



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 16th April, 2025
Pronounced on: 28th June, 2025*

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CRL.A. 560/2025

CAPT. RAM KUMAR (RETD).

S/o Late Shri Harke Ram
Flat No.20, Sector-18-A,
Vijay Veer Awas, Dwarka
New Delhi-110075

.....Appellant

Through: Mr. Raghuvender Godara, Advocates

Versus

1. **RAJESH HUDA**

S/o Late Shri Ram Narayan
Flat No.340, Vijay Veer Awas
Sector 18-A, Dwarka
New Delhi-110075

2. **THE STATE**

.....Respondents

Through: Mr. Satyavan Kudalwal, Advocate for
Respondent No.1

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Appeal under Section 378 (3) of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) has been filed on behalf of the Appellant/Complainant, Capt. Ram Kumar (Retd.) against the impugned Judgment dated 04.12.2018 whereby the Respondent/Accused has been



acquitted by the learned M.M. under Section 341/506 of the Indian Penal Code (*hereinafter referred to as "IPC"*).

2. The Complainant/Appellant had filed a Complaint under Section 200 Cr.P.C. read along with Section 156(3) Cr.P.C. for registration of FIR against the Respondent. The Application under Section 156(3) Cr.P.C. got dismissed.

3. The Complainant/Appellant examined himself as CW1 in the pre-summoning evidence and the Respondent was summoned under Section 341/506 IPC by the learned M.M. on 11.09.2015.

4. Notice under Section 251 Cr.P.C. was framed on 20.07.2016 to which the Respondent pleaded not guilty.

5. The Complainant/Appellant examined himself as CW1. and was duly cross-examined by the Respondent/Accused.

6. He also examined **CW2, Const. Ravinder Kumar** who proved Complaint Register bearing Serial No.646 dated 03.07.2013 whereby the Complaint by the Appellant was made, Ex.CW2/A on which DD No.78 Ex. CW2/8 was recorded.

7. The statement of the Respondent/Accused was recorded under Section 313 Cr.P.C. wherein he denied all the incriminating evidence against him. He set up the defence that the Complainant/Appellant, who was a property dealer, had asked him to sell his flat to which he had declined. The Appellant tried to put pressure on the Respondent through his father-in-law. And had threatened him that he would take revenge of the quarrel by getting him falsely implicated in a case.



8. The learned M.M. referred to the Complaint and the testimony of CW1/Appellant to observe that there was no evidence about the Complainant/Appellant having been wrongfully restrained or criminally intimidated and consequently acquitted the Respondent/Accused.

9. *Aggrieved by acquittal dated 04.12.2018 the present appeal has been preferred by the Complainant/Appellant.*

10. The **grounds of challenge** are that inadvertently the facts regarding the wrongful restraint by the Respondent/Accused could not be mentioned in the Complaint dated 30.07.2013, but these facts were duly brought forward in the evidence of the Complainant/Appellant which has not been appreciated by the learned M.M.

11. Further, while the Complainant/Appellant in his testimony had deposed that the Complaint had been written by him but in his cross-examination he had merely clarified that the Complaint was written by his neighbour, Mr. Jain but it was under his signatures. Therefore, to observe that this factum created a doubt about a veracity of the statement of the Complainant/Appellant, is erroneous.

12. It is further contended that it has not been appreciated that earlier an FIR No.112/2012 under Section 336/341/307 IPC read with 27 Arms Act had been registered against the Respondent/Accused, on his Complaint. Subsequently, the Respondent/Accused had criminally intimidated the Complainant/Appellant on 30.07.2013 by giving a threat to him to withdraw his earlier case FIR 212/12. The testimony of the Complainant/Appellant was consistent, but has been wrongly discarded by the learned M.M.



13. Therefore, the impugned judgment is liable to be set aside and the Respondent/Accused be convicted for the offences committed under the stated sections.

14. The *learned Counsel for the Respondent No.1/Rajesh Huda* submitted that there was no incriminating evidence against him and the learned M.M. has rightly acquitted Respondent No.1. There is no merit in the present Appeal which is liable to be dismissed.

15. **Submissions heard and record perused.**

16. There is admittedly an earlier FIR 112/12 dated 19.05.2012 registered against the Respondent/Accused on the Complaint of the Complainant/Appellant on account of some altercation between them about the quarrel of the children. However, the Respondent/Accused had asserted that the disputes were on account of complainant pressurizing him to sell his flat. Whatever be it, the fact that there was a prior registration of FIR clearly reflects that the relationship between the Complainant and the Respondent were acrimonious.

17. In this present case, the incident of 30.07.2013 which had led to the trial, may be considered. The Complainant/Appellant in his Complaint dated 30.07.2013 had stated that while in the morning at about 7.15 am, he had gone for his walk, the Respondent/Accused had come on his scooter from the front and stopped it near him and told him to withdraw the case or else he threatened to kill him and that he would not let him reside in Dwarka. Reference was made to the incident of 19.05.2012 which had resulted in registration of FIR 112/12. He stated that the Respondent/Accused had fired



at him and Police had even recovered the pistol and the ammunitions from him. The Complainant/Appellant in his testimony as CW1 however, gave further details that he was initially threatened by the Respondent/Accused and as he side tracked him and *walked ahead*, Respondent/Accused again came near him and threatened him to withdraw the case.

18. While it may be noted that the Complainant/Appellant had given a further detail of being accosted by the Respondent/Accused, but it cannot be termed as a material improvement creating a doubt in his testimony as has been observed by the learned M.M. However, the first question which arises is *whether this testimony establishes an offence of wrongful restraint*.

19. **Section 339 IPC defines wrongful restraint** as under:-

“339. Wrongful restraint.—

Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

(Exception)— The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration— A obstructs a path along which Z has a right to pass. A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.”

20. This Section as interpreted in the case of *Keki Hormusji Gharda vs. Mehervan Rustom Irani*, (2009) 6 SCC 475, requires the following essential ingredients to constitute an offence under Section 339 IPC, which are:



- (i) *Accused obstructs voluntarily;*
- (ii) *The victim is prevented from proceeding in any direction;*
- (iii) *Such victim has every right to proceed in that direction.*

21. It was observed in *Keki Hormusji Gharda* (supra) that the word “voluntary” is significant as it connotes that the obstruction should be direct. Further, the *obstructions* must be a restriction on the normal movement of a person. It should be a physical one. There should also be common intention to cause obstruction.

22. In the case of *Rohan Ashok Khaunte vs. State of Goa, Through Police Inspector and Others*, 2021 SCC OnLine Bom 6047, High Court of Bombay observed that to support the Charge of wrongful restraintment, there must be atleast such an impression produced in the mind of the person confined, as to lead him reasonably to believe that *he was not free to depart* and that he would be forthwith restrained, if attempted to do so.

23. It is evident that to constitute an offence of wrongful restraint under Section 339 IPC, it has to be shown that the Complainant had been prevented/restrained against his wish from proceeding in a particular direction.

24. **Applying these observations to the present case**, it is evident from the entire evidence of the Complainant that there is no indication that the Respondent obstructed or restrained him in any manner. The accused blocked the Complainant’s forward path by positioning his scooter in front, but did not create a obstruction that prevented movement of Complainant in any directions. The only evidence that has been produced is that while the



Complainant was out on a walk, he had been threatened twice by the Respondent.

25. *No offence under Section 339 IPC was thus, proved against the Respondent, as has been rightly observed by the learned M.M.*

26. The second offence with which the Respondent/Accused was charged was of criminal intimidation. This offence is defined under **Section 503 IPC** as under:-

“503. Criminal intimidation.—

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.— A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration— A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B’s house. A is guilty of criminal intimidation.”

27. To be able to prove an offence under Section 503 IPC, it has to be proved that the accused had threatened the other person with injury to his personal reputation or property with an intent to cause an alarm to that person to do or not to do what he is legally bound.

28. The essential ingredients to make out an offence punishable under Section 506 IPC (*Punishment for Criminal Intimidation*) have been



discussed by the Apex Court in Manik Taneja vs. State of Karnataka, (2015) 7 SCC 423 wherein the Apex Court had observed as under:

*“11. ... A reading of the definition of “criminal intimidation” would indicate that **there must be an act of threatening** to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and **the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.**”*

29. As observed in Manik Taneja, (supra) simply using abusive or threatening language without any intent to cause alarm, does not come within the scope of Section 503 IPC. For a threat to qualify under this Section, it must be made with the intention to cause alarm to the person threatened or to coerce them into doing something they are not legally obligated to do, or to refrain from doing something they are legally permitted to do.

30. Furthermore, the Apex Court in Naresh Aneja vs. State of U.P., (2025) 2 SCC 604 referred to Sharif Ahmed vs. State of U.P., (2024) 14 SCC 122 wherein it was held that an offence of criminal intimidation arises when the accused intends to cause alarm to the victim, *though it does not matter whether the victim is alarmed or not*. The intention of the accused to cause alarm, must be established by bringing evidence on record. The Apex Court, also cited Manik Taneja, (supra), to emphasize the necessity of presenting material and evidence to establish intent. It was held that *mere statement without requisite intention, would not attract the offence*.



31. **In the present case**, the testimony of the Complainant/Appellant was that the Respondent/Accused had threatened him to withdraw the earlier FIR No. 112/12 or else he would make it difficult for him to continue to stay in Dwarka and that otherwise he would kill him. The manner in which these words have been asserted along with the previous conduct, it can be inferred that though the Respondent/Accused had tried to tell him to withdraw the earlier FIR, but nowhere is there any evidence to show that there was an intent to cause harm or that the Complainant/Appellant got intimidated. Mere empty threat was not with the requisite intent to cause harm which is first essential component of the offence of criminal intimidation.

32. Further, as observed by the Apex Court, that such threat must have caused an alarm to the Complainant/Appellant - an element which again is conspicuously missing. There is no evidence whatsoever to suggest that the Complainant/Appellant felt intimidated or was concerned for his personal safety and security.

33. ***No offence under Section 506 IPC was established from the evidence led by the Appellant.***

Conclusion:

34. The learned M.M. therefore, rightly concluded that the offence under Sections 341/506 IPC were not proved beyond reasonable doubt against the Respondent/Accused and he has been rightly been acquitted.

35. There is no merit in the present Appeal, which is hereby dismissed.

36. The present Appeal is disposed of along with pending Application(s), if any.

2025:DHC:5077



**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 28, 2025/pp