

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2841 OF 2015

1 Mr. Rathnakar R. Rai,  
aged 60 years,  
Occupation: Business,  
residing at 42 Poornima  
St. Domnic road, Bandra (West)  
Mumbai- 400 050.

2 Mrs. Rashmi Rai  
aged 53 years,  
Occupation: Business,  
residing at 42 Poornima  
St. Domnic Road, Bandra (West)  
Mumbai 400 050

3 Ali Asgar Kutubuddin Mil  
aged 57 years  
Occupation-Business  
Residing at Bella Court,  
Colaba Mumbai 400 005

.....Petitioners

V/s.

1 The State of Maharashtra  
Vile Parle Police Station  
Mumbai

2 Mr. Yogesh Jagdale,  
02/A3 Mira Co-op. Hsg. Society  
Mira Road, Dist. Thane

.....Respondents

Mr. Ayaz Khan i/by Shri Girish S. Pikale, Advocates for  
Petitioners.

Mrs. A.S.Pai , APP for Respondent-State.

**CORAM : R.M.SAVANT &  
SANDEEP K. SHINDE, JJ.**

**DATE : 16TH FEBRUARY, 2018.**

**P.C. :**

This Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 is filed for quashing the FIR No.143 of 2015 dated 1.5.2015 registered with Vile Parle Police Station under Section 420 of the Indian Penal Code, 1860 and 63(b) of the Copy-right Act, 1957. The Petitioner Nos.1 and 2 are the directors in a company known as Primetime International Services Limited having its offices at Mumbai, Delhi and Bangalore dealing in the business of advertising. The Petitioner Nos.1 and 2 are also directors in Prime Market Reach Private Limited. In addition to this, the Petitioners are directors in a Digital Media Company, "MARMALADE DIGITAL" which provides digital media solutions to advertisers.

2           That on 11.5.2015, Mr. Yogesh Jagdale, the Respondent No.2 herein who was working with "M/s. Perfect Anti Piracy Force", lodged a complaint against the Petitioners, with Vile Parle Police Station alleging that the Petitioners and their company was found using pirated version of 'Coral

Software' and 'software of Devnagari font' and as such committed offence under Section 63(b) of Copy-right Act. This complaint was lodged by the Respondent No.2 on the strength of the Power of Attorney executed by M/s. Prime Market Reach Private Limited, owners of 'Coral Software'. It appears that the officer attached to the Vile Parle Police Station with all promptness, searched the premises of Petitioners' company and seized the software and other apparatus.

3           That aggrieved by the registration of the FIR as aforesaid, this Petition is preferred.

4           Mr. Ayaz Khan, the learned counsel for the Petitioners, has placed on record a copy of the judgment and order dated 30.8.2016 passed by the Division Bench of this Court in Criminal Application No.198 of 2016 wherein Shri Raj Prasiddhanarayan Singh, officer of "M/s. Perfect Anti Piracy Force" had lodged the complaint against the Petitioners therein alleging infringement of copy-right on the basis of power of attorney executed in his favour by the owner of the said copy-right. Eventually Mr. Jagdale, Respondent No.2 herein is also an employee of "M/s. Perfect Anti Piracy Force".

5           We have gone through the judgment in Criminal Application No.198 of 2016 passed by the Division Bench of

this Court. The Complainant in the said case was the officer of Perfect Anti Piracy Force. The Complainant in the case in hand is another officer of the same Perfect Anti Piracy Force. In the said judgment, the Division Bench after perusing the records and proceedings has held in paragraph 15 as under;

*“15. We cannot refrain ourself from observing that the police machinery is being allowed to be manipulated by such person who is openly carrying on business of doing liason work with the Police. Notwithstanding various orders passed by this Court, it appears that the Commissioner of Police of Mumbai has not taken these aspects very seriously. A common man who goes to the police station for lodging the first information report receives a very cold response. He has to either approach this Court in many cases as the police do not register the first information report or take recourse of Subsection 3 of Section 156 of the Cr.P.C. In the present case, the 2nd Respondent who acted as an agent of the 3rd Respondent could directly approach the Additional Commissioner of Police and get an order of the Additional Commissioner of Police, directing Gavdevi Police Station to act upon the complaint. According to us, all this calls for an inquiry by the Director General of Police. Section 420 of IPC was invoked for obvious reasons.”*

6           In the case in hand, the Petitioners have placed on record the Settlement Agreement dated 13.7.2015 executed between M/s. Prime Market Reach Private Limited and Mr. Jagdale, officer of M/s. Perfect Anti Piracy Force. Clause (3) of the Settlement Deed reads as under:

*“3) In view of above, Mr. Jagdale agrees, acknowledges and confirms that he has no objection to the quashing of the FIR registered under IPCs Section 420, and 63(b) of the Copyright Act, 1957 with the Vile Parle (E) Police Station and the proceeding arising therefrom.”*

7           In view of the facts as aforesaid and having regard to the particular observations of the Division Bench of this Court in Criminal Application No.198 of 2016 and the settlement reached between the parties hereto, we deem it appropriate to allow this Petition. Even otherwise herein the wrong is basically private and personal in nature and has no impact on the society.

8           In the result, the Petition is allowed in terms of prayer clause (a) and as such, the FIR No.143 of 2015 dated 1.5.2015 registered with the Vile Parle Police Station against the Petitioners is hereby quashed and set aside.

9           The Petition is disposed of accordingly.

(SANDEEP K. SHINDE, J)

(R.M.SAVANT, J)