M/S Balaji Traders vs The State Of U.P on 5 June, 2025

Author: Sanjay Karol

Bench: Sanjay Karol

2025 INSC 806

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(Arising out of SLP(Crl.)No.3159/2025)

M/S. BALAJI TRADERS ... APPELLANT(S)

VERSUS

THE STATE OF U.P. & ANR. ... RESPONDENT(S)

JUDGMENT

SANJAY KAROL, J.

Leave Granted.

1. The instant appeal, preferred by appellant-complainant, arises out of the judgment and order dated 28th June, 2024 passed 16:09:10 IST Reason:

> by the High Court of Judicature at Allahabad in Criminal Miscellaneous Application No.19550/2024 whereby the summoning order dated 28th August, 2023 as well as entire proceedings of Complaint Case No.58 of 2022 under Section 387 of the Indian Penal Code, 18601 has been quashed.

2. Brief facts that led to the present appeal are :

The complainant, namely, Prof. Manoj Kumar Agrawal, is a proprietor of a firm M/s. Balaji Traders, carrying out the business of betel nut leaves. Sanjay Gupta2, allegedly started a business under the same name, and litigations are pending between the parties with respect to Trademark and Copyright claims. On 22nd May, 2022, when the complainant was heading towards his house, the accused, along with three unknown persons carrying rifles in their hands, stopped and threatened him to close down his business of betel nut. They further threatened that he could carry on the business only if he would pay five lakhs per month to the accused person. On the complainant's refusal, the accused persons not only beat him but also tried to kidnap him. On failure of police to register First Information Report3, he approached the Court by filing a complaint u/s 200 of the Code of Criminal Procedure, 19734.

Hereinafter referred to as 'IPC' Hereinafter 'accused' FIR Hereinafter referred to as 'CrPC'

3. Pursuant to this complaint, the Trial Court5 after analyzing the oral and documentary evidence available, found a prima facie case against the accused person and issued summons to him u/s 387 IPC.

4. Being aggrieved, the accused person approached the High Court by filing a Miscellaneous Application under section 482 CrPC for quashing of summoning order dated 28th August, 2023.

5. The High Court, while referring to various judicial pronouncements, observed that to make out a case of extortion, one of the essential ingredients is to deliver any property or valuable security under threat by the complainant to the accused; and that such ingredient was missing in the instant case as no money was handed over to the accused person. It further observed that since no offence of extortion under Section 383 IPC is made out, consequently, no offence under Section 387 IPC would be made out, thus, finding it a fit case to be quashed.

SUBMISSIONS OF THE PARTIES

6. Learned Counsel for the petitioner submits that the Trial Court rightly issued summons on the basis of the statements of witnesses and the complainant, and the High Court wrongly relied on the judgments dealing with 384 IPC and not 387 IPC.

Court of Additional Sessions Judge/Special Judge(Dacoit Prabhav Area) Jalaun Place Orai

7. Learned Counsel for respondent No.2, while relying on Dhananjay @ Dhandhanjay Kumar Singh v. State of Bihar6 submits that since the essential ingredient of extortion, i.e., delivery of property, is not met, consequently, the charge under Section 387 IPC cannot be sustained. Respondent No.2, who is running a similar business to that of the complainant, had lodged an FIR against the complainant, as such the instant FIR is directly linked to the respondent's enforcement of his Intellectual Property Rights and made as a counterblast to the respondent's lawful actions. Further reliance is placed on State of Haryana v. Bhajan Lal7; and Inder Mohan Goswami v. State of

Uttaranchal8, submitting that criminal prosecution should not be used as an instrument of harassment, or for seeking personal vendetta with an ulterior motive of pressurizing the accused. Further, placing reliance on Motibhai Fulabhai Patel & Co. v. R. Prasad9; Dilip Kumar Sharma v. State of M.P.10; and Tolaram Relumal v. State of Bombay11, it is submitted that since penal statutes have to be construed and interpreted strictly, section 387 IPC is an aggravated form of extortion and cannot be stretched to 2007 (14) SCC 768 1992 Supp (1) SCC 335 2007 (12) SCC 1 1968 SCC OnLine SC310 (1976) 1 SCC 560 (1954) 1 SCC 961 cover mere threats, without any delivery of property or valuable security.

POSITION OF LAW

8. Before adverting to the facts of the present case, it is imperative to acknowledge that IPC provides for offences, their ingredients, and their distinct punishments. The relevant Sections of extortion defined in Chapter XVII of IPC are reproduced below :

> "Section 383 defines Extortion: Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion".
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> Section 384 Punishment for extortion: Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both;
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> Section 385 Putting person in fear of injury in order to commit extortion-Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
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> Section 386 Extortion by putting a person in fear of death or grievous hurt.—Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine Section 387 Putting person in fear of death or of grievous hurt, in order to commit extortion: Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
>
> Section 388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.—Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with imprisonment for life, or with

imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be one punishable under Section 377 of this Code, may be punished with imprisonment for life.

Section 389. Putting person in fear or accusation of offence, in order to commit extortion.—Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with imprisonment for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under section 377 of this Code, may be punished with imprisonment for life." (Emphasis Supplied)

9. A glance over all the Sections related to extortion would reveal a clear distinction being carried out between the actual commission of extortion and the process of putting a person in fear for the purpose of committing extortion.

10. Section 383 defines extortion, the punishment therefor is given in Section 384. Sections 386 and 388 provide for an aggravated form of extortion. These sections deal with the actual commission of an act of extortion, whereas Sections 385, 387 and 389 IPC seek to punish for an act committed for the purpose of extortion even though the act of extortion may not be complete and property not delivered. It is in the process of committing an offence that a person is put in fear of injury, death or grievous hurt. Section 387 IPC provides for a stage prior to committing extortion, which is putting a person in fear of death or grievous hurt 'in order to commit extortion', similar to Section 385 IPC. Hence, Section 387 IPC is an aggravated form of 385 IPC, not 384 IPC.

11. Having deliberated upon the offence of extortion and its forms, we proceed to analyze the essentials of both Sections, i.e., 383 and 387 IPC, the High Court dealt with.

12. The essential ingredients of extortion under Section 383 IPC, as laid down by this Court in R.S. Nayak v. A.R. Antulay12, are :

(1986) 2 SCC 716 "60. ...The main ingredients of the offence are:

(i) the accused must put any person in fear of injury to that person or any other person;

(ii) the putting of a person in such fear must be intentional;

(iii) 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; and

(iv) such inducement must be done dishonestly.

Before a person can be said to put any person in fear of any injury to that person, it must appear that he has held out some threat to do or omit to do what he is legally bound to do in future. If all that a man does is to promise to do a thing which he is not legally bound to do and says that if money is not paid to him he would not do that thing, such act would not amount to an offence of extortion. ..."

13. But a perusal of Section 387 IPC reveals its essential ingredients, to be :

(a) Accused must have put a person in fear of death or grievous hurt;

(b) Such an act must have been done in order to commit extortion;

The expression 'in order to' has been defined in the following ways:

"in order to" : for the purpose of13 "in order to" : with the purpose of doing14 'in order to commit extortion' clearly reveals that it is in the process of committing the offence of extortion.

14. Thus, it can be said in terms of Sections 386 (an aggravated form of 384 IPC) and 387 IPC that the former is an act in itself, whereas the latter is the process; it is a stage before committing an offence of extortion. The Legislature was mindful enough to criminalize the process by making it a distinct offence. Therefore, the commission of an offence of extortion is not sine qua non for an offence under this Section. It is safe to deduce that for prosecution under Section 387 IPC, the delivery of property is not necessary.

15. In Radha Ballabh v. State of U.P.15, this Court, while dealing with a case wherein ransom was demanded for releasing the child, observed that it could not be punishable under Section 386 IPC as no ransom was extorted. Therefore, the conviction was correctly made under Section 387 IPC. Similarly, in Gursharan Singh v. State of Punjab16, the Court upheld the conviction under Section 387 IPC where money extorted was not paid.

Merriam-Webster Concise Oxford English Dictionary, Tenth Edition 1999 1995 Supp (3) SCC 119 (1996) 10 SCC 190

16. Further, in Somasundaram v. State17 a three-Judge Bench of this Court upheld the conviction under Section 387 IPC, along with other provisions, on the facts, where the deceased was tied with an iron chain and rope to a cot and threatened to part with crores of rupees or else execute the document in their favour. On his failure to do so, the deceased was killed. Thus, even though there was no delivery of property, the conviction was upheld by observing that Section 387 IPC is a heightened, more serious form of the offence of extortion in which the victim is put in fear of death or grievous hurt.

17. After going through the penal provisions related to extortion, it is also imperative to peruse the necessary principles of quashing, laid down by this Court through various judicial pronouncements which govern the jurisdiction of the High Court under Section 482 CrPC.

18. This Court in B.N. John v. State of U.P.18, reiterated several principles of quashing criminal cases/complaints/FIR as laid down, back in the days in Bhajan Lal (supra) :

> "102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the (2020) 7 SCC 722 2025 SCC OnLine SC 7 following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.
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> (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
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> (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
>
> (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
>
> (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
>
> (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
>
> (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific

> provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
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> (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge." In Dalip Kaur v. Jagnar Singh19 -

11. There cannot furthermore be any doubt that the High Court would exercise its inherent jurisdiction only when one or the other propositions of law, as laid down in R. Kalyani v. Janak C. Mehta [(2009) 1 SCC 516 : (2009) 1 SCC (Cri) 567] is attracted, which are as under: (SCC p. 523, para 15) "(1) The High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a first information report unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence.

(2) For the said purpose the Court, save and except in very exceptional circumstances, would not look to any document relied upon by the defence.

(3) Such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the Court shall not go beyond the same and pass an order in favour of the accused to hold absence of any mens rea or actus reus.

(2009) 14 SCC 696 (4) If the allegation discloses a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue." (Emphasis supplied) A three-Judge Bench of this Court, while summarizing the principles of quashing in Neeharika Infrastructure (P) Ltd. v. State of Maharashtra20, has held that the power of quashing should be exercised sparingly with circumspection in the 'rarest of rare cases' and not as an ordinary rule :

> "13.4. The power of quashing should be exercised sparingly with circumspection, in the "rarest of rare cases". (The rarest of rare cases standard in its application for quashing under Section 482CrPC is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court.) ... 13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule. ... 13.15. When a prayer for quashing the FIR is made by the alleged accused, the Court when it exercises the power under Section 482CrPC, only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the Court has to permit the investigating agency/police to investigate the allegations in the FIR." (2021) 19 SCC 401 OUR VIEW

19. It is a well-settled principle of law that penal statutes must be given strict interpretation. The Court ought not to read anything into a statutory provision that imposes penal liability.

20. A Constitution Bench of this Court in Tolaram Relumal (supra) has observed :

"8. ...and it is a well-settled rule of construction of penal statutes that if two possible and reasonable constructions can be put upon a penal provision, the Court must lean towards that construction which exempts the subject from penalty rather than the one which imposes penalty. It is not competent for the Court to stretch the meaning of an expression used by the Legislature in order to carry out the intention of the Legislature. As pointed out by Lord Macmillan in London & North Eastern Railway Co. v. Berriman [London & North Eastern Railway Co. v. Berriman, 1946 AC 278 at p. 295 (HL)] : (AC p.

295) "... Where penalties for infringement are imposed it is not legitimate to stretch the language of a rule, however, beneficent its intention, beyond the fair and ordinary meaning of its language."

21. In M. Narayanan Nambiar v. State of Kerala21, this Court reiterated the observations made by the Privy Council in respect of the interpretation of penal statutes :

"10. A decision of the Judicial Committee in 'Francis Hart Dyke (Appellant) and Henry William Elliott, and 1962 SCC OnLine SC 85 the owners of the steamtug or Vessel 'Gauntlet' [Law Reports Privy Council Appeals (4) 1872, p. 184] cited by the learned counsel as an aid for construction neatly states the principle and therefore may be extracted : Lord Justice James speaking for the Board observes at p. 19:

"No doubt all penal Statutes are to be construed strictly, that is to say, the Court must see that the thing charged as an offence is within the plain meaning of the words used, and must not strain the words on any notion that there has been a slip, that there has been a casus omissus, that the thing is so clearly within the mischief that it must have been intended to be included if thought of. On the other hand, the person charged has a right to say that the thing charged although within the words, is not within the spirit of the enactment. But where the thing is brought within the words and within the spirit, there a penal enactment is to be construed, like any other instrument, according to the fair common sense meaning of the language used, and the Court is not to find or make any doubt or ambiguity in the language of a penal statute, where such doubt or ambiguity would clearly not be found or made in the same language in any other instrument."

22. A three-Judge Bench of this Court has also observed in Dilip Kumar Sharma (supra) that a penal provision must be strictly construed; that is to say, in the absence

of clear, compelling language, the provision should not be given a wider interpretation.

23. This Court in R. Kalyani v. Janak C. Mehta22, while discussing the strict interpretation of penal statutes has held :

"37. Maxwell in The Interpretation of Statutes (12th Edn.) says:

"The strict construction of penal statutes seems to manifest itself in four ways: in the requirement of express language for the creation of an offence; in interpreting strictly words setting out the elements of an offence; in requiring the fulfilment to the letter of statutory conditions precedent to the infliction of punishment; and in insisting on the strict observance of technical provisions concerning criminal procedure and jurisdiction."

38. In Craies Statute Law (7th Edn. at p. 529) it is said that penal statutes must be construed strictly. At p. 530 of the said treatise, referring to U.S. v. Wiltberger [5 L Ed 37 : 18 US (5 Wheat.) 76 (1820)] it is observed, thus:

"The distinction between a strict construction and a more free one has, no doubt, in modern times almost disappeared, and the question now is, what is the true construction of the statute? I should say that in a criminal statute you must be quite sure that the offence charged is within the letter of the law. This rule is said to be founded on the tenderness of the law for the rights of individuals, and on the plain principle that the power of punishment is vested in the Legislature, and not in the judicial department, for it is the Legislature, not the Court, which is to define a crime and ordain its punishment."

(2009) 1 SCC 516

24. The scope of the provision cannot be extended by reading into it words which are not there. Section 387 IPC, being a penal provision, has to be strictly interpreted, and no condition/essential ingredient can be read into it that the Statute/Section does not prescribe. Since there is no ambiguity in the ingredients of Section 387 IPC, the observations of Tolaram Relumal (supra) as contended by the learned counsel appearing for Respondent No.2 would not come to his rescue.

25. The reasoning adopted by the High Court is, on the face of it, flawed and misplaced. When the Legislature has created two separate offences with distinct ingredients and punishments, then assigning the essential ingredient of one to another is not a correct approach adopted by the High Court. Nowhere does the Section say that extortion has to be committed while putting a person in fear of death or grievous hurt. Instead, it is the other way around, that is to say, putting a person in fear of death or grievous hurt to commit extortion. Extortion is not yet committed; it is in the process of committing it that a person is put in fear. Putting a person in fear would make an accused guilty of an offence under Section 387 IPC; it need not satisfy all the ingredients of extortion

provided under Section 383 IPC. The High Court ought not to have relied on Dhananjay (supra) as that case, on the face of it, is clearly distinguishable on facts, the reason being it dealt with allegations of 384 IPC not 387 IPC, and discussed the elements of extortion.

26. Without going into the merits of the case, we are of the view that the instant case is not fit for quashing as the two essential ingredients for prosecution under Section 387 IPC, as discussed supra have been prima facie disclosed in the complaint, (a) that the complainant has been put in fear of death by pointing a gun towards him; and (b) that it was done to pressurize him to deliver Rs.5 lakhs. The High Court, while quashing, has wrongly emphasized the fact that the said amount was not delivered; it failed to consider whether the money/property was delivered or not, is not even necessary as the accused is not charged with Section 384 IPC. The allegations of putting a person in fear of death or grievous hurt would itself make him liable to be prosecuted under Section 387 IPC. The natural corollary thereof is that the allegation of the criminal case being a counterblast is negated.

27. With the aforesaid observations, the appeal is accordingly allowed. The impugned order dated 28th June, 2024 is set aside, and the proceedings emanating from Complaint Case No.58 of 2022 are restored to the file of the Trial Court. Parties are directed to appear before the Trial Court on 12th August, 2025. Parties are further directed to fully cooperate and the hearing is expedited.

Pending application(s), if any, are disposed of.

.....J. (SANJAY KAROL) .....J. (MANOJ MISRA) New Delhi;

5th June, 2025.