

**THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 123 OF 2016

Mr. Satyen Surendra Ahuja ..Applicant

v/s.

The State of Maharashtra & Ors. ..Respondents

Mr. Kunal Phoole a/w. Ms. Shreya Shrivastava for the Applicant.

Dr. F.R.Shaikh, APP for the Respondent No.1.

Mr. Danny Punamiya i/b. S.S.P Legal for the Respondent Nos.2 and 3.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 16TH FEBRUARY, 2017**

P.C.

1. This application is filed for quashing the First Information Report and the criminal proceeding for the offences punishable under Sections 51 and 63 of the Copyright Act, 1957. The prayer for quashing is sought on the ground of settlement. The second Respondent filed the First Information Report as an employee of a company IPR Vigilance India Limited which has been appointed by a company (third Respondent) in USA which is claiming to be the

owner of the Copyright. It is claimed that the third Respondent has authorized the Company which is represented by the second Respondent, to register the impugned First Information Report and to set criminal law in motion. The third Respondent which is incorporated company in USA is claiming to be the owner of the Copyright. That is the statement made in the First Information Report lodged by the second Respondent.

2. By the order dated 23rd September, 2016 this Court noted that it is the third Respondent incorporated company which is the victim of the offence . By recording the said finding, this Court directed the Applicant to implead the third Respondent as a party. On 1st February, 2017 the third Respondent was represented by an Advocate. When it was pointed out by the Court that there is no affidavit filed on behalf of the third Respondent accepting that there is a settlement, in the afternoon session, the said Advocate himself filed his own affidavit purporting to be affidavit filed on behalf of the third Respondent. When it was pointed out by the Court that such conduct may amount to professional misconduct, the Advocate appearing for the third Respondent stated that he will obtain

discharge and accordingly, he was permitted to withdraw the affidavit which was tendered across the bar.

3. Today there is change of Advocate as far as the third Respondent is concerned. The Advocate for the third Respondent tendered affidavit of Shri V.C.Mathews. The said affidavit is executed by him on the basis of the Power of Attorney dated 2nd February, 2017 executed by one Rebecca Gibbs on behalf of the third Respondent. The said Rebecca Gibbs has been described as Deputy General Counsel. Admittedly, there is no resolution passed by the Board of Directors authorizing said Rebecca Gibbs to execute the Power of Attorney on behalf of the third Respondent Company.

4. We have perused the Power of Attorney and all the clauses therein. None of the clauses empower the Constituted Attorney appointed under the said Power of Attorney to enter into a settlement with the applicant. The resolution passed by the Board of Directors authorizing said Rebecca Gibbs or the said V.C. Mathews to enter into settlement is not produced. The resolution of the Board of Directors accepting the settlement is also not produced.

5. Even according to the case of the first informant, the third

Respondent is the victim of the offence which claims to be the owner of the copyright. After granting opportunities to the parties, even till today not a single document is placed on record to show that there is an amicable settlement between the third Respondent and the Applicant. Hence the Application is rejected. We make it clear that, in the event there is an amicable settlement between the Applicant and the third Respondent, it will be open for the parties to make a fresh Application.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)