

1	M.NAGAPRASANNA	<u>30/09/2024</u>
<p>The petitioner-accused No.4 is knocking at the doors of this Court calling in question registration of a crime in Crime No.224 of 2024 registered for offences punishable under Sections 384, 120B r/w 34 of the IPC.</p> <p>2. Heard the learned senior counsel, Sri. K.G. Raghavan, appearing for the petitioner, learned senior counsel Sri Prashanth Bhushan representing the 2nd respondent-complainant and the learned State Public Prosecutor-I for the 1st respondent-State.</p> <p>3. The 2nd respondent claims to be a Co-President of Janadhikara Sangharsha Parishath and is the de-facto complainant, in the case at hand. It is the case of the complainant before the concerned Court that accused No.4 in the case at hand along with other accused have indulged in extortion. Extortion to mean, an offence under Section 384 of the IPC and the allegation stretches to Section 120B r/w Section 34 of the IPC.</p> <p>4. The learned senior counsel Sri K.G.Raghavan taking this Court through the documents appended to the petition would prima facie demonstrate that there is no case of extortion made out in the complaint or in the reference made under Section 156(3) of the Cr.P.C. by the learned Magistrate directing to investigate the matter. Learned senior counsel would submit that the complaint itself is vague and does not make out any ingredient of extortion qua the petitioner or any accused.</p> <p>5. Per-contra, learned senior counsel Sri Prashanth Bhushan representing the 2nd respondent/complainant would vehemently refute the submission to contend that this is a classic case of extortion, where accused No.2, the Enforcement Directorate have generated fear, on certain Companies, to take electoral bonds as a quid pro quo, for funds. He takes this Court to the order of reference to contend that while dealing with the issue of crime, the Apex Court has left it open to the aggrieved to take recourse to remedies available under the law governing criminal procedure/ordinary law governing criminal procedure. It is the submission that taking que from the order passed by the Apex Court the complaint is registered before the learned Magistrate and therefore, the crime should be permitted to be investigated into and there is no warrant for grant of stay. .</p> <p>6. I have given my anxious consideration to the submissions made by the respective learned Senior Counsel and other learned counsel and have perused the material on record.</p>		

7. At this juncture the issue is, whether the investigation should be interdicted or interjected, on the score that the ingredients would meet the offence or otherwise. What is alleged is Section 384 of the IPC. Section 384 of the IPC deals with punishment for extortion. Section 384 of the IPC reads as follows:

“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.”

The ingredients of extortion are found in Section 383 of the IPC. Section 383 of the IPC reads as follows:

“383. 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”.

Section 383 mandates that any informant who approaches the concerned Court or the jurisdictional police should have been put into fear and due to such fear, he should have delivered some property to the accused. It is only then extortion may be established prima facie, against that accused qua the victim. It is settled principle of law, that criminal law can be set into motion by any person, but there are provisions under the IPC that they can be set into motion only by the aggrieved to illustrate, offence of assault, offence of thieving, under Section 379 of the IPC, or extortion under Section 383 of the IPC. It is only if the accused has put the victim under fear, the victim would mean the first informant to deliver any property, and it is delivered, it is then it would amount to extortion.

8. If the contents of the complaint in the case at hand are noticed, who is the complainant becomes significant. The complainant, as observed, is the Co-President of Janadhikara Sangharsha Parishath. It is not his case that he has been put into fear to deliver any property. It is not his case that he parted with any property. Therefore, the complainant, in the case at hand, if he wants to project Section 384 of the IPC, should be an aggrieved informant, under Section 383 of the IPC, which he is not.

9. The learned senior counsel Sri Prashanth Bhushan placing reliance upon the judgment of the Apex Court in the case of A.R.ANTULAY V. R.S.NAYAK would contend that criminal law can be set into motion by any person, unless it is specifically barred under the Cr.P.C. To counter this submission, learned senior counsel for the petitioner submits that the general principle has an exception, as obtaining in Section 39 of the Cr.P.C.

10. The learned senior counsel for the 2nd respondent/complainant would contend that in such cases, no person who has been put in fear by the accused No.2 will ever come forward. Therefore, the complainant's complaint should be permitted to be investigated into. The submission of the learned senior counsel for the 2nd respondent cannot be accepted. If the offence is Section 384 of the IPC, he should necessarily be a victim who has suffered extortion from the hands of the accused. The case of the complainant is not that he has suffered.

11. The que taken from the order of the Apex Court where the Apex Court dealt with electoral bonds contending that the general criminal procedure should be availed of by the petitioners therein and cannot direct the SIT to go into criminality, being the reason for registration of the subject crime also cannot be accepted, as Section 384 is unequivocal. It becomes apposite to refer to the judgment of the Apex Court in the case of DHANANJAY V. STATE OF BIHAR , wherein the Apex Court holds as follows:

"10. No allegation was made that the money was paid by the informant having been put in fear of injury or putting him in such fear by the appellant was intentional.

11. The first informant, admittedly, has also not delivered any property or valuable security to the appellant.

12. A distinction between theft and extortion is well known. Whereas offence of extortion is carried out by overpowering the will of the owner; in commission of an offence of theft the offender's intention is always to take without that person's consent.

13. We, therefore, are of the opinion that having regard to the facts and circumstances of the case, no case under Section 384 of the Penal Code was made out in the first information report."

The judgment of the Apex Court in the case of R.S.NAYAK V. A.R.ANTULAY also deals with the issue of extortion, as found at paragraph 60 and it reads as follows:

"60. "Extortion" is thus defined in Section 383, IPC:

"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."

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. We agree with this view which has been indicated in *Habibul Razak v. King-Emperor* [AIR 1924 All 197 : 25 Cri LJ 961 : 21 ALJ 850] . There is no evidence at all in this case that the managements of the sugar cooperatives had been put in any fear and the contributions had been paid in response to threats. Merely because the respondent was Chief Minister at the relevant time and the sugar cooperatives had some of their grievances pending consideration before the Government and pressure was brought about to make the donations promising consideration of such grievances, possibly by way of reciprocity, we do not think the appellant is justified in his contention that the ingredients of the offence of extortion have been made out. The evidence led by the prosecution falls short of the requirements of law in regard to the alleged offence of extortion. We see, therefore, no justification in the claim of Mr Jethmalani that a charge for the offence of extortion should have been framed."

All these matters are necessary to be considered, which can only be done after filing of the statement of objections by the respondents.

12. Prima facie, the ingredients of Section 383 of the IPC are not met in the case at hand, for it to become an offence under Section 384 of the IPC. Therefore, permitting further investigation, into the aforesaid crime, would become an abuse of the process of the law, again prima facie. Therefore, further investigation in the case at hand shall remain stayed till the next date of hearing.

List the matter on 22.10.2024 for further hearing at 2.30 p.m.