

## iCe Hotline

October 15, 2005

### LAWYERS PROCEEDED UNDER THE INFORMATION TECHNOLOGY ACT, 2000

In first of its kind case, the Delhi High Court has declined to stay criminal proceedings or quash the First Information Report ("**FIR**") against four lawyers. However, the court has granted bail to the accused. Titus & Co. (former employer of the accused) has charged the accused of cheating, criminal breach of trust, theft of electronic records and hacking into its computer network system.

The complaint was filed with the Special Cell of the Delhi Police in August, 2004 and an FIR was registered against the four accused, all of whom were previously employed by Titus & Co. The complaint was under Section 66 of the Information Technology Act, 2000 ("**IT Act**") for "hacking of computer network", and the offense committed by the accused was that they had allegedly taken away vast amounts of confidential data from the firm's computer network system. Following the registration of the FIR, the Delhi Police conducted a raid on the office premises of LexCounsel - the outfit set up by the four lawyers at residence of one of the lawyers in Delhi - and allegedly found four hard discs containing confidential client information.

In response to the above accusation the four accused filed a petition in the court for quashing of the case as they claimed that they had wrongly been charged with the illegal possession of office electronic records. The accused have contended that at the time of leaving Titus & Co., they were not employees, but were in fact "fee-sharing partners". The court dismissed this petition on the ground that the records of the firm clearly showed that they were employees and not partners.

Presently, the petitioners have been granted bail upon furnishing personal bonds for Rs.1 lakh each, with one surety for a like amount and subject to condition that they shall join investigations as and when required; and that they shall not in any manner tamper with the prosecution evidence and shall not leave India without the permission of the trial court.

Though, this is not one of the first cases under the Section 66 of the IT Act, it has been the first time that lawyers have been prosecuted under the same. The new amendment in the IT Act has proposed to make Section 66 more stringent. This move has been matched by the active role that the judiciary has taken towards enforcing intellectual property and protecting confidentiality of persons, as indicative in recent court decisions, including the recent one.

Source: The Hindu, Delhi edition, October 14, 2005

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