

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 316 OF 2024

M/s Darwinbox Digital Solutions Pvt. Ltd. and Ors. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr. Aabad Ponda, Senior Advocate a/w Mr. Vikram Sutaria, Mr. Kartik Pant, Mr. Chaitnya i/by Agastya Desai, Advocate for the Applicants.

Mr. N. Bharucha, Advocate for Respondent No.2.

Mrs. M.M.Deshmukh, Addl.PP for the Respondent No.1 – State.

Mr. Sunil Ambekar (P.S.I.- I.O.) and Mr. Sunil Sonawane (P.S.I. - Pairavi), Charkop Police Station, Mumbai present.

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**CORAM : PRAKASH D. NAIK, &
N. R. BORKAR, JJ.**

DATE : 18th MARCH, 2024.

P.C.:

1. The Applicants are challenging the order passed by learned Additional Chief Metropolitan Magistrate 24th Court, Borivali, Mumbai dated 2nd January 2024 directing Investigation under Section 156(3) of Cr.P.C. and consequential First Information Report (for short 'FIR') dated 22nd February 2024 registered with Charkop Police Station, Mumbai vide C.R. No.118 of 2024 for offences punishable under Section 406 r/w Section 34 of IPC and

Sections 43(b), 43(g), 66, 66(B), 66(C), 72, 72(A) and 43(A) of the Information Technology Act, 2000.

2. The grievance of the Complainant is that one of their employee had left the employment and joined hands with other accused and transferred the sensitive data of company to the accused.

3. Learned Senior Advocate Mr. Ponda appearing for the Applicants submitted that the Police did not take cognizance of the FIR and hence private complaint was filed by the complainant in which the order directing investigation under Section 156(3) of Cr.PC. was passed. The impugned order is contrary to well established principles of law. The complainant alleged that single client has gone to the rival company pursuant to the transfer of data as alleged in the private complaint filed before the concerned Police Station. The prime allegations are against the employee of complainant/company. The Applicants' company is situated at Hyderabad. The Applicants are Promoters and Directors of the Company. The complainant is making adverse propaganda against the rival companies of the Applicants and within public at large.

4. Learned A.P.P seeks time to take instructions.

5. Learned Advocate for Respondent No.2 submitted that the employee of the complainant's company had left the job and she had joined the hands with the other accused and transferred sensitive data. The Applicants have not cooperated with the investigation, although the notice under Section 41(A) of Cr.P.C. was issued to them.

6. Considering the nature of issues involved in this Application, we pass the following order:

ORDER

- (i) Issue notice to Respondent No.2, returnable on 23rd April, 2024.
- (ii) Learned Advocate Mr.Bharucha waives service of notice for Respondent No.2.
- (iii) In the meantime, the representative of the Applicants' Company shall appear before the Investigating Officer and cooperate with the investigation.
- (iv) Till the next date of hearing, no coercive action shall be initiated against the Applicants qua the impugned FIR.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)