

GAHC010271802022



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./3/2023

RUHUL ISLAM
S/O NURUL HOQUE
VILL- DAKHIN BORDOLOI PATHER
P.S. LANKA P.O. TINIALI BAZAR
DIST. HOJAI, ASSAM
PIN-782446

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE PP, ASSAM

2:AINUL HOQUE
S/O ABDUL MALIK
VILL- TINIALI GAON
P.S. LANKA
DIST. HOJAI
ASSAM
P.O. TINIALI BAZAR
PIN-78244

Advocate for the Petitioner : MR. R A CHOUDHURY, M. ROBBANI, MR. R A MAZUMDER
Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

25.02.2026

1. Heard Mr. R. A. Choudhury, learned counsel for the petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor for the state.
2. By this application filed under Section 482 of the Cr.P.C. the petitioner has prayed for quashing of the FIR dated 3/12/2021 registered as Lanka PS case No. 780 of 2021 under Section 386/307 of the IPC, corresponding to GR case No. 3429 of 2021.
3. The FIR dated 25/11/2021 lodged by the informant reveals that the petitioner was harassing him mentally and has filed a false FIR against him. It is further alleged that the petitioner demanded Rs. 10 lakhs from the informant by taking the name of some political leader and has threatened him. The informant also alleges that the petitioner has threatened him that if that amount is not paid, he will kill him by gunshots or will get him jailed.
4. The police registered the case under Section 386 as well as 307 of the IPC as Lanka PS case No. 780/2021. The police thereafter investigated the case and submitted charge-sheet arraying the petitioner as the accused person and charging him under Section 307/386 of IPC and have also mentioned that the petitioner was absconding and have requested the court to issue non-bailable warrant of arrest. Thereafter, summons were issued to the accused person.
5. Mr. Choudhury, learned counsel for the petitioner, submits that a bare perusal of the FIR does not make out a case under Section 386 or Section 307 IPC. He submits that to make out a case under Section 386 of the IPC which provides that whoever commits extortion by putting any person in fear of death or grievous hurt to that person be punished with the

punishment mentioned therein.

6. By referring to Section 383 of the IPC, the learned counsel submits that one of the ingredient requires for alleging extortion is that property has to be given to the person who extorts. To substantiate his argument, he has placed a judgment of the Hon'ble Supreme Court delivered in *Salib versus State of UP, reported in 2023 11 SCR 58*, wherein the Supreme Court has held that there has to be actual delivery of possession of property by the person put in fear.

7. The learned counsel further submits that the ingredients of Section 307 is also not attracted on perusal of the FIR, inasmuch as no hurt was caused by any act of the petitioner as provided for under Section 307 IPC.

As such, he submits that since none of the offenses are made out as narrated in the FIR, the same entails quashment. Further, he submits that the consequent charge-sheet as well as the summons is also liable to be quashed.

8. Mr. M.P. Goswami, learned Additional Public Prosecutor for the state submits that the offense under 386 read with Section 383 and Section 307 is well attracted in the case at hand in view of the fact that it is alleged that the petitioner has threatened with dire consequences even to the extent of killing him if the amount is not paid to him. He as such submits that the said FIR as well as the charge-sheet along with the subsequent order is not liable to be quashed.

9. I have heard the parties and gone through the records.

10. It is no *res-integra* that if the FIR discloses a cognizable offense, the same is not liable to be quashed. It has been held by the Supreme Court,

more so in *Bajanlal versus State of Haryana*. The apex court had held that on a bare perusal of the FIR along with the accompanying documents if cognizable offense is made out the same is not amenable to quashing.

11. In the instant case, for the sake of argument even if it is considered that ingredients of Section 386 and 307 IPC are not present, however, cognizable offense is well made out by a bare perusal of the said FIR. It is also an established position of law that the police can add or remove charges against the accused person at any stage. It is specifically stated in the FIR that the petitioner had demanded Rs.10 lakhs from the informant and threatened him that he would kill him or get him imprisoned if he does not pay that said amount. The offense of threatening is writ large in the said FIR. Same is the case with the charge-sheet.

12. The learned counsel for the petitioner had also submitted that there is a cross FIR much before the FIR lodged by the present informant and the said FIR was lodged by the petitioner against the informant alleging that money has been demanded by the informant. However, the same would not affect the consideration to be made in respect of the present FIR, which resulted in filing of the charge sheet.

13. In view of the same, this court does not deem it fit to quash the FIR or the charge-sheet or the consequent proceeding.

14. Accordingly, the petition is dismissed and disposed of.

JUDGE