



Judgment

19 apl 782.22

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (APL) NO. 782/2022

1. Faiz s/o Zakir Vali,
Aged about 54 yrs., Occ. Business,
R/o. 1505/1 Shanti Nagar, Nagpur.
2. Amit S/o Pravin Chhabra,
Aged 45 yrs., Occ. Business,
R/o. B/173 K.T. Nagar,
Katol Road, Nagpur.
3. Dharampal s/o Keshavdas Bellani,
Aged about 65 yrs., Occ. Business,
R/o. Block No. 371-B, Gurunanak
Nagar Chowk, Jaripatka, Nagpur.

... **APPLICANTS**

VERSUS

1. The State of Maharashtra,
through Police Station Officer,
Shanti Nagar, Nagpur.
2. Yashwant Dadaji Ambatkar,
58, Miles Stone, Part Front
Bldg., Dr. Kjare Marg, Opp
Dhantoli Police Station,
Dhantoli, Nagpur-440012

...**NON-APPLICANTS**

Mr. A.S. Jaiswal, Sr. Advocate with Mr. Atul Pathak, Advocate for
applicants.

Mr. I.J. Damle, APP for non-applicant No.1/State.
Mr. R. R. Vyas, Advocate for non-applicant No.2.

**CORAM : VINAY JOSHI AND
MRS. VRUSHALI V. JOSHI, JJ.**

JUDGMENT RESERVED ON : 20.03.2024
JUDGMENT PRONOUNCED ON : 11.06.2024

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard.

2. **Admit.**

3. By this application, the applicants are seeking to quash First Information Report ('FIR') registered vide Crime No. 302/2021 with Shanti Nagar Police Station, Nagpur for the offence punishable under Sections 420, 482, 483, 485, 489 of the Indian Penal Code and Sections 103, 104 of the Trade Marks Act, 1999.

4. The facts in brief are that applicant No.1 is the Managing Director of M/s. Unijules Life Sciences Ltd. Company which is duly registered under the Companies Act, 1956. Applicant No.2 is the Director of the said Company whilst applicant No.3 is the independent Director of the Company. The applicant's Company is indulging into manufacturing and marketing of the Ayurvedic

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Mediciens throughout the country.

5. On the other hand, non-applicant No.2 (informant) is the partner of M/s. Rugved Pharmaceuticals, a partnership firm which is also engaged in the similar activities of manufacturing Ayurvedic medicines. The non-applicant No.2 claims to be registered proprietor of a particular trad mark i.e. “Rugved ka Teen Mundi Chaap’ which is a medicine used for cold and cough. The non-applicant No.2 alleges the applicant has infringed their trade mark by using similarly deceptive unregistered trad mark.

6. The learned counsel appearing for applicants would submit that the applicant is registered proprietor of “Teen Mundi Chaap” logo with image of device. It is applicants’ contention that the applicant Company has also applied for the registration of the trade mark “Char Mundi Chaap” in prescribed format which is pending. According to the applicants, the informant’s trad mark was abandoned and thus, they cannot claim right in that regard.

7. Both sides have produced several documents in support of their respective contentions. The applicants while claiming to be

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registered proprietor of the name “FEBROMAL” along with logo of “Teen Mundi Chaap” has produced registration certificate (Annexure-A and A-1) of the year 1946. The non-applicant No.2 has rightly pointed out that the said registration was in the name of someone else as J. H. Decuna. It is also pointed out that there is no assignment of registration of said trade mark in terms of Section 45 of the Trade Marks Act. Thus, prima facie, the applicants cannot claim benefit on the basis of those documents.

8. The applicants have produced a certificate of registration of trade mark dated 06.01.2021 as regards to logo of “Teen Mundi Chaap”. The learned counsel appearing for non-applicant No.2 has pointed out that the non-applicant No. 2’s logo alongwith name Rugved is registered trade mark of the year 2007 of which certificate is produced at Annexure R-3. In response, the applicants claim that they have applied for registration of trad mark of “Char Mundi Chaap” (Annexure-C), however it reveals that the informant has objected said registration which is evident from certificate (Page 28). Admittedly, the said trade mark has not been registered. Though the applicants claim that the investigation was not carried out by the

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officer not below the District Superintendent of Police, however on production of investigation papers, the said objection has not been pressed. The informant's trade mark is registered with words and "Teen Mundi Chaap" logo. There is no such registration on the part of the applicants. Admittedly, their registration is still pending and thus no prima facie case is made out to quash the proceeding.

9. In view of above, application carried no merit, hence rejected.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)