

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

A.B.APPLICATION NO.1176 OF 2014

WITH

A.B.APPLICATION NO.1184 OF 2014

WITH

A.B.APPLICATION NO.1185 OF 2014

Rakesh Chogmal Agarwal	.. Applicant
Versus	
State of Maharashtra & Anr.	.. Respondents

WITH

CRIMINAL APPLICATION NO.277 OF 2015

Rahun Naresh Bhatia	.. Applicant
Versus	
State of Maharashtra & Anr.	.. Respondents

WITH

A.B.APPLICATION NO.1186 OF 2014

Mohsin Ayub Mulani & Ors.	..Applicants
-Versus-	
State of Maharashtra	..Respondent

Mr.Madhukar Dalvi for applicant in ABA No.1176 of 2014, 1184 of 2014 and 1185 of 2014

Mr.Shreeram Shirsat with Ajit Nair for applicants in ABA No.1186 of 2014

Ms.Veena Shinde, AGP for State in all matters

Mr.Pankaj Dinesh Purway for Applicants in APPP 277 of 2015 in ABA No.1185 of 2014.

CORAM : MRIDULA BHATKAR, J.

DATE : 7th April 2015.

P.C.

1] All these applications are disposed of by a common order as the accused are facing similar charges and they are from one and the same establishment. The complainants who gave information to the police are different and so accordingly, the different offences are registered against these accused persons.

The details of these offences are as under:-

(a) C.R.No.256 of 2009 registered with Chinchwad Police station against accused/applicant Rakesh Agarwal (accused No.7) at the instance of information given by Rahul Haresh Bhatia;

(b) C.R.No.124 of 2013 was registered with Chinchwad police station at the instance of Mr.Prashant Phapade against accused / applicant Rakesh Agarwal.

(c) C.R.No.48 of 2012 was registered at the instance of

Mukesh Kundnani at Chinchwad police station in which Rakesh Agarwal accused/ applicant is shown as accused No.3 and applicants in A.B.Application No.1186 of 2014 Mohsin Mulani as accused No.25, Mr. Unni Warrior as accused No.23 and Mr.Ajit Menon as accused No.24.

2] Intervention application is filed by Rahul Haresh Bhatia who is one of the aggrieved student who has completed the course in the institute run by Frankfin Aviation Services Pvt. Ltd. (Frankfin for short).

3] This Delhi based Frankfin runs many institutes all over India, including the institute at Chinchwad. The Frankfin Institute of Air Hostesses conducts one year course in aviation, hospitality and travel management. These courses are conducted since 2003. The offence under the first C.R. registered in this group was on 14th December 2009 and the third offence was registered in 2nd June 2013. It is the case of the applicants that the institute distributed handbills stating therein that they are running the institute for the courses of one year. The institute charged per student

approximately from 1.30 lakhs to 1.50 lakhs. The complainants took admission for the course in the institute and they were assured that after completion of their respective courses these complainants were neither given any placement nor any job offered to them. They were given certificate issued by one Edexcel Company, which is registered in United Kingdom. The certificate issued is for Level (V) BTEC for aviation, hospitality and travel management. It is thereafter the complainants realised that the company has no licence to conduct any course from Maharashtra Government and it is not recognised by the Maharashtra Government. Thereafter, these complainants approached the police as they found that their all efforts to get jobs were fruitless and pursuant to their information the offences were registered against many persons, including the present applicants/ accused for the offences punishable under section 420, 465, 467, 468, 471 read with 34 IPC.

4] Learned Counsel for the applicants submits that that the applicants are innocent. The applicant Rakesh Agarwal was one of the Directors of Frankfinn Aviation Services Pvt. Ltd. However, now he has resigned and he is no more a director of the said company.

However, erstwhile he was working as a Director but has not committed any cheating or forgery. Learned Counsel for the applicant submits that the company through the impugned institute at Chinchwad run these diploma courses of one year and the UK based company called Edexcel has entered into an agreement to issue certificates as the company is registered and located in London and it is developer and administrator of various qualifications recognised in U.K. and many other countries such vocational qualifications and are known as BTEC.

5] The learned Counsel produced many documents including the agreement between the Edexcel and the Frankfinn. He also produced documents showing several correspondence between the Investigating officer and Registrar of Companies U.K. He also relied upon the statement of one Mr.Mark Sly working in the office of ROC U.K., that Edexcel is registered company in U.K.

6] It is also submitted that the courses were in fact conducted and such certificates were issued by the Edexcel. Thus, there is no cheating or forgery committed by the applicant accused.

7] The learned Counsel for the applicants accused in Application No.1186 of 2014 has submitted that Mohsin Mulani is working as Accounts Officer, Mr.Unni Warrior is working as Manager and Mr.Ajit Menon is working as General Manager in Frankfinn Institute at Chinchwad. They are on the pay roll of the institute and are not concerned with any offence of cheating or forgery. They are not beneficiaries of any amounts which are given by the complainants but they get their salary regularly for the services rendered by them.

8] Per contra, the learned Prosecutor and the learned Counsel for the complainants have submitted that the institute is not recognised by the Maharashtra State. The institute is conducting courses without any approval from the Maharashtra Government. The hand bills which were distributed by the institute to the students and were given oral assurance about placement and job after completion of one year course and, therefore, the complainants believing on these oral representations took admission for the respective courses. However, the assurances given about the job were found to be false. It is submitted that there is no connection

between the Edexcel and this institute. The promises given are all bogus and the company has cheated the complainants and students of huge amount i.e. Rs.1.50 lakhs each. The learned Counsel for the complainants produced certificates issued by the Edexcel and it was pointed out that the signature appearing thereon of Mr.Jerry Jervis, who is managing director of Edexcel varies from the certificates and the agreement between Edexcel and Frankfinn. It is submitted that the learned Sessions Judge has rightly disbelieved the existence of such an agreement between these companies. It is also stated that the complainants are from families who have limited income and were hopeful to get good jobs.

9] It is true that the courses conducted by this Frankfinn are not approved approved by State Government. However, in the case of cheating or forgery, the question is that whether such representation is made or not. There is no prima facie case of the complainant that the institute has represented that these courses are approved by the Government.

10] It appears from the record that the certificates were issued by

Edexcel and there is some correspondence between Edexcel and Frankfinn wherein Edexcel has recognised issuance of certificate to the students of Frankfinn. What is the credence of these certificates in the market or in the business world is altogether a different issue. However, it appears that after accepting the fees the Edexcel institute has conducted course of one year. It is not the case that after accepting the money, the institute did not conduct the course and, therefore, the students were cheated.

11] Under such circumstances, I am inclined to confirm the order of interim bail granted on 12th September 2014 on some terms and conditions. Hence, following order:-

- (I) Application is allowed.
- (II) In the event of arrest, the applicant/ accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.15,000/- with one surety in the like amount.
- (III) The applicant shall not tamper with the evidence.
- (IV) The applicant shall not indulge into any criminal activity.
- (V) The applicant/accused shall not pressurise the complainant

and other persons.

(VI) The applicant Mr.Rakesh Agarwal shall attend the concerned police station on every Monday between 3.00 p.m. and 5.00 p.m. till 31st May 2015 or till the charge sheet is filed whichever is earlier and shall cooperate with the investigating officer. The other applicants Mohsin Mulani, Unni Warrior and Ajit Menon to attend concerned police station on every Saturday between 3.00 p.m. and 5.00 p.m. till 31st May 2015 or charge sheet is filed whichever is earlier.

(VII) Applications are disposed of accordingly.

(Mrs. Mridula Bhatkar, J.)