

2022 LiveLaw (SC) 269

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

UDAY UMESH LALIT; J, S. RAVINDRA BHAT; J, PAMIDIGHANTAM SRI NARASIMHA; J.

March 08, 2022.

CRIMINAL APPEAL NO.378 OF 2022 (Arising out of S.L.P. (Crl.) No.328 of 2022)

OLX INDIA B.V. VERSUS STATE OF HARYANA & ORS.

Summary: Appeal against Punjab and Haryana HC interim directions issued against OLX - Allowed -There was no occasion for the High Court to pass these directions; and more particularly, without hearing the appellant.

(Against the order dated 13.12.2021 passed by the High Court of Punjab and Haryana in CRM-M No.14453 of 2021 (O&M) titled as “Pintu v. State of Haryana & Others”)

For Appellant(s) Mr. Sidharth Luthra, Sr. Adv. Mr. Abhinay, AOR Mr. Asif Ahmed, Adv. Mr. Himanshu Sachdeva, Adv. Ms. Shivani Bhushan, Adv. Ms. Manini Roy, Adv. Ms. Unnati Vijay, Adv. Mr. Pooran Chand Roy, Adv. Mr. Aditya Raju, Adv.

For Respondent(s) Mr. Nikhil Goel, Addl. AG Dr. Monika Gusain, AOR Mr. Vishwa Pal Singh, AOR

ORDER

1. Leave granted.

2. This appeal challenges the order dated 13.12.2021 passed by the High Court of Punjab and Haryana at Chandigarh in CRM-M No.14453 of 2021 (O&M) titled as “Pintu v. State of Haryana & Others”.

3. While dealing with the petition seeking issuance of directions to respondents Nos.2 to 4, namely, the Commissioner of Police, Gurugram, Assistant Commissioner of Police, DLF Gurugram, and Station House Officer, Police Station DLF, District Gurugram respectively, the High Court made certain tentative observations against the OLX Group and directed that notice be issued to the newly added respondents Nos.5 to 8. 4. By way of an interim direction, the High Court further directed as under: “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 immoveable) 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 immoveable 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 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.”

5. Subsequently, by order dated 10.02.2022, respondents Nos.6 and 7 were dropped from the array of parties and the correct name of respondent No.5 was substituted as OLX India B.V., i.e. the appellant herein.

6. Being aggrieved by the directions issued by the High Court, the instant appeal has been preferred.

7. At the interim stage, this Court by its order dated 10.01.2022 had stayed the effect and operation of the order passed by the High Court to the extent it had issued directions against the appellant.

8. We have heard Mr. Sidharth Luthra, learned Senior Advocate for the appellant, and Mr. Nikhil Goel, learned Additional Advocate General for the State. The original petitioner before the High Court though served has chosen not to enter appearance.

9. It is submitted by Mr. Luthra that all that the appellant does is to make available the services of an internet platform through which prospective vendors of goods and merchandise can issue appropriate advertisements soliciting responses from the intending purchasers and that as an internet platform or an intermediary, the appellant is not liable to guarantee the quality of the goods or merchandise which is put up for sale nor is it possible for the appellant to certify about the genuineness and correctness of the deal sought to be entered into. It is, therefore, submitted that the High Court ought not to have issued notice and issued interim directions.

10. Since the matter is pending consideration before the High Court, we do not enter into and deal with the submissions advanced by the appellant but leave the appellant to agitate all these issues before the High Court.

11. Insofar as the afore-quoted interim directions passed by the High Court, in our view, there was no occasion for the High Court to pass these directions; and more particularly, without hearing the appellant. We, therefore, quash the directions quoted hereinabove.

12. The appeal is allowed to the extent indicated above.