

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

CRM-M-40359 of 2019 (O&M)
Date of decision: December 03, 2019

Sukhwinder Singh @ BobbyPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. D.K. Bhatti, Advocate for the applicant-petitioner.
Mr. Venu Gopal Jauhar, Senior DAG Punjab.

MAHABIR SINGH SINDHU, J

CRM No.33006 of 2019

This is an application for preponing the date of hearing.

Since the main petition is also listed for hearing today itself, therefore, the present application has become infructuous.

In view of the above, application stands disposed off as having been rendered infructuous.

Main case (O&M)

Present petition has been filed under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for quashing FIR No.6 dated 24.05.2017, under Sections 65/66/72 of the Information Technology Act, 2000 and Sections 103/104 of the Trade Marks Act, 1999, registered at Police Station Punjab State Cyber Crime Police Station SAS Nagar, Mohali.

The above FIR was registered on the basis of a complaint made by Jaswinder Singh-respondent No.4 with the allegations that he is the owner of M/s Pleasant Times Industries, a firm carrying on the business of manufacturing and trading of games made of wood, wooden Deity pictures/photo frames etc. for the last 30 years. The complainant has also got registered his trade mark under the name 'PLEASANTINO' from Registrar of Trademark vide registration No. 1792336 and 3270398. All goods manufactured are prepared in professional manner with the help of trained designers and professionals. Designs as well as shapes of goods such as Cribbage Boards and photo frames are specifically designed and customized through various artisans and graphic designers. The complainant owns several websites, such as www.cribbaaeboardstore.com etc. on which products manufactured by the firm are published and sold. Complainant's firm received complaints from the market to the effect that the goods manufactured by the firm were not upto the mark and performance of the same was poor. Consequently, the complainant inquired about the same and found that present petitioner has created a website, i.e. www.cribbageandcribbage.com with the help of co-accused Ankit Mehta, and they are selling the copy of products of complainant's firm, which looks like actual ones. Thus, the petitioner along with Ankit Mehta have played fraud with the complainant's firm as well as the customers.

It is contended by the learned counsel for the petitioner that from bare perusal of the FIR no offence is made out and thus,

the same is misuse of the process of the Court. Further contended that investigation in the matter is still pending, but the petitioner is being unnecessarily harassed by the police under the garb of the above FIR.

On the other hand, learned State counsel has opposed the prayer and submitted that after investigation in the matter, report under Section 173 Cr.P.C. has already been submitted before the Court of competent jurisdiction and thus, prima facie it has been found that petitioner committed the offence alleged in this case. Further submitted that even the public at large is the sufferer on account of the illegal design of the petitioner as well as of his co-accused, namely, Ankit Mehta.

Heard learned counsel for both sides and perused the paper-book.

Despite the Court query, petitioner is not able to show any trade mark granted in his favour by the competent authority uptill date for manufacturing of the designs in question. On the other hand, respondent No.4 along with his partner are having the registered trade mark under the name 'Pleasant Times Industries'.

After proper investigation in the matter, report under Section 173 Cr.P.C. has already been prepared and submitted before the Court of competent jurisdiction on 02.12.2019, and the same is pending for consideration of charges.

Since there are specific allegations against the petitioner in the FIR that he has copied the entire content, data and website of

the complainant's design, therefore, the contention that no offence is made out against the petitioner at this stage, is not acceptable.

Even reply filed by Balwinder Singh, PPS, Deputy Superintendent of Police, State Cyber Crime Police Station, District SAS Nagar (Mohali), also reveals that a report dated 30.11.2017 was received from CFSL Mohali, which indicates that petitioner has copied the entire content and data of the complainant's website. Still further, a report dated 08.06.2018 has been received from Trade Marks, Delhi, and registration Nos. 1792336 and 3270398 were found registered for the trade mark 'Pleasantino' trading as Pleasant Times Industries, in the name of complainant i.e. Kulwant Singh and Jaswinder Singh, respectively. Thus, at this stage, it cannot be said that present case is falling under those exceptional categories that no offence is made out from the bare reading of FIR or which could be termed as abuse of the process of Court or prosecution is going on with some bad faith or that continuation of the proceedings is not in the interest of justice.

As discussed above, apart from the FIR, police has collected sufficient material during investigation and submission of the challan the same is pending for consideration of the charges, therefore, the evaluation of the plea of defence raised by the petitioner at this stage, would amount to conducting a virtual parallel trial under the garb of petition under Section 482 Cr.P.C. and that is not warranted in view of the facts and circumstances of the present case.

In view of the above, without going further into the controversy, lest it may prejudice the case of the petitioner, this Court has no option except to dismiss the petition.

Ordered accordingly.

It is clarified that observations made above may not be construed as an expression of opinion on merit of the case pending before the Court below.

December 03, 2019
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.