

HRRH030047792018



Presented on : 14-02-2018
Registered on : 14-02-2018
Decided on : 10-07-2026
Duration : 8 years, 4 months, 24 days

**IN THE COURT OF
Chief Judicial Magistrate
AT ,Rohtak
(Presided Over by Sh. Mohommad Sageer)**

CHI/305/2018

State	Versus	Umesh son of Rajender r/o Saraswati Vihar Colony, Rewari.
		<i>...Accused</i>

FIR No.774 dated 15.11.2017
Under Sections: 354-D and 506 IPC
Police Station : City, Rohtak.

Present: Sh. Deepak Chahal, Ld. APP for the State.
Accused Umesh on bail with ld. Counsel Sh. Jaipal
Sharma, Advocate.

JUDGMENT :-

The above named accused has been sent to face trial by the Station House Officer of Police Station City, Rohtak under Sections 354-D & 506 IPC.

2. In brief, the present case has been registered on the complaint of Nisha Kaur wife of Manoj and d/o Sh. Tika Ram, r/o H. No. 174/2, Indira Colony, Rohtak dated 14.11.2017, wherein she stated that in May 2017, she received a call from an unknown person late night. He was hurling filthy abuses and using indecent language to her. She informed her husband and father about this, but they

Mohommad Sageer/CJM/Rohtak

decided not to take any action out of concern for their social reputation. Her father spoke to the person who had called, and he assured them that he would not call her number again. On November 11, 2017, at around 3:15 PM, she received a call on her phone number i.e. 7056126533. The caller used filthy abuses, indecent language, and obscene remarks, and also threatened to kill both her and her family member and he was saying that he would abduct her sister-in-law who lives in Faridabad and kill her. He was saying that he knows her character. He claimed that her husband invites prostitutes to the house and that they would kill him too. He also threatened to have her father abducted and killed and neither she nor the police would ever find out about it. He was further saying that just as he had her brother killed, he would have her entire family killed too. He was further saying that he stays fully informed about her. After that, he started hurling filthy abuses at her again. She even lodged a complaint about this at the Police Station City Rohtak, but no action was taken. She prayed for taking action against him.

3. On this present FIR was got registered. Statements of witnesses were recorded. Evidence were collected and site plan was prepared. Thereafter, accused were arrested by the police and finally challan was presented in the court after due investigation.

4. Copy of challan was supplied to the accused free of cost as per Section 207 Cr.P.C. and on finding a prima-facie case punishable under Sections 354-D and 506 IPC.

5. On finding a prima-facie case punishable under Sections 354-D & 506 IPC, accused was charge sheeted accordingly by the Court of the then Id. CJM on 23.05.2018, to which, accused did not plead guilty and claimed trial.

6. In order to prove its case, prosecution examined following witnesses :-

PW-1	: L/ASI Banita
PW-2	: SI Kashmir Singh
PW-3	: Nisha Kaur
PW-4	: ASI Rajbir Singh
PW-5	: Tika Ram
PW-6	: Mahender Singh

7. Beside these following documents are tendered:-

Ex. PW1/A & B	FIR & Endorsement
Ex. PW1/C	Statement under Section 164 Cr.P.C.
Ex. PW1/D	CDR of accused
Ex. PW1/E	CDR of complainant
Ex. PW2/A	Arrest memo
Ex. PW2/B	Disclosure statement
Ex. PW2/C	Recovery memo
Ex. PW3/A	Complaint
Ex. PW4/A	Identification memo
Ex. MO1	Mobile Phone

8. Thereafter, the prosecution evidence was closed by the Ld. APP for the State vide statement dated 10.06.2026.

9. Statement of accused under Section 313 Cr.P.C. was recorded in which entire incriminating material came in prosecution evidence was put to accused to which he denied all the allegations

and pleaded that he has been implicated in a false case and accused opted to lead defence evidence but today closed the same without examining any DWs.

10. Learned APP for the State submitted that prosecution has duly proved its case. However, on the other hand, Id. Counsel for the accused argued that accused has been falsely implicated in this case and there were no such incidents as mentioned in the police challan. Finally, he submitted to acquit the accused from the charges.

11. After hearing learned defence counsel and learned APP for the State and perusing the case file, this court is of the view that prosecution failed to prove guilt of the accused beyond shadow of reasonable doubt for the following reasons:-

12. First of all, this Court entertains serious doubt upon the trustworthiness upon the complainant as she nowhere in her complaint Ex. PW-3/A or in her statement under Section 164 Cr.P.C. Ex.PW-1/C ever disclosed that the unknown caller i.e. the accused was his cousin brother i.e. son of his uncle but in her deposition while appearing as PW-3, she first time disclosed this fact which is very strange. Even in her chief-examination, she did not disclose that the unknown caller was his cousin brother i.e. Umesh. Only in her cross-examination, she stated that Umesh is the real son of her real uncle and her brother in relation and she knew the accused from his childhood. It is very doubtful that when she was having so close relationship with the accused, she was not having his phone number and that she did not recognize his voice on the mobile phone. This creates serious suspicion in

the mind of the Court regarding the trustworthiness of this witness.

13. Further even her father PW-5 namely Tika Ram deposed that when on 11.11.2017, complainant came to his house and started weeping and stated that Umesh was giving calls to her and used abusive language etc. and thereafter he called Umesh and tried to make him understand that he was not doing right. This is in clear contradiction with the testimony of the complainant PW-3 where she nowhere disclose that she knew that it was Umesh who was calling her rather she maintained that some unknown person was calling her. This contradiction is very serious and makes the testimonies of those complainant and her father to be doubtful and dubious.

14. Further, the prosecution failed to connect the alleged phone number 9992409848 to be of the accused. No Nodal officer of the mobile company was examined by the prosecution to prove that this mobile number belongs to the accused. Only photocopy of some documents showing call records of the mobile phone of the complainant and her application form Ex. PW1/D and F and one call detail of mobile No. 9992409848. However, these documents cannot be taken into consideration as they are not proved by any Nodal officer of the mobile company and moreover, no certificate under Section 65 B of Indian Evidence Act has been submitted to prove these electronic records which is mandatory in nature.

15. Rest of the witnesses are formal in nature who only proved the documents attached with the challan and were not the eye witnesses.

16. It has been held by the Hon'ble Supreme Court in **SL Goswami Vs. State of M.P., 1972 AIR 716**, that the accused is entitled to the benefit of

doubt where the onus of proving the ingredients of the offence is not discharged by the prosecution.

17. In Narender Singh and Anr vs. State of M.P 2004 (3) RCR Criminal 613, Hon'ble Supreme Court of India has held that presumption of innocence is a human right. Burden of proof remains on prosecution. Similarly, in Suchan Pal Vs. Phani Pal and Anr reported in 2004 (1) RCR Criminal 221, the Hon'ble Supreme Court of India held that prosecution can succeed by substantially proving the version it alleges. It must stand on its own legs and cannot take advantage of the weakness in defence case. In this case, Hon'ble Supreme Court also held that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.

18. Keeping in view the above facts, the prosecution has miserably failed to prove the guilt of the accused beyond reasonable doubt. Hence, by affording benefit of doubt accused is hereby acquitted of the charges framed against him. His bail bonds and surety bonds stands discharged. File be consigned to the records, after due compliance.

Announced in open Court.
Dated:-10.07.2026

(Mohammad Sageer)
Chief Judicial Magistrate,
Rohtak. UID No. HR0381.

Note: Certified that this judgment contains 06 pages and each page has been duly checked and signed by me.

(Mohammad Sageer)
Chief Judicial Magistrate,
Rohtak. UID No. HR0381.

Dinesh

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