

**SUPREME COURT OF INDIA**

Isaac Isanga Musumba

Vs.

State Of Maharashtra

(2013) 7 SCALE 0569

(A.K. Patnaik and Ranjan Gogoi JJ.)

19.06.2013

**JUDGEMENT**

**A.K. Patnaik, J.**

1. Heard learned counsel for the parties.

2. Petitioners are nationals of Uganda and have filed this Writ Petition under Art.32 of the Constitution praying for quashing of F.I.R. No. 88 of 2013 registered on 19th April, 2013 at WRA Marg Police Station, Mumbai in which they have been accused for offences under Sections 384, 441 and 120B, I.P.C. We have read the F.I.R. which has been annexed to the Writ Petition as Annexure P-7 and we find there from that the complainants have alleged that the accused persons have shown copies of international warrants issued against the complainants by the Ugandan Court and letters written by Uganda Ministry of Justice & Constitutional Affairs and the accused have threatened to extort 20 million dollars (equivalent to Rs. 110 crores). In the complaint, there is no mention whatsoever that pursuant to the demands made by the accused; any amount was delivered to the accused by the complainants. If that be so, we fail to see as to how an offence of extortion as defined in S.383, I.P.C. is made out. S.383, I.P.C. states that 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'. Hence, unless property is delivered to the accused person pursuant to the threat, no offence of extortion is made out and an F.I.R. for the offence under S.384 could not have been registered by the police.

3. We also find on the reading of the F.I.R., there is also an allegation that on 18th April, 2013 between 1 p.m. and 5.30 p.m. the accused persons illegally entered into the Head Office of the Company at Fort and demanded 20 million dollars (equivalent to Rs. 110 crores) saying that they have international arrest warrants against the complainants and upon failure

to pay the said sum the complainants will have to face dire consequences. , It is because of this allegation in the F.I.R., the offence under S.441, I.P.C. is alleged to have been committed by the accused persons. On reading S.441, I.P.C. we find that intent to commit an offence or to intimidate, insult or annoy any person in possession of property is a necessary ingredient of the offence of criminal trespass. It is not disputed that there was a business transaction between the accused persons and the complainants. Hence, if the accused persons have visited the premises of the complainants to make a demand towards their dues, we do not think a case of 'criminal trespass' as defined in S.441, I.P.C. is made out against the accused persons.