

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6319 OF 2015

Jagdish s/o Shrikishan Sarda & Ors. **APPLICANTS**

V E R S U S

The State of Maharashtra & Anr. **RESPONDENTS**

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Mr. R.R.Mantri h/f Mr. R.R.Chandak,
Advocate for Applicants.

Mrs. R.K.Ladda, A.P.P. for R.No. 1 – State.

Mr. S.B.Joshi, Advocate for R.No. 2.

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**CORAM : A.V.NIRGUDE &
INDIRA K. JAIN, JJ.**

DATE : 14th JANUARY, 2016

ORAL ORDER :-

The applicants are accused in Crime No. 212/2015 registered at Nanal Peth police station, Parbhani, district Parbhani. Offence punishable u/s 420 of the Indian Penal Code and u/ss 63 and 65 of the Copyright Act, 1957 are alleged against the applicants.

2. The complainant alleged that art work of his tea packet is copied by the owner of Devkrupa Tea Company. The

police during investigation found that Devkrupa Tea Company is sole proprietary concern of applicant No. 1. Applicant Nos. 2 and 3 were found in his premises handling the stock of tea bags.

3. Following questions arose for our consideration :

[i] Whether there is any ground for proceeding against applicant Nos. 2 and 3 in the facts and circumstances of the case ?

[ii] Whether the offence punishable u/s 420 of the Indian Penal Code can be alleged against applicant No. 1 ?

4. On the face of it, applicant Nos. 2 and 3, who are accused Nos. 2 and 3, have very little to do with the allegation. The police found that the alleged offence is committed by applicant No. 1. So, we are of the view that the case should be dismissed as against applicant Nos. 2 and 3.

5. The second question is whether the offence u/s 420 of the Indian Penal Code is made out under the facts and circumstances of the case. It is alleged that applicant No. 1 knowingly infringed copyright in the art work of the complainant's tea sachet. Without going into the merits of this allegation, it can be said that such act would be an offence covered u/s 63 and at the most u/s 65 of the Copyright Act. But, by no stretch of imagination, we could say that the offence of cheating which is defined in section 415 of the Indian Penal Code is said to have

been committed.

6. Criminal Application is, therefore, partly allowed. The investigation of this case should continue only against applicant No. 1/accused No. 1. The offence punishable u/s 420 of the Indian Penal Code is set aside. Investigation shall be carried on only to find out whether charge sheet can be filed against applicant No. 1/accused No. 1 for the offences under the provisions of the Copyright Act.

[INDIRA K. JAIN, J.]

[A.V.NIRGUDE, J.]