

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

CRIMINAL APPLICATION NO.683 OF 2021

Sudhir Prakash Gadakh & Anr. Applicants
versus
State of Maharashtra Respondent
.....

- Mr.S. V. Marwadi & Gaurav Mehta i/b. Anish Khandekar,
Advocate for Applicants.
- Ms.S. D. Shinde, APP for State/Respondent.

**CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, J.**

DATE : 24 NOVEMBER 2021

P.C. :

1. This application is filed for quashing of FIR No.132 of 2021 registered on 8 July 2021 at Narayangaon Police Station, Pune (Rural).

2. The application is jointly filed by the complainant and the person against whom the FIR is lodged, Applicant No.1. The reason given for quashing of the FIR is that the application parties have arrived at overall settlement and the settlement contemplates that this FIR should be quashed by consent.

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3. The Applicant No.2 filed an FIR stating that company which owns trademark Kohinoor selling flour and has the intellectual property right in respect of it. The Applicant No.2 found that in the shop of Applicant No.1, the goods were being sold violating intellectual property rights of the company of Respondent No.1. This was done unauthorizedly. Accordingly the Applicant No.2 filed the FIR under section 63 and 65 of the Copyright Act, 1957.

4. The settlement deed which is annexed to the application shows that the Applicant No.1 accepted certain positions as regards trademark and copyright by the Applicant No.2 and they have agreed certain course of action in respect of proceeding inter-se pending, such as civil suit, the present FIR and the criminal action. The Applicant No.2 has filed additional affidavit, stating that as a part of mediation that took place through the family members and other respected businessman, the Applicant No.2 had agreed to support the Applicant No.1 for quashing. This additional affidavit of Applicant No.2 is sworn before officer of this Court with necessary identity documents.

5. The learned counsel for the Applicants has reiterated the stand of Applicant No.2. Learned counsel for the Applicants has also placed on record an order passed by Division Bench of this Court in case of *Juhu Jagruti Trust & Others Vs. State of Maharashtra*¹, wherein the Division Bench had quashed the FIR by consent in respect of offence punishable under Copyright Act.

1 Criminal Application No.249/2016, order dated 21 April 2016

6. Having gone through contents of the FIR and the affidavits filed by the Applicant No.2, we find that the cause for filing of the FIR was of business transaction and in the settlement refers that the Applicant No.1 used the trademark and acted as they were not aware of the mark. Therefore we find that this fact situation falls within the parameters of the law laid down in the case of *Gian Singh Vs. State of Punjab*², which is referred to in the order passed in Criminal Application No.249 of 2016. There is no reason shown as to why similar course of action should not be taken in the present case. Accordingly the application is allowed in terms of prayer clause 16(i), which reads thus;

“Your Lordships may be pleased to issue an appropriate writ, order or direction quashing and setting aside the FIR No.132 of 2021 dated 08/07/2021 registered with Narayangaon Police Station, Pune rural.”

7. Both the Applicants will pay Rs.10,000/- each to the Police Welfare Fund, Axis Bank Account No.465010100008693, IFSC Code UTIB0000465, Lamington Road branch, Mumbai, Maharashtra, within a period of four weeks.

8. This order is conditional upon payment of the costs.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)