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Actual Delivery of Property Not Required; Threat of Death or Grievous Hurt Enough to Attract Section 387 IPC: Supreme Court

SUPREME COURT OF INDIA

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

VERSUS

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

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CRIMINAL APPEAL NO. 2899 OF 2025

(Arising out of SLP(Crl.)No.3159/2025)

Date of Judgement: 05/06/2025

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Facts of the Case:

The appellant-complainant, Prof. Manoj Kumar Agrawal, is the proprietor of M/s. Balaji Traders, dealing in betel nut leaves. A dispute arose when the accused, Sanjay Gupta, began operating under the same trade name, triggering trademark and copyright litigation.

On 22nd May 2022, while returning home, the complainant was allegedly stopped by the accused and three armed associates. They threatened him to either shut his business or pay Rs. 5 lakh per month. Upon refusal, the complainant was physically assaulted, and an attempted kidnapping occurred. Since the police did not register an FIR, he filed a private complaint under Section 200 CrPC.

The Trial Court, after examining the evidence, issued summons under Section 387 IPC (Putting person in fear of death or grievous hurt, in order to commit extortion). The accused moved the High Court under Section 482 CrPC seeking quashing of the summoning order. The High Court quashed the proceedings, citing that no extortion occurred as no property was delivered. It further observed that since no of extortion under section 383 IPC is made out, consequently, no offence u/s 387 IPC would be made out.

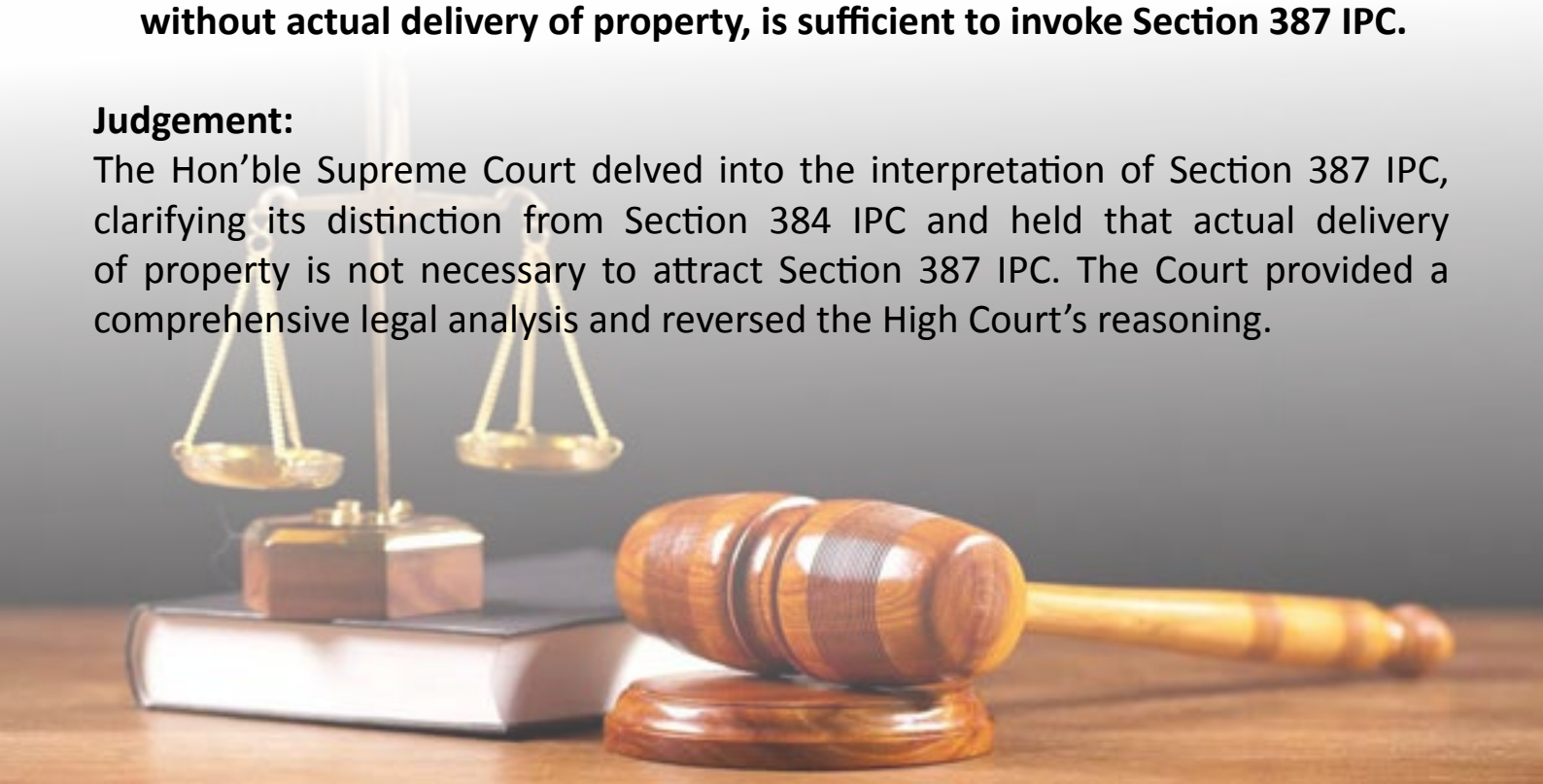
The applicant approached the Supreme Court against the High Court Order.

Issues Advanced:

i. **Whether the threat of death or grievous hurt with the intent to extort, even without actual delivery of property, is sufficient to invoke Section 387 IPC.**

Judgement:

The Hon'ble Supreme Court delved into the interpretation of Section 387 IPC, clarifying its distinction from Section 384 IPC and held that actual delivery of property is not necessary to attract Section 387 IPC. The Court provided a comprehensive legal analysis and reversed the High Court's reasoning.



The Court first clarified the legal essence of Section 387 IPC and its distinct scope as compared to other extortion-related offences.

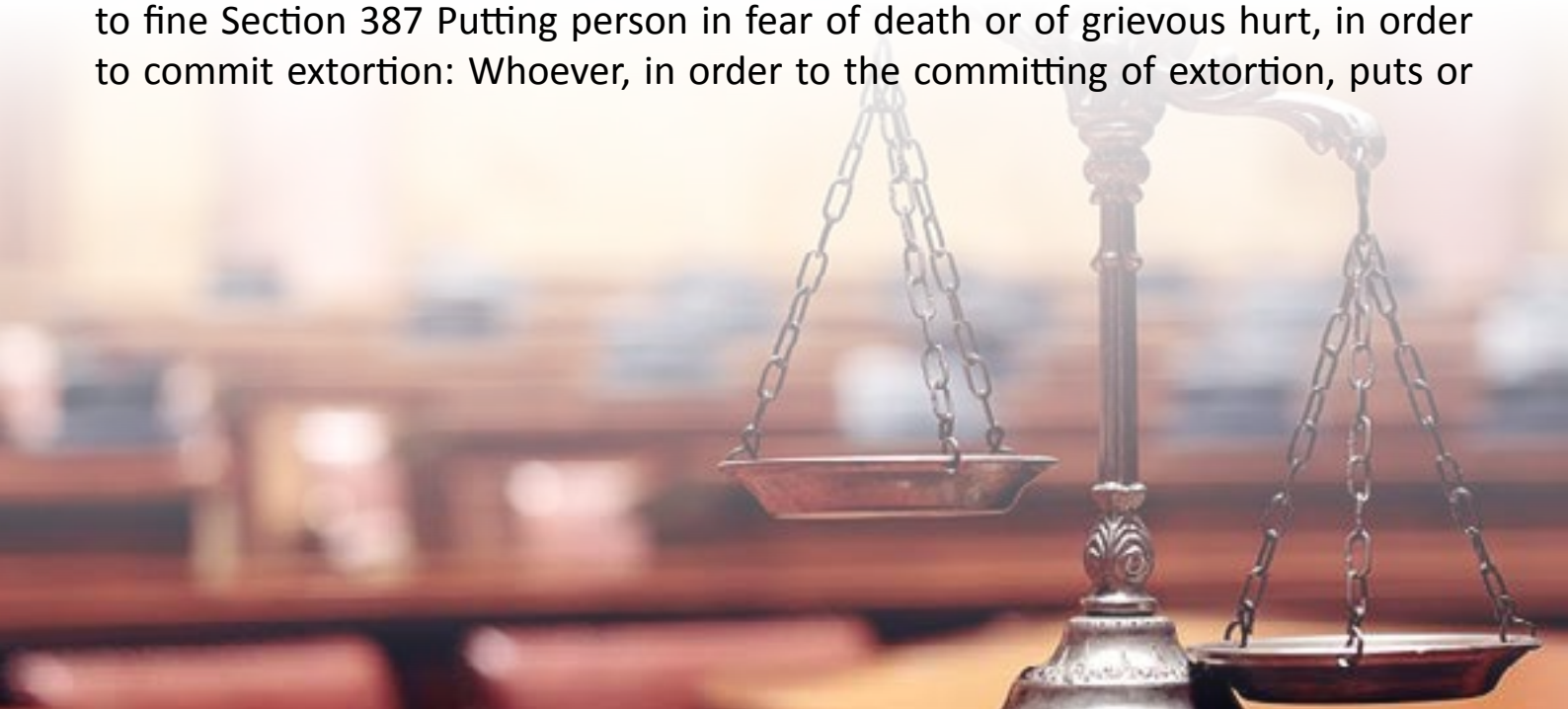
Para 8: Before adverting to the facts of the present case, it is imperative to acknowledge that IPC provides for offences, their ingredients, and their distinct punishments. The relevant Sections of extortion defined in Chapter XVII of IPC are reproduced below:

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”.

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;

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.

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 withimprisonment 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."



Para 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.

Para 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 processofcommitting 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 :
"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. …"

Para 13: 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 of
"in order to": with the purpose of doing
'in order to commit extortion' clearly reveals that it is in the process of committing the offence of extortion.

Para 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.

To further substantiate the position articulated above, the Court referred to previous decisions wherein convictions under Section 387 IPC were sustained despite no actual extortion being completed.

Para 15: In Radha Ballabh v. State of U.P., 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 Punjab, the Court upheld the conviction under Section 387 IPC where money extorted was not paid.

Para 16: Further, in Somasundaram v. State 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.

After reaffirming the interpretation of Section 387 IPC, the Court examined the legal principles governing the High Court's power to quash criminal proceedings under Section 482 CrPC.The Court, while citing a catena of previous judgments, held that the power of the High Court to quash criminal proceedings under Section 482 CrPC must be exercised sparingly and only in exceptional circumstances, such as when the complaint fails to disclose any cognizable offence, or where the prosecution is clearly actuated by mala fides. The Court reaffirmed the well-established principles from State of Haryana v. Bhajan Lal, and subsequent cases, noting the illustrative categories where such inherent power may be justifiably invoked.



Thereafter, the Court proceeded to examine the High Court's reasoning and found it to be legally untenable observing that the essential ingredients of Section 387 IPC were present in the complaint. The relevant paras are reproduced as under:
Para 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.

Para 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.

Finally, in light of the above observations, the Hon'ble Supreme Court allowed the appeal and set aside the order passed by the High Court. The proceedings arising out of the complaint were directed to be restored to the file of the Trial Court.