

MOOT PROPOSITION

Asgard is the world's biggest democracy and also the world's most populous country, with a population of over 1.4 billion. The country is seeing rapid growth in recent years, as entrepreneurs and companies alike are tapping into the potential of new technological advents. The government too is aiding these entities so as to use their inventions for its infrastructural and other development products.

Vikranth is one of the Directors at FinCo. Pvt. Ltd. ("FinCo."), a growing company providing investment services (including stockbroking, portfolio management, consultancy services, etc.) to major companies in Alfheim, the financial capital of Asgard. The company has a reputation for giving assured returns to the investing companies. As Director, Vikranth plays an instrumental role in identifying companies looking for investment services and then executing contracts with these companies to make them part of FinCo.'s expanding clientele.

On 04.01.2023, Vikranth executed a stockbroking agreement with Hammer India Ltd. ("Hammer India") whereby as per the terms of the contract, Hammer India will pay Rs. 2,00,00,000/- (Rupees Two Crore Only) with FinCo. and subsequently, FinCo. will invest it into the securities market and ensure assured returns after a period of one year. Vikranth personally assured Abhishek, the Director of Hammer India, that FinCo.'s team will ensure that Hammer India's invested amount would increase at least by 150% during the financial year. Based on this representation by Vikranth, Abhishek agreed to enter into the agreement with FinCo.

Subsequent to the agreement, FinCo. appointed Utkarsh, one of its employees, to act as the Point of Contact ("PoC") with respect to Hammer India's investment. Abhishek began to contact Utkarsh once in every two months or so for knowing the status of Hammer India's investment. In one such conversation on 06.10.2023, Utkarsh reported that the value of Hammer India's investment stood at Rs. 7,50,45,000/- (Rupees Seven Crores, Fifty Lakhs, Forty-Five Thousand Only), which is almost quadruple the invested amount, which made Abhishek extremely pleased with the status of things.

However, when Abhishek subsequently tried to contact Utkarsh on 06.12.2023, he received no response. He tried contacting FinCo. and after multiple trials, he was able to talk to Vikranth directly, who stated that an audit was ongoing in the company and hence, the employees including the PoC were unable to respond to Abhishek's query regarding the investment. Abhishek therefore tried contacting FinCo. again after one week, but this time too, there was no proper response. After many attempts, Abhishek was finally able to contact Utkarsh on 20.12.2023 and he demanded that a report be sent to him specifying the value of Hammer India's investment as on 20.12.2023. After receiving the report, to Abhishek's utter shock and surprise, the value of Hammer India's investment stood at Rs.2,20,000/- (Rupees Two Lakh, Twenty Thousand Only), which is just over 10% of the invested amount.

On the same day, one of Asgard's leading news channels reported that Asgard's securities market regulator, its Central Bureau of Investigation and other authorities have initiated an inquiry into the affairs of FinCo., based on an anonymous tip-off that the company was diverting investors' funds into its own personal accounts, which amounts to misappropriation of investor funds.

Aghast by this news, Abhishek desperately tried contacting Vikranth, but to no avail. Suspecting that Vikranth had also diverted Hammer India's funds to his personal account, Abhishek approached the Heven Police Station, Alfheim and lodged an FIR on 26.12.2023, against Vikranth and FinCo. The FIR was registered as FIR No. 2535 of 2023 and the charges were under Sections 406 and 420 of the Asgardian Penal Code, 1860 ("APC").

The inquiring officers immediately began looking for Vikranth due to multiple investors lodging FIRs against him and FinCo. and subsequently, were able to arrest him and immediately took him into custody on 01.01.2024. He was produced before a Magistrate on 02.01.2024 and the Magistrate remanded him to judicial custody for a period of 15 days. On the same day, Vikranth through his Advocate filed a petition before the High Court for Alfheim, under Section 482 of the Code of Criminal Procedure, 1973 ("CrPC"), seeking to quash the FIR No. 2535 of 2023.

In the meantime, the Investigating Officer("IO") appointed in the FIR filed by Abhishek conducted a thorough search of Vikranth's residence in Alfheim and seized his mobile phone and laptop, based on which he gathered Vikranth's financial statements and other relevant information, based on which he saw that Vikranth had over Rs. 22 crores in his bank account. On 04.01.2024, the IO submitted his charge sheet before the Magistrate under Section 173 of the CrPC. Additionally, the IO also informed these developments to the media vide a press conference held by him on that same day.

On 05.01.2024, Vikranth's application under Section 482 of the CrPC came up for admission before the High Court and the Respondents' Advocate informed the Court that the IO has submitted the charge sheet and therefore, the quash petition cannot be entertained by the High Court. The Court, convinced by this contention of the Respondents, dismissed the application on the same day, on the ground that filing of charge sheet has made the application for quashing of FIR infructuous.

Aggrieved by the High Court's order of dismissal, Vikranth filed a Writ Petition before the Supreme Court of Asgard on 09.01.2024 on *inter alia*, the following grounds:

- i. The Hon'ble High Court ought not to have dismissed the application as infructuous, as mere filing of charge sheet does not preclude the quash application from being heard;
- ii. The seizure of Vikranth's laptop and mobile was beyond the scope of Section 102 of the Cr.P.C and was hence illegal; and
- iii. The act of the IO in disclosing the information seized from Vikranth's laptop/mobile to the media blatantly violates his Right to Privacy and also causes undue prejudice against him before the Trial Court and other authorities before which criminal proceedings have been instituted against him;

The Writ Petition came up for admission before the Supreme Court on 20.01.2024 and notice was ordered to be issued to the Respondents. In the subsequent hearing on 27.01.2024, an objection was raised by the Respondent as to the maintainability of the Writ Petition, on the ground that it is challenging the Order of a High Court and hence, the writ jurisdiction of the Supreme Court could not have been invoked by the Petitioner, when the alternate relief of appeal is available to him.

Taking into consideration the grounds and objections raised by the respective parties, the Supreme Court formulated the following issues for determination:

1. Whether the present writ petition is maintainable?
2. Whether filing of charge sheet is an adequate ground for dismissal of an application under Section 482 for quashing an FIR?
3. Whether Section 102 of the Cr.P.C can be made applicable for seizure of electronic devices, without any prior warrant being issued; and
4. Whether the act of the I.O. in releasing information from the seized devices of the Petitioner to the media violate his right to privacy and if yes, to what relief is the Petitioner entitled?

The matter has been scheduled for final hearing on 27.04.2024.

HEVEN POLICE STATION

FIR NO. 2535 OF 2023

First Information Report Filed under Section 154(1) of the Code of Criminal Procedure, 1973

Dist: Alheim **P.S:** Heven **Year:** 2023

FIR No.: 2535/2023 **Date:** 26th January, 2023

1. Acts and Sections:

I. Act: Indian Penal Code, 1860 _____ Section: 406

II. Act: Indian Penal Code, 1860 _____ Section: 420

2. Occurrence of Offence:

a) **Day:** From 06.12.2023

b) **Information Received at P.S:** Date: 26.01.2023 Time: 12:30 PM

c) **Daily dairy Reference:** Entry No. DD No. 72098

3. Type of information: Oral

4. Place of occurrence: Heven, Alheim

5. Complainant I information:

a) Name: Abhishek K.

b) Father's Name: Vineet K.

c) Age: 37 years

d) Nationality: Asgardian

e) Occupation: Director

f) Address: Residency Towers, Nomad's Colony, Heven

6. Details of known/suspected/unknown/accused with full particulars (Attach separate sheet if necessary):

1. Vikranth S.

2. Utkarsh S.

7. Reasons for delay in reporting by the complainant /Informant: NIL

8. Particulars of properties stolen I involved (Attach separate sheet if necessary): NIL

HEVEN POLICE STATION FIR NO. 2535 OF 2023

Written Complaint

I am Abhishek S., s/o. Shivkumar S., r/o. Heven, Alfheim, occ.: Director, Hammer India Ltd. I am submitting this written complaint before the Heven Police Station against Mr. Vikranth S., Director of FinCo. Pvt. Ltd. On 04.01.2023, our company executed a stockbroking agreement with FinCo, as per which we will pay Rs. 2,00,00,000/- (Rupees Two Crore Only) with FinCo. and subsequently, FinCo. will invest it into the securities market and ensure assured returns after a period of one year. I was ensured by Vikranth personally that Hammer India's invested amount would increase at least by 150% during the financial year and hence, I agreed to enter into the agreement. Utkarsh, one of FinCo's employees, was appointed as PoC with respect to our company's investment. I contacted Utkarsh once in every two months or so for knowing the status of Hammer India's investment. On 06.10.2023, Utkarsh reported that the value of Hammer India's investment stood at Rs. 7,50,45,000/- (Rupees Seven Crores, Fifty Lakhs, Forty-Five Thousand Only), which is almost quadruple the invested amount, which made me extremely pleased with the status of things. However, when I subsequently tried to contact Utkarsh on 06.12.2023, I received no response. I tried contacting FinCo. and after multiple trials, he was able to talk to Vikranth directly, who stated that an audit was ongoing in the company and hence, the employees including the PoC were unable to respond to my query regarding the investment. Abhishek therefore tried contacting FinCo. again after one week, but this time too, there was no proper response. I was finally able to contact Utkarsh on 20.12.2023 and demanded that a report be sent to me specifying the value of Hammer India's investment as on 20.12.2023. After receiving the report, to my utter shock and surprise, the value of Hammer India's investment stood at Rs. 2,20,000/- (Rupees Two Lakh, Twenty Thousand Only), which is just over 10% of the invested amount. On the same day, one of Asgard's leading news channels reported that Asgard's securities market regulator, its Central Bureau of Investigation and other authorities have initiated an inquiry into the affairs of FinCo., based on an anonymous tip-off that the company was diverting investors' funds into its own personal accounts, which amounts to misappropriation of investor funds. I have been cheated by Mr. Vikranth and his company and my hard-earned money has been misappropriated and hence, this present complaint.

Written and signed before Kishore Rao M., Station House Officer, Heven, Alfheim

HEVEN POLICE STATION, ALFHEIMCr.

No. _____ OF 2023

IN

FIR NO. 2535 OF 2023

Statement of Witness under Section 161, Code of Criminal Procedure, 1973

LW1: Vikranth S.

I am Vikranth S., s/o. Shivkanth S., r/o. Alheim. I am a Director of FinCo. Pvt. Ltd., located in Alfheim. Sometime in December, 2022, I was approached by Abhishek K., the director of Hammer India Ltd., who stated that he heard of our company's excellent investment-related services and also expressed his desire to enter into an agreement with our company for financial services. Abhishek was constantly asking me to assure him that the investment he makes would increase multifold within a short period of time. Although I told him it is possible for 150% increase, I warned him that it would be subject to market conditions and cannot be guaranteed by our company. Despite this warning, Abhishek readily agreed to invest in our company and subsequently on 04.01.2023, FinCo. and Hammer India executed an agreement for stockbroking. Ever since then, Abhishek never raised any issue with the services provided by FinCo. and had always contacted Utkarsh, one of our employees who was the Point of Contact for Hammer India's investment. On 26.12.2023, I was shocked and surprised when I got to know that Abhishek registered an FIR against me at Heven PS, stating that FinCo. has allegedly misappropriated Hammer India's investment and also that I was involved in the same. This is utterly false because I am only concerned with bringing in new clients to the company and am not responsible for day-to-day affairs of the company. Moreover, Vikranth never once raised any issue with me or any of the other Directors and has filed the complaint based only on the statement of an employee. This complaint is a major strain in the relationship between our two companies as well as mine and Abhishek's friendship.

LW2: Utkarsh S.

I am Utkarsh S. s/o. Narayan S., r/o. Alheim. I am an employee of FinCo. Pvt. Ltd. and have been working there since 3 years. On 04.01.2023, my boss Mr. Vikranth told me that the company had entered into a stockbroking agreement with a company called Hammer India. I was appointed as the PoC for this company and this is one of the many companies for which I am the PoC. The Director of that company Mr. Abhishek did not contact me frequently but I kept notifying him of the changes in his account through a mail I sent every fortnight for which I received no response from Mr. Abhishek, but he still used to call me and ask for updates. I told him to keep checking the mail but for some reason, he did not. On 06.12.2023, he kept calling me when the audit was going on in the company and I responded to him on mail saying I will be taking a leave and returning only on 20th. Finally, on 20.12.2023 Mr. Abhishek called me and I gave him the updated account status, at which he expressed his shock. I told him that if he had any doubt, he has to contact any of my senior officials, as I cannot help him with his issues being only the PoC. However, Mr. Abhishek did not seem to have paid any heed to my advice.