



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO. 15546 OF 2019 (GM-RES)

BETWEEN:

SRI. N. HANUMEGOWDA
AGED ABOUT 57 YEARS,
S/O. LATE SRI. C. NANJAPPA,
RESIDING AT NO.52/1,
2ND CROSS, III MAIN,
RANGANATHAPURA, KAMAKSHIPALYA,
BENGALURU-560 079.

...PETITIONER

(BY SRI. G.R. MOHAN, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
MADANAYAKANA HALLI POLICE STATION,
NELAMANGALA SUB DIVISION,
BENGALURU DISTRICT.
2. SRI. B.J. PUTTASWAMI
AGED ABOUT 40 YEARS,
SON OF JAWARASETTY,
RESIDING AT NO.71,
4TH CROSS, 3RD MAIN ROAD,
RAJAMAHAL VILAS 2ND STAGE,
HIG COLONY, BENGALURU-560 094.

...RESPONDENTS

(BY SRI. VINAYAKA V.S., HCGP FOR R1/STATE;
SRI D. PRABHAKAR, ADVOCATE FOR R-2)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CODE OF CRIMINAL PROCEDURE, 1973 PRAYING TO DIRECT THE RESPONDENT THAT THEY HAVE NO JURISDICTION TO INVESTIGATE AND FILE FINAL REPORT BEFORE THE JURISDICTIONAL MAGISTRATE AND CONSEQUENTLY QUASH THE COMPLAINT/CHARGE SHEET IN CC NO.608 OF 2019 TAKING COGNIZANCE OF THE OFFENCE BY THE CIVIL JUDGE AND JMFC, NELAMANGALA UNDER SECTION 384 IPC BY ORDER 21.03.2019 AS PER ANNEXURE-'F' AND ORDERED ISSUE OF PROCESS AGAINST THE ACCUSED.

THIS PETITION, COMING ON FOR HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner has been charge sheeted for the offence punishable under Section 384 of IPC.

2. The summary of the charge sheet is that:

When C.W.5 and 6, on the instructions of C.W.1 were preparing for the inauguration of the buildings, at that point of time, the accused came to the spot and stated that, the building is constructed without prior permission and asked for the relevant documents and also stated that he is an RTI and RSS activists, and if a sum of Rs.2,00,000/- is not paid, he will see to that the Chief Minister and other dignitaries will not attend the inauguration, and he will stall the inauguration.



Cognizance taken by the learned Magistrate for the aforesaid offence is impugned in this petition.

3. Learned counsel appearing for the petitioner submits that the allegations made in the FIR, even accepted on the face of it, does not constitute an offence punishable under Section 384 of IPC, since there is no allegation that the defacto complainant parted with the money, and that the petitioner-accused induced the defacto complainant and put him in fear to deliver the money which is alleged to have been demanded by the petitioner-accused. In support, he places reliance on the decision of the Hon'ble Supreme Court in the case of Dhananjay alias Dhananjay Kumar Singh -vs- State of Bihar and Another, reported in 2007 CRI.L.J 1440.

4. On the other hand, learned counsel appearing for respondent No.2 submits that parting of money is not an essential requirement to constitute an offence under Section 384 of IPC, and to constitute the said offence, it would suffice, if a person is put in fear with an intention to induce the person to part with the money. Alternatively, he submits that, though money was not parted to the petitioner-accused, however, the



allegations made in the FIR discloses the commission of the offence punishable under Section 385 of IPC.

5. I have considered the submission made by the learned counsel appearing for the parties.

6. The Hon'ble Supreme Court in the case of Dhananjay supra at para 6 held as follows:

"6. A bare perusal of the aforementioned provision would demonstrate that the following ingredients would constitute the offence:

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 done dishonestly."

7. In the instant case, there is no allegation that the accused has put the defacto complainant in fear of injury intentionally, and thereby induced the defacto complainant to deliver the money to which he has allegedly demanded. In the absence of any essential ingredients so as to constitute the commission of an offence punishable under Section 384 of IPC,



the cognizance taken by the learned Magistrate is impermissible.

8. To constitute an offence punishable under Section 385 of IPC, a person must put any other person in fear of any injury. In the instant case, there is no material placed along with the charge sheet that, the petitioner has put the defacto complainant in fear of any injury in order to commit extortion.

9. In view of the preceding analysis, I am of the considered view that, the continuation of the criminal proceedings against the petitioner will be an abuse of process of law. Accordingly, I pass the following:

ORDER

- i) The writ petition is allowed;
- ii) Impugned proceedings in C.C.No.608/2019 on the file of the Civil Judge and JMFC, Nelamangala is hereby quashed.

**Sd/-
JUDGE**