NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 965 of 2018

1. Smt. Chirasree Sengupta W/o Utpal Sengupta, Aged About 31 Years R/o 233 Phase II Getanjali City, Behind S. E. C. L., P. S. Sarkanda, Bilaspur, Working As (Director) Of Sahara Samay Wed Portal, Registered Under M. S. M. E. Delhi, District : New Delhi, Delhi

2. Vijay Kumar Sharma S/o Late S. Krishna Aged About 49 Years R/o 177/10, Sindhi Toptdara, Ajmer, District Ajmer Rajasthan, District : Ajmer, Rajasthan

3. Manish Shukla S/o R. B. Shukla Aged About 36 Years R/o Sarswati Nagar, Ward No. -4 Pendra Road, P. S. Gourella, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Tarbahar, Bilaspur District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Respondent

For Applicants	:	Shri Hemant Gupta, Advocate
For State	:	Shri Anand Dadariya, Dy.A.G.
For Objector	:	Shri Pragalbha Sharma, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

14/09/2018

Heard.

1. This application under Section 438 of Cr.P.C. has been preferred by the applicants apprehending their arrest in connection with Crime No. 158 /2017 registered in Police Station -Tarbahar, Bilaspur, for alleged commission of offence under Sections 415, 416, 417, 420, 120-B IPC and Sections 102, 103, 104, 107, 114 of the Trademark Act.

2. Case of the prosecution, in brief, is that the applicants have opened a Web News Channel using a name which resembles the another news channel trademark of Sahara India Pariwar and they are also involved in collecting

money in the name of Sahara India Pariwar.

3. Learned counsel for the applicants submits that the applicants have never projected themselves as Sahara India Pariwar and they have not represented that Saharasamaynews.in is a registered trademark. He further submits that the nature of allegation which are being levelled against the applicants are more to stop the applicants from the competition in the news channel market. Therefore, at this stage, the applicants may be protected.

4. On the other hand, learned counsel for the State and counsel for the Objector opposed the application and submit that the use of word “Sahara”, by itself, is sufficient to draw the penal provision and further that the applicants are also falsely representing in the market as agent of Sahara India Pariwar.

5. Having considered the submissions made by learned counsel for the parties, taking into consideration the material on record, case diary and further taking into consideration that prima facie it does not appear that they are claiming to be having registered trademark and the submission that the identity is not being projected, I am inclined to allow the application.

6. The application is accordingly allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the arresting officer on each of them furnishing a personal bond in the sum of Rs.20,000/- along one local surety for the like amount to the satisfaction of the arresting officer with following further conditions that:

    (i) the applicants shall make themselves available for interrogation by the police officer as and when required;

    (ii) the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen