

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 917 of 2017**

1. Smt. Chirasree Sengupta W/o Uppal Sengupta Aged About 31 Years R/o 233 Phase II Getanjali City, Behind S E C L Police Staion Sarkanda Biilaspur, Working As Director Of Sahara Samay Web Portal, Registered Under- M.S. M.E. Delhi
2. Vijay Kumar Sharma S/o Late S. Krishna Aged About 49 Years R/o 177/10, Sindhi Toptcara, Ajmer, District- Ajmer, Rajasthan
3. Manish Shukla, S/o R.B. Shukla, Aged About 36 Years R/o Saraswati Nagar, Ward No. 4 Pendra Road, Police Station Gourella, District- Bilaspur, Chhattisgarh
4. Utpal Sengupta, S/o Uttam Sengupta, Aged About 31 Years R/o 233 Phase II Getanjali City, Behind S E C L bilaspur, Police Staion Sarkanda Bilaspur, Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh Through, SHO, Tarbahar, Bilaspur District- Bilaspur, Chhattisgarh
2. Shailendra Pathak, S/o S.S. Pathak Aged About 44 Years R/o Raj- Kishor Nagar, P.S. Sarkanda, Bilaspur, Chhattisgarh
3. Sahara India Commercial Corporation Limited, Head Office Sahara India Centre-2, Kapoorthala Complex, Aliganj Lucknow U. P. Tel. 0522- 2332018, 2331408, 2334799, Fax 0552-2330135, email – sicc@saharaco.in CIN No.u7109 WB 1992 plco53999

---- Respondents

For Petitioners	:	Shri Hemant Gupta, Advocate
For Respondent/State	:	Shri Aditya Sharma, PL
For Respondent No.2	:	Shri Pragalbha Sharma, Advocate
For Respondent No.3	:	Shri Rahul Tyagi, Advocate with Ms. Neha Gupta, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****06/02/2019**

1. Heard.
2. The present petition is to quash the FIR bearing No.158/17 registered under Sections 415, 416, 417, 419, 420 & 120 B IPC read with Sections 102, 103, 104, 107 & 114 of the Trade Marks Act, 1999 (hereinafter referred to as "the Act, 1999")
3. Learned counsel for the petitioner would submit that the FIR which has been made by the respondent is about the infringement of the trademark and the document itself would show that the respondents were registered for trademark of providing of foods and Drink, temporary accomodation, Medical, Hygenic and Beauty Care, Veterinary and Agricultural Services, Legal Services, Scientific and Industrial Research, Computer Programming Services that cannot be classified in other classes. He further submits that as per the documents filed by the respondents as per Section 29 sub-section (5) of the Act, 1999 the trademark is said to be infringed by a person if he has used such trademark or part of his trademark as his trade name or part of his trade name, or name of his business concern or part of the name of his business concern dealing in goods or services in respect of which the trade mark is registered. He further submits that it is alleged that the petitioners have used the website under the name of www.sahasamaynews.in, therefore, the contents of the FIR would not fall within the Section 29 sub-section (5) of the Act, 1999. He further submits that the registration certificate (Annexure P-2) which has been filed would reveal that the petitioners have obtained Sahara News Web Channel,

which is registered under Udyog Aadhar and the trademark would only continue for a limited period according to the documents of the respondent itself herein in the case from 2004 till 10 years, therefore, the FIR itself do not fall in any offence. He placed his reliance in the case of ***Kasim Lai & anr. Vs. State of Madhya Pradesh & anr. {2016 LawSuit (MP) 458}***.

4. Per contra, learned counsel for the respondents would submit that at the threshold the FIR cannot be quashed. It is a matter of enquiry. It is contended that the petitioners not only have used their name but also have blackmailed different people as arm twisting method that if they do not pay certain sum, they will publish their name in the website and that was in the garb of the respondent Sahara India Commercial Corporation Limited of which they were not a part & parcel. It is further submitted that the internet broadcast services are registered as Sahara India Commercial Corporation Limited and the goods & services details would show that it is registered for scientific, nautical, surveying and Electrical Apparatus and Instruments (including wireless), photographic, Cinematographic, optical, weighing, measuring, signaling, checking (supervision), Life saving and teaching apparatus and instruments, coin or counter freed apparatus, talking machines, cash registers, calculating machines; Fire extinguishing apparatus including in the said class. It is further submitted that the petitioners are not co-operating in the investigation. He further submits that when the people from whom the petitioners have taken money, their names have been given to the police and if those persons do not say so, the other sections of the FIR may be diluted, therefore, at this moment quashing of the FIR will close the entire enquiry.

5. Perused the documents filed with the petition as also the FIR. Perusal of the FIR in detail it shows that series of allegations have been made. It is stated that the petitioners were using the registered trademark of the company thereby deception has been played and the petitioners have not obtained any permission from the respondent. It is also alleged that because of the illegal activity the petitioners have collected money in the name of the complainant from the public. Therefore, apart from the infringement of trademark the other allegations of IPC have been leveled. The reply of the State would show that certain documents though were called for from the petitioners but they have not co-operated and have not supplied the same. Taking into the nature of the allegations in the FIR, quashing the same at this stage would amount to strangle the entire enquiry itself. The documents filed by the petitioners as also by the respondents can be better appreciated when the enquiry is conducted and the truth will come to fore. Even otherwise, if some doubt exist, it will not give way to quash the FIR and the petitioners shall have all the right to take the defence as available to him under the Trade Marks Act, 1999 and under IPC. At this stage, I am not inclined to quash the FIR.
6. The petition has no merit it is accordingly dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu