

FOR YOUR INFORMATION



Bits and pieces of Cyber law

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NOWADAYS we can not survive or pass a single day with our information and Communication technologies. Each and every day it is spreading all over the world rapidly. People of the world use the internet to make communication each other we are the people of the Bangladesh use the same technology. But sometimes we can see some bad-naughty peoples use the same technology to make crime in the cyber area. As well as day by day Cyber crimes are increasing in our country. Therefore in Bangladesh a bundle of laws has been enacted to protect the people.

Cyber law in Bangladesh
In the Information Communication Technology Act of Bangladesh does not define what the Cyber law by any section is. But Cyber laws are contained in the Information and Communication Technology Act, 2006. Therefore this Act provide the legal infrastructure for e-commerce others legal solution relating with cyber crime in Bangladesh. The said Act enable (a) Legal recognition of electronic transaction, (b) Legal recognition of digital signature, © Acceptance to contract expressed by electronic means, (d) e-commerce and electronic form, (f) publication of official gazette in the electronic form, (g) prevention of computer crime, forged electronic records, international alteration of electronic records fraud, forgery or falsification in e-commerce and electronic transaction, (h) and others solutions of the crime relation with Information Communication Technology.

Objectives of the ICT Act, 2006
The objectives of the ICT Act, 2006 has been provided following purposes such as To smooth the progress of electronic filing of documents with government agencies and statutory corporations and to promote efficient delivery of government services by means of reliable

electronic records. To help to establish uniformity of rules, regulations and standards regarding the authentication and integrity of electronic records. To facilitate electronic commerce, eliminate barriers to electronic commerce resulting from uncertainties over writing and signature requirements, and to promote the development of the legal and business infrastructure necessary to implement secure electronic commerce and so many others objectives have been included here. Some identified Cyber Crimes as follows:



- (i) Hacking or unauthorized entry into information systems
 - (ii) Virus introduction
 - (iii) Publishing or distribution of obscene content in electronic form
 - (iv) Tampering with electronic documents required to be kept under the law
 - (v) Frauds using electronic documents
 - (vi) Violation of privacy rights such as STALKING
 - (vii) Violation of Copyright, Trademark or Patent design
 - (viii) Defamation through e-mail
 - (ix) Holdings out threats through e-mail
- Not only above mentioned cyber crimes are conducted but others are cyber crimes present before us. In future

different types of cyber crimes will be intimidated us.

Weakness of the ICT Act, 2006
The ICT law has some specific weakness. The law does sometimes regulate the social norm and then control of information technology. We can discuss about the few weakness of the Act. Subsequently the law does give proper solution about the Intellectual Property Right and this law does not discuss of the rights and liability of domain name holders which is the first step of entering into the e-commerce. Not only these weaknesses of the Act but also others problems can to be brought through the Act.

Advantages of Cyber law
This Act has some disadvantages and also some advantages. This Act has provided us few advantages like as under the ICT Act, 2006, conduct important issues of security, which are so critical to the success of electronic transactions. The Act has given a legal definition to the concept of secure digital signatures that would be required to have been passed through a system of a security procedure, as stipulated by the government at a later date. On the other hand Companies now be able to carry out electronic commerce using the legal infrastructure provided by the Act. Subsequently this Act provided other facilities to run cyber or Information and Technology business.

However as Internet have grown in our country, the need has been felt to enact the appropriate cyber laws, which are indispensable to legalize and regulate Internet in Bangladesh. The existing laws of Bangladesh even with the most generous and moderate interpretation, could not be interpreted in the light of the promising cyberspace. We hope concern authority should take some steps to develop our existing cyber law.

The writer is a trainee advocate.

LEGAL EDUCATION



DU Dept. of law provides Cyber facilities

THE Department of Law, University of Dhaka introduces a well equipped computer lab that has been donated by the alumni of 8th Batch LL.B. (Hons.). It has been initiated with a view to engage the students with cyber facilities which will help the students to a great extent to connect with the digital world. The lab was formally inaugurated by the Vice Chancellor of the University of Dhaka, Professor A A M S Arefin Siddique.

The inauguration ceremony was held in May 21 2011 began with a welcome speech by Mr. Golam Kibria, the President of the 8th Batch Alumni Association.



Honourable Justice of the High Court Division of the Supreme Court, Mr. Justice Mirza Hossain Haider was present as the Chief Guest. The Vice Chancellor of the University of Dhaka also spoke on the occasion. Amongst other speakers were Justices of the High Court Division of the Supreme Court and alumni of the Department, Justice Syed Refaat Ahmed and Justice Miftah Uddin Chowdhury and the Dean of the Faculty of Law, Professor Dr. Taslima Monsoor. Professor Dr. Sumaiya Khair, Chairperson, Department of Law and an alumnus of the 8th Batch gave the concluding speech. The function was conducted by Advocate Muhammad Shafiq Ullah, General Secretary of the 8th Batch Alumni Association. The speakers thanked the 8th Batch alumni for their initiative and hoped this will be replicated by others who would be willing to contribute to the development of the Department. The function was attended by members of the judiciary, executives of the department-based Ain Samity, alumni of the 8th Batch, teachers of the Department of Law and others.

-From Law desk.



YOUR ADVOCATE

This week Your Advocate is Barrister Omar Khan Joy, Advocate, Supreme Court of Bangladesh. He is the head of the chambers of a renowned law firm, namely, 'Legal Counsel', which has expertise mainly in commercial law, corporate law, family law, employment and labor law, land law, banking law, constitutional law, criminal law, IPR and in conducting litigations before courts of different hierarchies. Our civil and criminal law experts from reputed law chambers will provide the legal summary advice.

Query
I and my friend went for a joint share business. I have invested 3 lacs in it. Where I was the investor and he only provided with his existing account in share market. As of the recent failure of economy and also for the obvious reason of buying and selling shares my investment went down to 2 lacs. Later my friend who is also a partner of this share business just by providing the account has sold all my shares and took the money. Now he is avoiding me and telling me that he will return the money by next Year February. But I have doubt on it. Moreover he agreed to sign in a deed of agreement but later refused. So in this situation what can I do?

Mamun Dhanmondi

Response
I would like to thank you very much for your queries. Your queries are significant in the light of the prevailing unrest in the share market of the country. We have found that many people have become victims of fraud like you when they were investing in the share market through third persons. From the given scenario, it appears that you are unlikely to get any protection under the security laws concerning your transaction. This is because in order to transact with the shares of listed companies, it is necessary to possess a Beneficiary Owner's ('BO') account. From the fact it is intelligible that your friend had such an account. Hence, the shares were owned by him albeit the investment was on your part. Thus, your friend had every right to handle the shares and also deal with profits and proceeds emanating thereof. There is no proof that the shares were yours or you have invested for the same. Had the BO account been in your name or in the joint names of both of you; the situation could have been in your favour.

Since you have not complied with the law in dealing with shares in the stock, you are in a weaker position so far as the recovery of the money from your friend is concerned. In fact, you would not have faced such a situation if you had dealt with the shares by your own BO account. Investors can open a BO account with the Central Depository Bangladesh Limited ('CDBL') participants. There are more than 300 participants to the CDBL across the country. The participant will request the investor to sign an agreement which will set out the rights and duties of both the investor and the participant. The participant will then open an account for the investor at CDBL. Normally the account will be in the name of the investor. If the participant is going to mix

one investor's securities with another in an omnibus account then this must be specifically stated on the agreement. For any future kind of share business in the future, please open a BO account.

Alternatively, as far as the issue of recovering the money is concerned, the law of contract seems to be pertinent. However, it appears that there was no written agreement between you. But you may take recourse to an oral contract although a written contract would have made it much easier for you to establish your case. To establish an oral contract, you would have to have supporting documents e.g. witnesses, documents related



to payment etc. Even if you can rely on an oral contract by establishing the same, legality of such contract may be questioned. This is because by entering into such an agreement you seemed to have bypassed the requirement of possessing a BO account. In consequence, the entire purpose of such an obligation was frustrated by the existence of the oral agreement.

You should keep on pressurizing your friend for the money. Accordingly, a Legal Notice may be served in this regard. It may be useful as people often change their mind to avoid the complexities of litigation once such a notice is served and received.

I hope the aforesaid opinion will help you to ease the situation you are in. I advise everyone to take due care when entering into any such transaction. Compliance with due process reduces the risks involved in such investment by manifolds. As prevention is always better than cure, it is only the raise of awareness on our part that could ensure safety of our hard earned money.

For detailed query contact: omar@legalcounselbd.com.



LAW WEEK

Koko jailed for 6yrs, fined Tk 39cr

Arafat Rahman Koko, youngest son of BNP chief Khaleda Zia, and Ismail Hossain Saimon were jailed for six years each in connection with siphoning off over Tk 20 crore bribe money to Singapore. The court also fined each of the convicts Tk 38.83 crore. Delivering the judgment, Judge Mohammad Mozammel Hossain of the Special Judge's Court-3 asked the authorities concerned to take up measures to bring back Tk 20 crore that siphoned off to Singapore. Punishment will be effective from the day of their arrest or surrender, the judge said. Earlier, The Anti-corruption Commission filed the case with Kafurl Police Station on March 17, 2009 in connection with siphoning off Tk 19.7 crore to Singapore. - *The Daily star online edition June 23 2011.*

Contempt rule against govt

The High Court on June 21 issued a contempt of court rule against the government for obstructing BNP leader Barrister Nasir Uddin Asim at Shahjalal International Airport from going abroad. Following a petition, an HC bench issued the rule upon four government officials asking them to explain within seven days why legal action should not be taken against them for committing contempt of court by obstructing Asim and family members at the airport. The HC bench of Justice Md Ashfaul Islam and Justice M Moazzam Husain also asked the OC immigration to appear before the court on July 10 to explain the reason behind obstructing Asim and his family from going abroad. - *The Daily star online edition June 21 2011.*

JP's ex-minister acquitted in graft case

A Dhaka court on June 21 acquitted former minister and Jatiya Party (Manju) leader Sheikh Shahidul Islam and Pran Group Chairman Maj Gen (ret'd) Amzad Hossain Khan in a graft case filed against them in 1991. Judge Mohammad Abdul Majid of a Special Court for Dhaka Division acquitted them as the prosecution failed to prove the charges against them. Earlier, the court recorded statements of two prosecution witnesses, including complainant, of the case. The case was filed against them with Ramna Police Station on February 11, 1991. - *The Daily star online edition June 21 2011.*

HC for policy on dietary supplements

The High Court on June 20 issued a rule upon the government to explain within three weeks why it should not be directed to formulate a policy for manufacturing, importing, selling and distributing dietary supplements. In response to a writ petition, the court also asked the government to explain why it should not be directed to create a specialised regulatory body for the same purposes. Sheikh Alamgir Hossain, an official of Boston Labs House, a supplement company, filed the writ petition as public interest litigation. However, in Bangladesh there is no policy or regulatory body on the supplement market or industry although a number such products are already selling here. - *The Daily star June 21 2011.*

Kibria Murder, Babar finally charged

Police have formally charged 14 more people, including ex-state minister for home Lutfozzaman Babar and Harkat-ul-Jihad (Huji) leader Mufti Abdul Hannan, with the killing of former finance minister Shah AMS Kibria in a deadly grenade attack six years ago. Police investigator Rafiqul Islam submitted the supplementary charge sheet on June 20 to the court of Judicial Magistrate Rajib Kumar Biswas in Habiganj town after an expanded probe into the 2005 killing that occurred in Kibria's home district, Habiganj. - *The Daily star June 21 2011.*

13 BNP men get HC bail

The High Court on June 20 granted anticipatory bail for four weeks to 13 BNP leaders and activists including lawmaker Shahid Uddin Chowdhury Anee in three criminal cases. The cases were filed with Dhanmondi, Ramna and Shahbagh police stations on charges of creating anarchy, vandalism and arson during the 36-hour hartal on June 12 and 13 enforced by the main opposition and its ally Jamaat-e-Islami. The HC bench of Justice Syed Mohammad Ziaul Karim and Justice ANM Bashirullah passed the order following three bail petitions filed by the accused. - *The Daily star June 21 2011.*

Acquitted in 14, 3 more to go

A Dhaka court on June acquitted former president and Jatiya Party Chairman HM Ershad in a money laundering case filed during the tenure of the BNP government in 1995. With the latest verdict, Ershad, who stepped down as president on December 6, 1990, has been cleared in 14 of the 17 lawsuits against him. The Senior Special Judge's Court gave the order after the investigation officer in the case submitted the final report requesting the court to clear Ershad and his friend Mariam Mamtaj of money laundering charges. Earlier, an official of now defunct bureau of anti-corruption filed the case with Tejgaon Police Station on September 9, 1995, accusing Ershad of unlawfully transferring \$10 million to a foreign account of his friend, Mariam Mamtaj. - *The Daily star June 20 2011.*

Dear reader,

You may send us your daily life legal problems including family, financial, land or any other issues. Legal experts will answer those. Please send your mails, queries, and opinions to: Law Desk, The Daily Star 64-65, Kazi Nazrul Islam Avenue, Dhaka-1215; Tel: