

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-32648 of 2015
Date of Decision:-23.09.2015

Manish Singla ...Petitioner
Versus
U.T. Chandigarh & another ...Respondents

CORAM: HON'BLE MR.JUSTICE SHEKHER DHAWAN

Present:- Mr. Harsh Garg, Advocate,
for the petitioner.

SHEKHER DHAWAN, J.

Present petition is for quashing the order dated 06.08.2015 (Annexure P-6) passed by Additional Sessions Judge, Chandigarh whereby revision petition against the framing of the charges under Section 66A and 66D of the Information and Technology Act, 2000 (hereinafter referred to as 'the Act') was partly accepted and charge was ordered to be framed under Section 66D of 'the Act'.

Relevant facts of the case that on 27.07.2013 complainant Archana Kaura reported to the police that present petitioner misused her photograph on facebook profile to create a fake account in her name and thereafter sent a friend request to her children. Her children were still viewing the request, the account was deleted. The same incident had earlier occurred on 12.06.2013 and yet another incident occurred in October 2012 when a fake account was created in the name of Vikram Thakur and her photograph was sent to her husband's account and after three hours the same person hacked her husband's account and deleted the email.

Learned counsel for the petitioner submitted that the basic ingredient for offence under Section 66A of 'the Act' are not met in the

present case. There are allegations of cheating which is a basic requirement of commission of offence under Section 66D of 'the Act'. On this point reliance is placed in **Ram Jas Vs. State of UP 1974 AIR (SC) 1811.**

Having considered the submissions made by learned counsel for the petitioner, this Court is of the considered view that it had come in the investigation that petitioner had also made a phone call on 08.07.2013 from his mobile No.97806-22167 to mobile No.92166-28891 giving threat to the husband of complainant of dire consequences.

As per order dated 06.08.2015 passed by Additional Sessions Judge, Chandigarh, petitioner is now to face trial for offence under Section 66D of 'the Act' and relevant Section is as under:

“66-D. Punishment for cheating by personation by using computer resource. Whoever, by means for any communication device or computer resource cheats by personating, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.”

As per provisions of Section 415 of Indian Penal Code, offence for cheating has been defined as under:

“415. Cheating. - Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.”

Definition of cheating by impersonation as per Section 416 is as under:

“416. Cheating by personation.—A person is said to “cheat by personation” if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.”

The above provisions of law makes it ample clear that certainly there are allegation of causing harm to the reputation by creating a false facebook account and sending the same to the children of the complainant. In that process complainant was unnecessarily upset and damage was caused to her. Learned Additional Sessions Judge, Chandigarh has rightly observed that it was not a simple case of friendship request but the result of such an act could be devastating. That way there is certainly a prima facie case for framing of charge under Section 66D of 'the Act' for which petitioner has been ordered to face trial. Law on the point is settled that at the time of framing of charge, Court is to see whether a prima facie case exist, so as to ask anybody to face the trial. In the present case, Court below has rightly observed that there is prima facie case for framing of charge against petitioner for commission of offence under Section 66D of 'the Act'.

Resultantly the present petition is without any merit and same stands dismissed.

September 23, 2015

msd

(SHEKHER DHAWAN)
JUDGE