



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 1728/2016
CNR: RJHC020536172016 | URN: CRLMP / 2752U / 2016

Sanjay Bhatt Son of Late Shri Gokul Nath Bhatt, aged about 50 years, Resident of 1/32, Royal Accord, Loharkhandwala, P.S. Amboli, Andheri West, Mumbai (Maharashtra)

-----Accused/Petitioner

Versus

1. State Of Rajasthan through PP
2. Rakesh Son of Pawan Kumar Agrawal, Resident of Gandhidham, P.S. Gandhidham, Kutch, Gujrat

-----Respondents

For Petitioner(s)	:	Mr. P.L. Hissaria
For Respondent(s)	:	Mr. Vijay Singh Yadav, PP Mr. Onkar Singh Rajpurohit, PP Mr. Sandeep Pathak with Mr. Arnav Singh & Mr. Aditya Vyas

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

17/08/2026

1. Instant miscellaneous petition under Section 482 Cr.P.C. is filed by petitioner-accused for quashing FIR No. 229/2012 dated 06.05.2012, registered at P.S. Chomu, District Jaipur, for offence under Section 420 IPC and Sections 63, 63A, 64 of the Copyright Act and Section 103, 104 of Trademark Act.
2. Learned counsel for petitioner has submitted that non-petitioner No. 2, the complainant, has filed a criminal case based on false and fabricated facts so as to settle score with present petitioner. He also submitted that there are several civil and copyright cases between the parties and were decided against non-petitioner No. 2 complainant. He also



submitted that the issue pertains to right to use trademark in the name of "Dandi Namak" or "Dandi Salt", which is subjudice on date of registration of FIR and due to disputed fact a criminal case cannot be registered against the petitioner. He also submitted that they are relying upon ground No. 3, 5 and 7 as laid down in case of **State of Haryana versus Bhajan Lal, reported in 1992 Suppl. (1) SCC 335.**

3. Learned counsel for petitioner referred the facts and submitted that there is no registration of trademark in favour of complainant and without acquiring the registration the complainant has filed a false criminal case on concocted facts, which is an abuse of process of law. He also referred Annexure 3, an order passed by Copyright Board and submitted that the complainant was respondent in said case and the order is passed against the respondent complainant. He further referred Annexure-4, an order dated 23.11.2011, and submitted that again an order is also passed by the Intellectual Property Appellate Board, which is sufficient to show that the complainant does not possess a copyright over the trademark of "Dandi Salt" or "Dandi Namak". He submitted that after decision of Copyright Board and IPAB, the FIR is an abuse of process of law, hence same deserves to be quashed.
4. Learned counsel has placed reliance upon judgment in case of **Krishika Lula and Ors. versus Shyam Vitthalrao Devkatta and Anr., 2016 (1) WLC (SC) CrI 171, Dr. Rini Johar and another versus State of M.P., 2016 RCC (SC)**



392, Noorahammad and others versus State of Karnataka, 2016 (1) WLC (SC) Criminal 479, and Arnesh Kumar versus State of Bihar, 2014 (2) WLC (SC) Cri 286, and submitted that the FIR is registered in year 2012 whereas the petitioner was arrested in 2016 from Bombay and no notice was served to the petitioner before taking any action by police. He also submitted that assuming the fact even then this is a dispute of civil nature and a criminal case is impermissible, in particular when the complainant is not possessing any copyright or the trademark as claimed by him.

5. Learned Public Prosecutor and learned counsel for non-petitioner No. 2 have opposed the contentions raised by the petitioner.
6. Learned Public Prosecutor has submitted a report received from P.S. Chomu, Jaipur West, which indicate that charge sheet No. 315/2017 dated 30.6.2017, under Section 420 IPC, 63, 63A, 64 of Copyright Act, 1957 and Section 103, 104 of Trademarks Act, 1999, has been drawn against Ramswaroop and present petitioner Sanjay Bhatt, but investigation has kept pending against Suresh Dongia under Section 173(8) of Cr.P.C. The report further indicate that charge sheet is filed against Ramswaroop in the Court of Judicial Magistrate on 6.6.2023. The report is taken on record.
7. Learned counsel for non-petitioner No. 2 complainant has submitted that the contention of petitioner are erroneous and wrong, rather the complainant is owner of trademark



"Dandi Salt" and "Dandi Namak". He also admitted the litigation, but submitted that ultimately the copyright and trademark disputes were decided in favour of petitioner, who is using these trademark for past several years and the law over the intellectual property is based upon user account and not on the basis of registration. He also referred judgment in case of **Anukul Singh versus State of U.P., 2025 INSC 1153, and HMT Watches Vs. M.A. Abida and Anr. reported in 2015 11 SCC 776**, and submitted that the facts raised by counsel for petitioner indicate that dispute is on facts and under Section 482 Cr.P.C. a criminal case cannot be quashed when the facts demand evidence. He also referred judgment in case of **M/s Knit Pro International versus The State of NCT of Delhi and Anr. reported in (2022) 10 SCC 221** and submitted that the evidence under Section 63 of Copyright Act is cognizable and in such case FIR cannot be quashed. He also referred order in case of **Gopal Sabu and Ors. versus State of M.P. and others, MCRC-43601-2022**, passed by coordinate bench at High Court of M.P. at Indore.

8. Heard learned counsel for the parties and learned Public Prosecutor, perused the material placed on record.
9. Instant miscellaneous petition is preferred in year 2016, four years after the registration of FIR and during pendency, this miscellaneous petition, police has concluded the investigation against the petitioner, which is evident from the police report. The report indicate that charge sheet has been



drawn against Ramswaroop and present petitioner and same is filed against Ramswaroop in year 2023.

10. On 16.5.2016, a coordinate bench considering the case of present petitioner has directed that no report under Section 173(2) of Cr.P.C. be filed against the petitioner. Since the interim order was in force but charge-sheet has been drawn, and same has not been filed against petitioner and has been filed only to the extent of Ramswaroop Agarwal.

11. On 06.05.2012, complainant Rakesh, who is the representative of Indo Brine Industries, has lodged a report about unauthorized sale of Dandi Salt with imitational trademark, thereby infringing copyright and trademark of complainant. After registration of FIR, the police has arrested Ramswaroop Agarwal. During pendency of investigation, present petitioner was also arrested on 05.03.2016, and the Miscellaneous petition is filed on 02.04.2016, therefore, the guidelines as laid down in case of **Noorhammad (supra), Arnesh Kumar (supra), and Dr. Rini Johar (supra)**, have no effect in quashing of FIR. It was duty of the learned counsel for petitioner to raise these issues at the time of arrest to police and if any arrest is made in violation of any law or guidelines, then same can be agitated before the jurisdictional Magistrate, but without any facts and adopting legal process, same cannot be challenged by way of 482 Cr.P.C., when prayer is for quashing of FIR.

12. The dispute pertains to copyright and trademark. The copyrights are governed primarily by the Copyright Act, 1957, which has been amended multiple times. The





registration of copyright is not mandatory, rather it is voluntary, but the protection arises automatically upon creation of an original work. The registration provides prima facie evidence of ownership and strengthens the enforcement in case of infringement. The Trademarks Act, 1999 governs the registration, protection and enforcement of trademarks. Section 2(1)(zb) defines the trademark. The infringement of copyright or trademark provides civil and criminal remedies including suit for injunction, damages and also for profits.

13. In the instant case, the petitioner has filed an order dated 23.7.2011 in Civil Suit No. 107/2010 passed by learned Additional District Judge, (Fast Track Court No. 7), Jaipur Metro, wherein a suit filed by M/s Indo Brine was dismissed under Order 7 Rule 11 CPC only on ground that a suit is not filed in proper jurisdiction and the Court at Jaipur Metro was not competent to entertain suit. In the order, the plaintiff, who is present complainant, has claimed that he is a trademark holder of "Dandi Salt". The facts narrated in the suit clearly indicate that the plaintiff has claimed ownership over trademark copyright of "Dandi Salt" and "Dandi Namak".
14. Annexure 3 is an order passed by a Copyright Board on 25.3.2011 in the petition filed by M/s Dandi Salt Private Limited, against M/s Indo Brine Industries and it indicate that an application under Section 50 of Copyright Act for expunging of registration was filed, which was allowed on technical ground. Annexure 4 is an order dated 23.11.2011



passed by a Bench of Intellectual Property Appellate Board in relation to a dispute between Pacs chemicals versus M/s Indo Brine Industries, and after considering the fact, the said order has been passed in pending petitions with direction to early hearing. The parties have not filed any final order in any of these matters to show that rights have been decided conclusively.

15. All these facts as referred by petitioner indicate that nothing has been brought on record by the petitioner to show whether a copyright or trademark has been issued in his favour. The legal position is that there is no mandate which requires registration in case of action against infringement of copyright. If somebody claiming to be his original work and his trademark, even then same is accepted provided he is required to establish the mark during evidence. Therefore, these annexures submitted by petitioner are not sufficient to draw a conclusion that the complainant has no locus to register a criminal case against petitioner.
16. In case of **Krishika Lula (supra)**, Hon'ble Supreme Court has considered a petition under Section 482 Cr.P.C. on the ground that no copyright subsists in the title of work and complainant is not entitled to relief on such basis except in an action for passing off or in respect of registered trademark comprising such titles. The prosecution based on allegation of infringement of copyright in such title is untenable.
17. In case of **Anukul Singh (supra)**, Hon'ble Supreme Court has held that under Section 482 Cr.P.C. a factual dispute



and appreciation of evidence are beyond scope. In case of **HMT Watches (supra)**, it was held that provision under Section 482 Cr.P.C. cannot be exercised on disputed question of fact. In case of **M/s Knit Pro International (supra)**, it was held that offence under Section 66 of Copyright Act is cognizable and such case quashing under Section 482 of Cr.P.C. was set aside. In case of **Gopal Sabu (supra)**, a coordinate bench at M.P. High Court has held that the Court has to see that uncontroverted allegations made from the record of the case prima facie establishes offence or not.

18. Having considered the entire material and in particular the police report after investigation, then it is established that the investigation in the instant case has been concluded against the petitioner and after concluding the investigation police has found involvement of present petitioner and drawn a charge sheet. The order referred by learned counsel for petitioner were passed in year 2011, but the investigation has been carried out in FIR registered on 06.05.2012 and arrest is made on 05.03.2016. The report submitted by Public Prosecutor clearly indicates that police has already drawn a charge sheet against petitioner, though same has been filed in respect of another accused Ramswaroop Agarwal.
19. The issue with regard to ownership of Dandi Salt and Dandi Namak is a factual dispute and it is not mandatory that a party must possess registration under the Copyright Act to claim any right on said title. Therefore, this is not a case relating to a civil nature, rather dispute regarding



infringement is actionable both under civil law and criminal law. The Copyright Act and the Trademark Act provides for penal provisions and criminal action.

20. Having considered the entirety of the facts and circumstances of the case, and also the judgment in the case of **State of Haryana vs. Bhajan Lal, reported in 1992 Supp (1) SCC 335**, certain illustrative categories were laid down for quashing of proceedings under Section 482 CrPC, and the same are reproduced as under:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation





is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

21. These categories were considered in the case of **Anukul Singh vs. State of U.P. & Another, 2025 INSC 1153**, wherein it was held that the categories in **Bhajan Lal (supra)** are illustrative and not exhaustive, but they provide guiding principles to balance two competing considerations: (a) preventing abuse of the process of law; and (b) ensuring that proceedings are not stuffed at the threshold where disputed questions of fact are involved.





22. In case of **Neeharika Infrastructure Private Limited versus State of Maharashtra and others, reported in 2021 SCC Online SC 315**, a three-judge bench of Hon'ble Supreme Court has laid down following principle of law for considering questioning of criminal case under Section 482 Cr.P.C.:

"57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure in Chapter XIV of the Code to investigate into cognizable offences;
- ii) Courts would not thwart any investigation into the cognizable offences;
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;
- iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr..P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);





v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the





police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr..P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the



allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”



23. Having considered the totality of material placed on record and also discussion made herein above, the grounds as mentioned under 3, 5 and 7 in case of **Bhajan Lal (supra)** are not satisfied in relation to present petitioner therefore, the petition is liable to be dismissed.
24. In view of discussion made herein above, the miscellaneous petition is dismissed under Section 482 Cr.P.C. with pending application and stay application. Interim order stands vacated.

(ASHOK KUMAR JAIN),J

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