

117 CRM-M-14453-2021 (O&M)

Pintu

Vs.

State of Haryana and ors.

Present: Mr. Namit Khurana, Advocate
for the petitioner.

CRM-42306-2021

For the reasons stated in the application, same is allowed and OLX Group and its officials are impleaded as respondents No.5 to 8. Amended memo of parties dated 20.04.2021 is taken on record.

Registry is directed to tag the amended memo of parties at the appropriate place of the case file.

CRM stands disposed of.

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Prayer in this petition is for issuance of directions to respondents No.2 to 4 to conduct fair and impartial investigation in FIR No.216 dated 23.06.2020 under Section 420 IPC, registered at Police Station DLF, District Gurugram.

Learned counsel for the petitioner submits that the petitioner is a labourer working in Yamuna Nagar and has studied upto 8th class. On 22.01.2021, a police official came to his house and disclosed his name as Yogesh Kumar, though his name is Pintu. The petitioner was given a notice that his identity proof i.e. Aadhar Card is used by one Umar Ali and a SIM Card No.7056590754 is issued and by using the same, the said person has put up an advertisement on OLX platform regarding sale of a motorcycle and in that process, he has cheated the person, who had come to purchase the motorcycle

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and in this regard, aforesaid FIR has been registered. It is further submitted that the petitioner, when tried to inquire about facts of the case through his counsel in District Courts, Yamuna Nagar, he came to know that aforesaid FIR has been registered against one Umar Ali, who has committed the fraud regarding sale of motorcycle. It is also submitted that the petitioner has never gone to Gurugram or has met any person by the name Umar Ali and by playing a fraud even with petitioner, he got issued a SIM card by using Aadhar card/ID proof of the petitioner, therefore, a proper investigation be conducted in the case.

It is a matter of fact that in recent years, in Districts of Gurugram, Faridabad, Rewari, Palwal and Mewat, hundreds of FIRs have been registered, in which accused persons, by using OLX platform, have given various advertisements regarding sale of gold (in different form) or sale of vehicles like motorcycle or car at cheaper price or asking for professional service like architect or accountants have allured many innocent persons and thus, have committed the offence of cheating and forgery. The common modus operandi of these accused persons, locally called '**Titloo Gang**', is that as and when a person responds to OLX advertisement, the accused person would call him to their native village or nearby place and then by playing fraud, dupes a victim by taking money under threat and in that process, some of the persons have lost lacs of rupees. In many cases, victims are from different states, who are allured to buy gold at lower price and then given fake gold by taking huge money.

It has come to notice of this Court, on basis of various investigation reports given in different cases, that mobile numbers are obtained on fake ID proofs like in the present case and even the police, later on, face lot

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of difficulty in verification of the case and identifying the actual culprit and arresting them. It is also a matter of fact that in such or similar cases, where FIRs are registered, huge financial burden is put on the State Exchequer, as the police is put under heavy pressure to investigate cases and the OLX Group/similar groups are not performing any reciprocal duty towards the country and are only interested in earning profits by putting the advertisements without giving the details or verifying the antecedents of the person putting the advertisement.

Since this Court is dealing with such or similar type of cases every day, wherein by using OLX platform, the accused persons are cheating the innocent people, it would be necessary to issue notice to the Home Secretary, Govt. of Haryana as well as Director General of Police, Haryana to inform this Court whether any guidelines have been issued with regard to giving an advertisement on a platform like OLX or any other similar agency. The affidavits be filed explaining whether it is feasible to lay guidelines.

- (i) That OLX/similar service providers will take money from purchaser or buyer at least 24-48 hours before the deal to avoid any fraud. The amount be returned in next 24-48 hours, if deal is not finalised.
- (ii) For a big company like OLX, earning huge profits from advertisement, a reciprocal duty be imposed to bear cost of investigation, when a fraud is committed, using their App or Website and whether a cost of Rs.25,000/- per FIR be got deposited

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in Govt. Treasury.

- (iii) The extent of liability, which can be fixed of owner or person responsible for day to day business of such App, if the guidelines are not followed.

Notice of motion for 20.01.2022.

On asking of the Court, Mr. Deepak Grewal, DAG, Haryana accepts notice on behalf of the respondent-State.

Notice be also issued to the newly added respondents No.5 to 8, who are officials of OLX Group for the date fixed.

Till the next date of hearing, no coercive action be taken against the petitioner.

It is further directed that all the advertisements on OLX platform be deleted and be re-listed only after attaching an open PDF file along with each advertisement, containing the following:-

- (a) At least 02 ID proofs of the person, who is proposing to sell a property (moveable or immovable) or asking any professional service;
- (b) Two mobile numbers with a screen shot/photocopy of message sent by the server, who issued the SIM verifying name of owner as per their record;
- (c) Details of the property to be sold whether moveable or immovable and a document of title like Registration Certificate or insurance paper for vehicles or sale deed etc. for property.
- (d) In aforesaid five Districts, in case the proposed seller is residing in a village or in the area of Municipal Corporation/Municipal

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Council, a certificate of Member of the Panchayat or Municipal Councillor certifying that the proposed seller is not involved in any such or similar criminal case and is a genuine owner of property.

- (e) Only by putting this information in PDF file, the advertisements will be accepted by OLX or any other such agency and will be floated for the general public.

Learned State counsel is directed to file the affidavit before the next date of hearing.

13.12.2021
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

सत्यमेव जयते