

## **M/S BALAJI TRADERS VS. THE STATE OF U.P. AND ANR**

This appeal was filed by Prof. Manoj Kumar Agrawal, the complainant, against a High Court order from June 28<sup>th</sup>, 2024. That order stopped all legal action in his case, involving charges under Section 387 of the Indian Penal Code (IPC)

### **BACKGROUND**

The case began when Prof. Agrawal, owner of a betel nut leaves business called M/s Balaji Traders, found that Sanjay Gupta (the accused) had started a similar business with the same name. They already had an ongoing dispute over trademarks and copyrights. Prof. Agrawal claims that on May 22, 2022, Sanjay Gupta, along with three other individuals bearing rifles stopped him as he was returning home. They threatened him and told him to shut down his business or pay them five lakh rupees per month. Upon his refusal, they physically assaulted him and tried to kidnap him.

When the police did not register an FIR (First Information Report), Prof. Agrawal filed a complaint directly with the court. Based on the evidence furnished, the Sessions Court found reason to issue a summons to the accused (Sanjay Gupta) under Section 387 IPC.

Sanjay Gupta then challenged this order in the High Court. The High Court decided that a major part of extortion (which Section 387 relates to) was the actual delivery of property or money under threat. Since no money had been given to Sanjay Gupta, the High Court ruled that no offence of extortion or attempted extortion had been committed. Therefore, the proceedings against Sanjay Gupta would be stopped.

### **ARGUMENTS BY BOTH SIDES**

#### **Complainant's Submissions (Prof. Manoj Agrawal)**

The complainant's lawyer argued that the Trial Court was correct in issuing summons. They stated that the High Court had made an error relying on Section 384 IPC (extortion), instead of referring to Section 387 IPC (attempted extortion) which was the relevant charge in this matter.

#### **Respondent's Submissions (Sanjay Gupta)**

Sanjay Gupta's lawyer contended that the reference under Section 387 IPC was incorrect, since a major part of extortion - the actual handing over of property or money, was missing. To support his argument he cited the case of *Dhananjay Kumar Singh v. State of Bihar*. The

respondent also claimed that the recent complaint was a counterattack to an FIR he had filed against the complainant earlier, linked to his effort to enforce the intellectual Property Rights. The Respondent's lawyer cited cases like *State of Haryana v. Bhajan Lal* and *Inder Mohan Goswami v. State of Uttaranchal* and stated that criminal prosecution should not be a tool for harassment or personal revenge.

Finally, relying on *Motibhai Fulabhai Patel & Co. v. R. Prasad* and others, the respondent's counsel stressed that penal laws must be interpreted correctly. They argued that Section 387 IPC is an aggravated form of extortion and should not include mere threats without property of money actually being delivered.

### **POSITION OF LAW**

Before delving into the intricacies of the case, it is imperative to understand the law pertaining to the various sections relevant to this issue.

- **Extortion (Section 383 IPC):** The core definition of extortion means intentionally putting someone in fear of injury (to themselves or others) resulting in dishonestly inducing them to part with property or valuable security.
- **Punishment for Extortion (Section 384 IPC):** This section specifies the penalty for the crime of extortion, as laid out in Section 383.
- **Putting a Person in Fear of Injury to Commit Extortion (Section 385 IPC):** This section punishes actions taken in order to commit extortion, even if the attempt of extortion has not been carried out. It focuses on the act of putting someone in fear of injury for the same.

### **FORMS OF EXTORTION:**

- **Extortion by Threat of Death or Grievous Hurt (Section 386 IPC):** This is a more severe form of extortion where the fear instilled is specifically of death or grievous hurt. This section addresses when this more severe form of extortion is actually carried out.
- **Putting a Person in Fear of Death or Grievous Hurt to Commit Extortion (Section 387 IPC):** Similar to section 385, this section punishes the act of intimidating someone with the fear of death or grievous hurt, in order to commit extortion. The

key here is the act of instilling fear, even if the property is not delivered. This is an aggravated form of Section 385, not 384.

- **Extortion by Threat of Accusation of Serious Offence (Section 388 IPC):** This section addresses extortion committed by threatening someone of a very serious crime (punishable by death, life imprisonment, or imprisonment up to ten years). This covers the actual act of committing extortion.
- **Putting a Person in Fear of Accusation of Serious Offence to Commit Extortion (Section 389 IPC):** This section criminalizes putting someone in fear of accusation of a serious offence in order to commit extortion.

#### **KEY DISTINCTION:**

The law draws a clear line between:

Actual Extortion- Sections dealing with this are 383,384, 386 and 388. These sections deal with situations where the act of extortion is complete, and property or valuable security is delivered.

Acts done “in order” to commit extortion. These sections punish actions taken for the purpose of committing extortion, even if the actual act of extortion does not materialize. (e.g. property is not delivered). The sections dealing with this are 385, 387 and 389. The Legislature made this process a distinct offence.

#### **RELEVANCE TO THE CASE:**

In this case, the distinction between actually committing the act of extortion and the process of intimidating a person for the purpose of committing extortion, is crucial. Section 387 IPC which deals with putting a person in fear of serious harm or the threat of death in order to commit extortion, is the key focus. The law emphasizes that for a conviction under Section 387, it is not necessary for the actual delivery of property, as it addresses the act prior to the offence of extortion. This means the court will be looking at whether the accused put the victim in fear of death or serious harm, regardless of whether the extortion was successful.

### **KEY PRECEDENTS FOR EXTORTION:**

- **Radha Ballabh vs. State of U.P.:** The Court held that when ransom was demanded but not actually paid, a conviction was made under **Section 387, not 386 IPC**.
- **Gursharan Singh vs. State of Punjab:** Similarly, a conviction under **Section 387 IPC** was upheld even when the ransom money wasn't paid.
- **Somasundaram vs. State:** This case reinforced that a conviction under **Section 387 IPC** could stand even without the delivery of property or money. The victim was tied and threatened to part with money or execute papers to part with property and was eventually killed for not complying. This case made it apparent that the act of putting someone in fear, to commit extortion, was punishable even if property was not handed over.

### **PRINCIPLES FOR QUASHING CRIMINAL CASES**

The law outlines the principles for quashing criminal proceedings by the High Court under Section 482 CrPC, emphasizing that this power be used with caution and sparingly, only for the rarest of rare cases, not in routine.

A High Court can quash a criminal case or FIR if:

- The allegations, even if believed to be true, do not establish any offence for a case against the accused.
- The allegations and supporting evidence, do not reveal a cognizable offence to justify police investigation without the magistrate's order.
- The allegations are highly improbable or absurd, making it impossible for a reasonable person to concede there is grounds to proceed.
- There is an alternate remedy or a legal bar to continue proceedings.
- The proceeding is motivated by vendetta, or is malicious.

### **Additional Considerations (from Dalip Kaur v. Jagnar Singh, referring to R. Kalyani v. Janak**

#### **C. Mehta):**

- High Courts generally won't quash, unless the allegations, even if believed to be true, show no cognizable offence.
- The Court will usually not consider defence documents, except in very unusual circumstances.
- The power should be used very sparingly. If the FIR alleges an offence, the Court should not extend itself beyond that to find a lack of criminal intent or act.
- The presence of a civil dispute doesn't, by itself, prevent criminal proceedings

**Neeharika Infrastructure (P) Ltd. v. State of Maharashtra** further reiterated that quashing an FIR should be an exception, not a rule. When considering a request to quash, the Court only needs to determine if the FIR establishes a cognizable offence, not whether the allegations prove it. Generally, the investigative agency should be allowed to investigate.

### **THE SUPREME COURT'S VIEW AND JUDGMENT**

The Supreme Court while delivering a significant judgment, reinforced the legal principle of strict interpretation of penal statutes. This fundamental tenet dictates that courts must refrain from inferring or incorporating provisions that impose penal liability where the legislative text does not explicitly provide for it. Referencing the cases of *Tolaram Relumal* and *M. Narayanan Nambiar v. State of Kerala*, the Constitution Bench reiterated that if a penal provision can be interpreted in two plausible and reasonable ways, then the interpretation favouring the exemption of the subject from punishment should be adopted. As *London & North Eastern Railway Co. v. Berriman* pointed out, you can't stretch the meaning of words in a law, no matter how good its intention.

The core of the Supreme Court's decision revolves around the interpretation of Section 387 of the Indian Penal Code. The Court felt the High Court erred by mixing up Section 387 IPC with Section 383 IPC (extortion) and Section 384 IPC. The Supreme Court clarified that Section 387 IPC punishes the act of "putting a person in fear of death or grievous hurt" with the intent to commit extortion, and it is not necessary whether extortion actually happened or if the money/property was handed over.

Based on this, the Supreme Court held that the High Court's reasoning for quashing the proceedings was flawed. Prima facie, the complaint clearly showed two things needed for prosecution under Section 387 IPC

- a) The complaint was made under the threat of death by pointing a gun.
- b) This was done to pressurize him to deliver Rs. 5 lakhs.

The Court stated that whether the money was actually given wasn't important for a charge under Section 387 IPC. That section is about the act of threatening someone, not whether the extortion was successful.

The Supreme Court allowed the appeal, set aside the High Court's order, and reinstated the proceedings for trial in the Lower Court.