IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Appeal No.590 of 2023

Appellant	:	Zaid son of Wali Sattar *Through* Mr. Naheed Afzal, Advocate.
Respondent	:	The State *Through* Mr. Qamaruddin Nohri, A.P.G.
Date of hearing	:	05.11.2026
Date of judgment	:	18.11.2026

J U D G M E N T

KHALID HUSSAIN SHAHANI, J. **-** The appellant, Zaid son of Wali Sattar, calls in question the judgment dated 28.10.2023 passed by the learned Xth Additional Sessions Judge, Karachi South, in Sessions Case No. 2548 of 2020 arising out of FIR No. 412 of 2020, Police Station Saddar, Karachi. By that judgment, the appellant was convicted under sections 384 and 500, P.P.C. For each offence he was sentenced to pay a fine of Rs.50,000/- and, in default of payment, to undergo simple imprisonment for two weeks. The default sentences were ordered to run concurrently. No substantive term of imprisonment was imposed

2. The prosecution case, briefly stated, was that Dr. Sobia Akhtar Hussain Khan, an employee of the National Institute of Cardiovascular Diseases, Karachi (NICVD), alleged that the appellant, described as Chief Editor of Daily People's Life, had published adverse and allegedly false reports concerning her and other NICVD employees. She alleged that in 2019 the appellant came to her office, where Karim Mumbani, Manager OPD, and Raza Abbas, Head of Information Technology, were present. He allegedly demanded regular advertisements for his newspaper and said that adverse reports would continue if the advertisements were not provided. On her refusal, he allegedly demanded money and threatened further adverse publicity. The complainant and the two witnesses attributed to that encounter delivery of Rs.20,000/- to the appellant. The complainant also alleged that he had received more than Rs.600,000/- from her on other occasions. Muhammad Yaqoob was alleged to have delivered newspapers at her office and was later declared a proclaimed offender.

3. The FIR was registered on 24.09.2020. The police papers initially included, among other provisions, sections 384, 500, 452 and 506-B, P.P.C. During investigation, section 386, P.P.C., and section 7 of the Anti-

Terrorism Act, 1997, were also invoked. By order dated 09.12.2020, the learned Judge, Anti-Terrorism Court-VIII, Karachi, excluded the terrorism provision and sent the case to the ordinary criminal court. The appellant was charged on 09.12.2022. The trial judgment records that the charge against him was confined to sections 384 and 500, P.P.C. He pleaded not guilty and claimed trial. The prosecution examined eight witnesses. In his statement under section 342, Cr.P.C., the appellant denied the allegations, asserted false implication, and did not elect to testify on oath or produce defence evidence. The trial Court convicted him on both counts.

4. The grounds in the memorandum of appeal are general. At the hearing, learned counsel for the appellant challenged the reliability of the complainant and the two alleged eyewitnesses, emphasized the delay in lodging the FIR, the absence of particulars concerning the alleged payments, and the deficiencies in the investigation and documentary and electronic evidence. He also challenged the legal basis for the conviction under section 500, P.P.C. The learned Additional Prosecutor General supported the judgment and submitted that the complainant's account of the specific office encounter was corroborated by the two persons who were present. I have heard learned counsel and examined the available record. The questions for determination would be, (i) whether the prosecution proved beyond reasonable doubt that the appellant committed extortion under section 384, P.P.C., and, if so, to what extent? (ii) whether the conviction under section 500, P.P.C., can stand in the absence of cognizance upon a complaint satisfying section 198, Cr.P.C., and whether the evidence otherwise proves that offence? (iii) what order should be passed on the appeal and sentence?

5. Section 383, P.P.C., defines extortion. Its essential ingredients are that the accused intentionally puts a person in fear of injury; that, by means of that fear, he dishonestly induces that person to deliver property or other specified value; and that the delivery follows from the inducement. Under section 44, P.P.C., injury includes harm illegally caused to reputation. Illustration (a) to section 383 expressly recognizes that a threat to publish a defamatory libel unless money is paid may amount to extortion. Physical violence or a threat of death is not essential. The prosecution must nevertheless prove the threat, the fear thereby caused, the dishonest inducement, and the resulting delivery.

6. The complainant gave direct evidence of the office encounter and identified the appellant. In her evidence she stated, in substance, that she

became afraid and gave him Rs.20,000/- because she did not then have the larger amount demanded. Her account of that payment is supported by PW-2 Karim Mumbani and PW-3 Raza Abbas, both of whom were identified as present at the office. PW-2 described the appellant's demand for publications, his demand for Rs.100,000/- after the complainant declined, and her delivery of Rs.20,000/-. PW-3 likewise described the demand for Rs.100,000/- and stated that the complainant gave Rs.20,000/-, which the appellant received. Read as a whole, PW-3's evidence distinguishes the amount demanded from the smaller amount paid; it is not a denial that payment occurred.

7. The three witnesses were colleagues of the complainant. Their relationship to her calls for careful scrutiny, but does not by itself make their evidence inadmissible or unreliable. Their presence together in the complainant's office is not inherently improbable. Their inability to give the exact date reduces the precision of their recollection. The complainant also accepted that she could not remember the initial date and that the FIR recorded 01.01.2019. The date is therefore not established with precision. Sections 221 to 223, Cr.P.C., require a charge to give reasonably sufficient particulars of the offence, time, place, and manner. Under section 225, an error or omission is material where the accused was misled and a failure of justice resulted. The appellant's defence denied the office encounter and receipt of money, and the transaction was put in issue during the trial. On the record before me, the specific Rs.20,000/- payment was part of the case he was called upon to meet; the conviction is not based on the un-particularized later payments. The uncertainty as to date remains relevant to the weight of the evidence, as discussed below.

8. PW-2's description of the complainant as a "household wife" without a source of income does not accord, on the record as summarized by the trial Court, with her employment at NICVD. That discrepancy requires caution in relying on PW-2, but it does not, without more, disprove his separate assertion that he saw the appellant receive Rs.20,000/-. The complainant's employment and the source of the cash should not be treated as proof either for or against the payment unless established by evidence. The material question remains whether the witnesses reliably saw the demand and delivery.

9. The complainant's evidence and the accounts of PWs 2 and 3 converge on the material sequence: the appellant threatened continued adverse

publicity after refusal of advertisements, demanded cash, and received Rs.20,000/- from the complainant. The complainant expressly associated her fear with the payment. I do not treat a request for advertisements, a newspaper's critical reporting, or the appellant's occupation as a journalist as proof of extortion. The finding rests on the evidence of a coercive cash demand linked to the threatened publicity and the consequent delivery of money. On the direct evidence accepted above, the prosecution proved that specific transaction beyond reasonable doubt.

10. The broader allegation that the appellant received more than Rs.600,000/- on different occasions is not proved to the same standard. The complainant accepted that she had not provided the dates, times, places, descriptions, or denominations of those separate payments in her application or section 161, Cr.P.C., statement. PW-2's knowledge of earlier payments came from what the complainant told him after the office encounter; it is hearsay and does not independently prove those transactions. The aggregate amount is therefore not established and is not relied upon in maintaining the conviction. Its failure of proof does not, by itself, establish that the separately described Rs.20,000 payment was fabricated; that specific transaction has been assessed on the direct evidence of the three witnesses.

11. The delay between the alleged encounter in 2019 and the FIR of 24.09.2020 is substantial. It removes the assurance of a prompt report and requires close scrutiny. The complainant acknowledged that the police documents did not record an explanation for the delay. Her testimony, as reflected in the record placed before the Court, referred to her condition and to informing senior colleagues before making the complaint. The Court must assess that explanation on its evidence and not on a general assumption about how a person faced with reputational pressure would behave. Having considered the delay together with the uncertainty as to date and the lack of particulars of the larger alleged payments, I find that it materially weakens the aggregate allegation. It does not create reasonable doubt as to the particular office payment, which is described by the payer and by both witnesses said to have been present. This conclusion is confined to the specific Rs.20,000 transaction.

12. The complainant accepted that the investigating officer did not record statements of other female doctors or nurses. Their absence limits proof of the wider allegation that the appellant blackmailed other staff. The prosecution, however, identified Karim Mumbani and Raza Abbas as

persons present at the transaction relied upon, and both were examined. Their relationship to the complainant has been considered above. PWs 5 and 6 did not witness the incident; each acknowledged that his knowledge came from what the complainant told him. Their evidence is hearsay on the payment and is not treated as corroboration of it.

13. The investigation into the newspaper material and electronic articles was deficient. The complainant produced newspaper cuttings, while PW-3 stated that newspaper material had been obtained from NICVD's website and Facebook. The investigating officer admitted that the USB, CD, and newspaper material had not been scientifically or forensically verified and that the source equipment was not collected. The CD was reported broken when produced. In the absence of proper proof of source, authenticity, attribution, and integrity, the electronic recording cannot safely be relied upon. The safeguards discussed by the Supreme Court in PLD 2019 SC 675[1] reinforce the need for such proof. The cuttings, as described in the trial judgment, do not by themselves establish that each report was false, authored by the appellant, or defamatory of this complainant. I draw no incriminating inference from the unverified electronic material and do not use the cuttings to prove the truth or falsity of their contents. The deficient investigation does not displace the direct oral evidence of the specific demand and payment, which has been considered independently.

14. The appellant denied the occurrence in his statement under section 342, Cr.P.C. His decision not to testify on oath or lead defence evidence cannot be used to fill a gap in the prosecution case. The prosecution must stand on its own evidence. The rule stated in 2018 SCMR 772[2] that a single circumstance creating reasonable doubt entitles an accused to its benefit as of right has been kept in view. On the specific Rs.20,000 transaction, the direct and mutually corroborative evidence of the complainant and the two witnesses, assessed with the deficiencies identified above, does not leave a reasonable doubt. The conviction under section 384, P.P.C., is sustainable only to that extent. The larger aggregate of alleged payments is not affirmed.

15. The conviction under section 500, P.P.C., faces a separate threshold objection. Section 198, Cr.P.C., provides that a Court shall not take cognizance of an offence under Chapter XXI, P.P.C., except upon a complaint by a person aggrieved by that offence. Under section 4(h),

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[1] Ishtiaq Ahmed Mirza and 2 others v. Federation of Pakistan and others
[2] Muhammad Mansha v. The State

Cr.P.C., a complaint is an allegation made to a Magistrate with a view to action under the Code and does not include a police officer's report. In 1997 P.Cr.L.J. 1128[3], the High Court held that a police challan cannot be treated as the complaint required by section 198 for taking cognizance of an offence under section 500, P.P.C. The Supreme Court has also explained that section 502-A, P.P.C., assigns trial to the Court of Session but does not authorize that Court to take direct cognizance in disregard of the ordinary statutory route 2022 PSC (Cr.) 156[4].

16. The present prosecution originated in a police report. The record placed before this Court discloses no complaint by the aggrieved person presented through the procedure prescribed by sections 198, 190 and 200, Cr.P.C., nor a written complaint by the Public Prosecutor meeting the special requirements of section 198-A, Cr.P.C. Section 198-A provides a distinct procedure in the specified cases involving public servants and their official conduct; it does not dispense with section 198 in other cases. Section 502-A, P.P.C., identifies the Court of Session as the forum for trial of offences under Chapter XXI. It does not convert a police report into the complaint required for cognizance or displace the ordinary procedure for bringing a complaint before the trial forum. The complainant's later appearance as a prosecution witness could not retrospectively cure that defect. The cognizance and conviction under section 500, P.P.C., therefore cannot stand.

17. There is an independent evidentiary deficiency. The trial Court treated adverse reporting about NICVD and the appellant's alleged lack of authority to investigate institutional affairs as sufficient to establish defamation. The judgment does not identify the particular imputation concerning the complainant, establish its publication and attribution to the appellant, or analyze the requisite intention or knowledge under section 499, P.P.C. It also does not consider the statutory exceptions in the context of any identified publication. Criticism of institutional administration does not become criminal defamation merely because another agency has authority to investigate it. Conversely, a journalist's status does not immunize a person from liability for extortion. These are distinct questions. On the evidence and reasoning recorded by the trial Court, the ingredients of section 500 were not adequately examined. The conviction is set aside on the threshold ground stated above; the alternative merits discussion does not amount to a finding that every report was true.

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[3] Hafiz Muhammad Siddique Anwar v. The State
[4] Muhammad Iltaf Khan v. Basheer and others

18. Certain NICVD correspondence and service-related documents, including material dated 22.12.2023, have been referred to in the appellate papers. They were not proved at trial. No order admitting them as additional evidence under section 428, Cr.P.C., is shown in the record before me. Their mere placement with the appellate papers does not make their contents substantive evidence. In any event, subsequent service proceedings do not determine whether the specific payment in 2019 occurred. No finding concerning the complainant's later service conduct, or any collateral accountability matter, is necessary to decide this appeal.

19. Section 384, P.P.C., permits punishment by fine, with or without imprisonment. The trial Court imposed a fine of Rs.50,000/- on this count and two weeks' simple imprisonment in default. Having confined the conviction to the proved payment of Rs.20,000/- and excluded the un-particularized aggregate from consideration, I find no sufficient ground to interfere with that sentence. The fine and default sentence imposed under section 500, P.P.C., fall with that conviction.

20. For the foregoing reasons, the appeal is partly allowed in the following terms:

    (a) The appellant's conviction under section 384, P.P.C., is maintained only in respect of the specific payment of Rs.20,000/- proved at the office encounter. The un-particularized allegation of payments aggregating more than Rs.600,000/- is not affirmed.

    (b) The sentence under section 384, P.P.C., of fine of Rs.50,000/-, and in default thereof two weeks' simple imprisonment, is maintained.

    (c) The conviction and sentence under section 500, P.P.C., are set aside for want of cognizance upon a complaint required by section 198, Cr.P.C. The appellant is acquitted of that count. No retrial on that count is ordered on the present record.

    (d) The trial Court shall verify the amount deposited. Of any aggregate deposit of Rs.100,000/-, Rs.50,000/- shall be credited towards the surviving fine under section 384, P.P.C.; any verified excess attributable to the set-aside section 500 fine shall be refunded in accordance with law. If the surviving fine has already been paid, the appellant shall receive credit for that payment. In default of payment of the surviving fine, the default sentence shall be executed in accordance with law.

(e) The appellant's bail bonds shall stand discharged upon satisfaction or lawful execution of the surviving sentence. The record shall be returned to the trial Court with a copy of this judgment. Nothing in this judgment determines the case against Muhammad Yaqoob or any separate service, accountability, or other proceeding.

J U D G E