

that, not only the said First Information Report was lodged at belated stage, but appears to have been lodged after thought. Since we, are inclined to allow this Petition, on the ground of delay in lodging the first information report, it is not necessary to consider other submissions which have been addressed by the learned counsel for the petitioner. In that view of the matter, the Petition succeeds. Rule is made absolute in terms of prayer clause "B". The Petition is allowed to the above extent and stands disposed of accordingly.