

MHAU030123392023

Cri.M.A. No.2344/2023
Prakash Bathiya Vs.
Prashant Palimkar

ORDER BELOW EXH.01

The present private complaint filed by the complainant against the proposed accused for the offences punishable under Sections 427, 453, 504, 506 read with Section 34 of the Indian Penal Code, 1860. It is contended that on 19.04.2023 at about 12:00 to 01:00 pm the accused no.1 and 2 alongwith two unknown people came to the house of complainant and started breaking his compound wall. The worker of complainant has told them not to do so.

02. But again on 21.04.2023 at about 10:00 to 10:30 am both accused has come to the house of complainant and started breaking the wall of compound with the help of JCB. When the worker of the complainant tried to stop them, they have abused her in filthy language and threatened to kill. As such, both accused have cause damaged upto Rs.5,00,000/- to the complainant by breaking the compound wall in his absence.

03. At the time of incident, the complainant was America for his medical treatment. When he came to know about the said incident, on 20.04.2023 he has filed e-complaint in the Kranti Chowk Police Station. They have filed NC No.332/2023, but did not take any action against both accused. Police have also suggested him to get relief from court. hence the present complaint.

04. Perused the complaint, statement on oath of complainant and other documents on record. Heard learned

counsel appearing on behalf of complainant. It appears that there is civil suit pending between the complainant and both accused as to the encroachment caused by them over the land of the complainant. It further appears that when the complainant went to America for his medical treatment, both accused have broken the wall compound of the complainant in his absence. The said fact can be seen from the E-complaint filed by the complainant on 20.04.2023 in the Kranti Chowk Police Station. Furthermore, the photographs filed by the complainant, complaint filed by the worker of the complainant and panchnama conducted by the Kranti Chowk Police also support the allegations of the complainant. Therefore, it can be said that in the absence of the complainant, both accused have intentionally and illegally had break the compound wall.

05. Accordingly, there is sufficient material on record to issue process against the proposed accused no.1 and 2. As such, the complainant has made out prima-facie case against proposed accused no.1 for offence punishable under section 427, 453, 504 of the Indian Penal Code, 1860. However, on perusal of record, it appears that both accused did not threatened to kill the complainant. As such, no offence can be made out under Section 506 of the Indian Penal Code, 1860. Hence, considering the above-mentioned discussion, I pass the following order:

ORDER

1. The application is allowed.
2. Issue process against the proposed accused No.1 and 2 for the offence punishable under Section 427, 453, 504 read with Section 34 of the Indian Penal Code.

Date: 03.10.2023

(A. R. Deore)
20th JMFC, Aurangabad.