IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3093 OF 2012

Mr. Rajeev Mehrotra
Age 46 Years, Occu: Business
R/o. 174, B-Tower,
Kalpataru Horizon,
S.K. Ahire Marg,
Worli, Mumbai 400 018. .. Petitioner/
Ori. Accused No.1

Vs.

1. Vijay Mandhayan
Authorizedsignatory for
Edelweiss Financial Services Ltd.,
Delweis House, Off. C.S.T. Road,
Kalina, Mumbai 400 098.

2. The State of Maharashtra
Vide its C.R. No. 145 of 2012
Registered at
N.M. Joshi Marg Police Station
Mumbai 400 013. .. Respondents
Respondent No.1/
Org. Complainant

WITH

CRIMINAL APPLICATION (APL) NO. 956 OF 2012

1. Harindra Singh, adult, Indian
Inhabitant, director of Percept Limited
Having his office address at P-22,
Level A3, Raghuvanshi Estate, 11/12,
Senapati Bapat Marg,
Lower Parel, Mumbai- 400013

2. Shailendra Singh, adult, Indian
Inhabitant, director of Percept Limited
Having his office Address at P-22,
Level A3, Raghuvanshi Estate, 11/12,

Senapati Bapat Marg,
Lower Parel, Mumbai-400013 .. Applicants
Vs.
1. The State of Maharashtra
Through the Public Prosecutor,
High Court, Mumbai ..

2. Vijay Mandhayan
Authorizedsignatory for
Edelweiss Financial Services Ltd.,
Delweis House, Off. C.S.T. Road,
Kalina, Mumbai 400 098. .. Respondent

Mr. Niteen Pradhan a/w Adv. S. S. Khot, Adv. Danish Patel & Shahen Pradhan for the Petitioner.

Mr. Niranjan Mundargi a/w Ms. Keral Mehta Ms. Bhagyashree Lembhe, Mr. Vidhur Mallotra i/b Naik & Naik & Co. for the Applicants.

Mr. V. B. Konde- Deshmukh APP for State.

CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.

RESERVED ON : 4th DECEMBER, 2023.

PRONOUNCED ON : 8th JANUARY, 2024.

JUDGMENT: [PER- SHYAM C. CHANDAK, J.]

1) Present Petition is filed under Article 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure (‘*Cr.P.C.*’, for short) and the Application is filed under Section 482 of the Cr.P.C., seeking to quash the FIR being C.R.No.145 of 2012, registered with N.M. Joshi Marg Police Station, Mumbai for the offences punishable

under Sections 420, 465, 468, 469, 471 read with 120-B Indian Penal Code, 1960, and under Sections 66A, 66C and 66D of the Information Technology Act, 2000, and under Section 29 read with 103 of the Trademark Act, 1999 and under Section 51 read with Sections 63, 63A and 64 of the Copyright Act, 1957.

1.1) Record indicates that, Respondent No.1 in the Petition, who is Respondent No.2 in the Application, has been duly served with the notice, however, none appeared for him when called out for hearing. The Respondent No.1/Respondent No.2 has filed an Affidavit-in-Reply dated 1st December, 2012 and dated 3rd October 2012, opposing the Petition and the Application, respectively.

2) Heard learned counsel for the Petitioner, learned Counsel for the Applicants and learned APP for the Respondent-State.

3) Perused entire record and the Affidavit-in-Reply filed by the Respondent No.1/Respondent No.2. It show that, in the Petition, Rule was issued and interim relief was granted on 17th October, 2012. In the Application, Rule was issued and interim relief was granted on 3rd December, 2012. Notice was waived for Respondent No.1/Respondent No.2 when the Rule was issued in both the matters.

4) Facts giving rises to this Petition and Application are as under :

4.1) At the relevant time, the Petitioner was working as an Executive

Vice President in M/s.Edelweiss Financial Services Limited, at Mumbai. The Applicants are Directors of a Company named M/s.Percept Limited, at Mumbai.

4.2) On 31st July 2012, Respondent No.1 in the Petition lodged a report with Respondent No.2-N.M.Marg police station wherein he has stated that, he has been serving as Head Legal with M/s.Edelweiss Financial Services Limited, at Mumbai (‘*the Company*’, for short). On 22nd November, 2011 the Petitioner sent a letter to the Company for accepting his resignation. By an email dated 12th December, 2011, again the Petitioner informed about his resignation. According to the said resignation, the tenure of the Petitioner with the Company came to an end on 22nd December, 2011, at 18:00 hours.

4.3) It is stated that on 23rd December, 2011, English daily ‘Economic Times’ published a news titled as “*Edelweiss Asset Management Head Quits, To Start Own Fund*”. In the said news it was stated that, for the last 7 years, the Petitioner was working as the head of wholesale asset management (in the Company). He would establish his own fund of Rs.500 Crores. On the same day the said news was flashed in the web world. On 24th December, 2011, the same news was published in various daily newspapers at various places in India. On inquiry, it revealed that, the said news item was at the behest of ‘Press Trust of India’, who had received it by an e-mail dated 23rd

December, 2011 of Vaibhav Singh, an employee of M/s.Percept Profile, with an attachment *i.e.* press release of resignation of the Petitioner, having on its top a forged registered logo of the Company "*Edelweiss*" with the slogan thereunder '*Ideas Create, Values Protect'*. Then the said news/press release was published in the media as it is, as stated above. It is stated that the Petitioner and the Applicants did not take prior permission of the Company to publish that press release by using the said registered logo of the company and its copy mark. However, the Petitioner and the Applicants in furtherance of their common intention forged the letter head of the Company by forging its registered logo and by cheating, prepared a false press release of the resignation of the Petitioner to show that, the said press release was at the behest of the Company and with intent to defame the Company, to wrongfully gain for the Petitioner and to cause wrongful loss to the Company. As a result, the impugned FIR came to be registered.

4.4) According to the Petitioner and the Applicants, no offence is made out against them and they are implicated in the FIR falsely.

Submissions:

5) Learned counsel for the Petitioner and the Applicants has submitted that, the news published in the daily 'Economic times', is not on the letter head of the Company. Insofar as the press release with the registered logo of the Company is concerned, it was merely an accident not

intentional. Secondly, the said news item is not sufficient to constitute the offences alleged in the F.I.R. Thus, the Petitioner and the Applicants are innocent. However, they have been booked in the said crime. Hence, continuation of the impugned F.I.R. would be abuse of process of law. Therefore, said F.I.R. may be quashed.

6) Learned APP submitted that, looking at the text of the F.I.R. coupled with the documents produced on record by the parties, there is sufficient material to attract the said offences against the Petitioner and the Applicants. In short, according to learned APP, there is *prima facie* case against them. Hence, the Petition and the Application may be dismissed.

7) On careful scrutiny of the F.I.R. and the documents on record, we noticed that, there is no material to understand as to how the Company has been defamed. The fact of resignation by the Petitioner and its acceptance by the Company by way of the relieving letter issued to the Petitioner is not in controversy. Secondly, the subject press release simply indicates the intention of the Petitioner that, he wants to start his own finance business, which has nothing to do with the Company. Therefore, according to us, it is very difficult to accept that, Section 501 of the Indian Penal Code has any application to the facts of the present case.

8) Further, the subject news item indicates that, the services rendered by the Petitioner were helpful for the successful business of the

Company. The Company is not claiming that it was put to certain financial loss due to some inefficient management and services by the Petitioner during his said tenure. Except publication of the said news, the Petitioner and the Applicants have not played any other role in the case. Therefore, according to us, absolutely there is no element of cheating the Company by preparing a false press release on the forged letter head of the Company having its alleged forged logo on the top. As such, question of wrongful loss to the Company and wrongful gain to the Petitioner, does not arise. Hence, we conclude that, there is no *prima faci*e case of offences under Sections 417, 419, 420, 465, 468, 469, 471 read with 120-B Indian Penal Code, against the Petitioner and the Applicants.

9) There is no infringement, misuse or malicious use of the logo/trademark of Edelweiss Financial Services Limited, therefore according to us application of the offences under Section 29 read with 103 of the Trademark Act, 1999 and under Section 51 read with Sections 63, 63A and 64 of the Copyright Act, 1957 is wholly unwarranted. Similarly, there is no requisite *mens rea* to set the liability against the Petitioner and the Applicants for the offences under Sections 66(A), 66(C) & 66(D) of the Information Technology Act, 2000. As such, no *prima facie* case for these offences is made out.

10) Thus, except for the fact that, the Petitioner resigned from the

Company on 17th December, 2011, he was relieved on 22nd December, 2011 and said news was published in the print and web world, no other overt act of omission or commission can be attributed to the Petitioner and the Applicants.

11) In view thereof, the registration of the impugned F.I.R. on the report of Respondent No.1 is erroneous and hence continuation of the same would be abuse of process of law. As a result, the said F.I.R. is liable to quashed and is accordingly quashed and set aside.

12) Criminal Writ Petition No.3093 of 2012 and Criminal Application No.956 of 2012 are allowed in the above terms. Rule is made absolute in the Petition and also in the Application.

(SHYAM C. CHANDAK, J.) **(A. S. GADKARI, J.)**