

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.M-8461 of 2013 (O&M)

Date of Decision: August 09, 2017

Dr.Hans Raj Gupta and others

...Petitioners

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.T.S.Sangha, Senior Advocate with
Mr.Ashok Jindal, Advocate
for the petitioners.

Mr.Gaurav Garg Dhuriwala, Sr.DAG, Punjab
for the respondent-State.

Mr.Kanwaljit Singh, Senior Advocate with
Mr.Karanveer Singh, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against respondents State of Punjab and Gaurav Tiwari, for quashing the FIR No.31 dated 12.03.2012 under Sections 103, 104 of the Trade Marks Act, 1999 and Section 420 IPC, registered at Police Station Sadar, Phagwara and all subsequent proceedings arising therefrom.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

After hearing learned counsel for the parties as well as learned

State counsel and after going through the record, I find that the dispute

between the parties is regarding infringement of trade mark. The petitioners are Directors of M/s Vest Pharma Pvt. Ltd., whereas respondent No.2 is Director of M/s Vets Farma Ltd. At the time of arguments, learned counsel for the parties admitted that the matter regarding trade mark is pending for decision before Registrar, Trade Marks.

The perusal of the record shows that as per the case of the petitioners, respondent company executed deed of assignment dated 22.09.1997. Learned counsel for respondent No.2 contended that this deed was cancelled in the year 1998. The parties are on dispute whether this deed of assignment is final like a sale deed and it cannot be revoked later on or whether this deed of assignment is like an agreement to sell and it can be cancelled or revoked later on.

Learned counsel for the petitioners in support of its arguments, cited judgment passed by learned Addl. District Judge, Jalandhar dated 23.03.2011, in which the law has been discussed on this point. Learned counsel for the petitioners argued that revocation deed is also a forged document.

The perusal of the record shows that matter is pending for decision qua the right of trade mark before the Registrar, Trade Marks. Secondly, appeal against the order passed by learned Civil Court is also pending before this Court in first appeal. The dispute regarding the ownership of the trade mark etc. is pending for adjudication between the parties before the competent authorities and Court. Therefore, at the time of registration of the FIR, it cannot be held that trade mark has been infringed by the petitioners' company. The validity of the assignment deed is to be determined yet. Similarly, it is to be determined whether revocation deed

can be executed and deed of assignment can be revoked or whether this revocation deed is a validly executed document or forged document.

In view of the above discussion, I find that when the matter regarding determination of rights qua trade mark etc. is pending before the competent authorities, then the filing of criminal case, at this stage, is nothing but abuse of process of law.

Therefore, finding merit in the present petition, the same is allowed. FIR No.31 dated 12.03.2012 under Sections 103, 104 of the Trade Marks Act, 1999 and Section 420 IPC, registered at Police Station Sadar, Phagwara and all subsequent proceedings arising therefrom, are hereby quashed.

August 09, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No