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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 2521/2022 & CRL.M.A. 10496/2022

SH NIRMAL KUMAR @ NIRMAL KUMAR GUPTA & ORS.

.....Petitioners

Through: Mr. Naveen Bhardwaj (326/09),
Advocate with Petitioners.

versus

STATE(GOVT. OF NCT OF DELHI) AND ANR.Respondents

Through: Mr. Aman Usman, APP for the State.
Mr. Bharat Gupta (D/3996/14) and
Mr. Ankit Rana (D/10579/19),
Advocates for R-2.
SI Jarnail Singh, PS Punjabi Bagh

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **19.09.2024**

1. Petitioners have approached this Court seeking quashing of FIR No.704/2020, dated 14.08.2020, registered at Police Station Punjabi Bagh for offences under Sections 420/468/471 IPC.

2. Material on record discloses that a Settlement Agreement dated 06.09.2021 has been entered into between the parties before the Delhi Mediation Centre, Tis Hazari Courts. The said Settlement Agreement reads as under:

“On the allegations of the accused persons having usurped the registered trademark of complainant by falsification of documents before the Registrar of Trademarks, present case was registered on complaint on behalf of M/s Rattan Milk Specialties Pvt. Ltd. The accused persons have applied for anticipatory bail,



which matter has been referred for mediation.

M/s Rattan Milk Specialties Pvt. Ltd. was originally constituted by the accused persons & Ors. During its operations, it had got trademark "MOHIT RATN" registered under number 1116678 for goods of Class 29. The accused persons had transferred the said company to Sh. Sarjeet Goyal and Sh. Amit Bansal vide MoU dated 09.09.2010 as a going concern.

NKG and Sh. Sumit Gupta, purportedly under misconception moved request for substitution of said registered Trademark "MOHIT RATN" on the basis of assignment deed dated 20.06.2008, board resolution dated 19.06.2013 NOC dated

19.04.2011 and undated NOC on stamp paper X-315939, vide form TM-P dated 18.10.2017 and wrongly got substituted as proprietor thereof vide order dated 12.03.2019 of the office of Registrar 5 Trademarks of New Delhi. NKG and Sh. Sumit Gupta also got the similar trademark 'MOHIT RATINA' registered in his name with the Registrar of Trademarks.

The matter has been discussed by the parties in cordial atmosphere pursuant whereof it has been resolved on the following terms and conditions:

- 1. That the accused persons hereby admit and acknowledge M/s Rattan Milk Specialties Pvt. Ltd. was the proprietor of Registered Trademark "MOHIT RATN" vide no. 1116678 for goods of Class 29 since inception.*
- 2. That M/s Rattan Milk Specialties Pvt. Ltd. had filed individual rectification applications before the Registrar of Trademarks in respect of Trademarks*



"MOHIT RATN" and MOHIT RATINA" both registered by submitted falsified documents before the Registrar of Trademark, in the name of NKG, and the application for rectification is still pending, in the office of Registrar of Trademark.

3. That NKG and Sh. Sumit Gupta will bear the sole responsibility to get the wrongly transferred trademark ie "MOHIT RATN" & "MOHIT RATINA" registered/transferred in the name of M/s Rattan Milk Specialties Pvt. Ltd within a period of 6 months hereof, (excluding the period of lock-down, of imposed by the govt) for which the complainant shall provide all his support and cooperation in any manner required by him. The correspondence between the accused persons and the complainant shall be through e-mail id of complainant ie. amktg3383@gmail.com

4. That NKG and Sh. Sumit Gupta has stock of finished and unfinished goods 9/20 bearing the trademarks "MOHIT RATN" and " MOHIT RATINA" which he shall completely dispose off on or before 1.22.2021. The nocumad persons undertakes not to use, deal with or be associated with either of these trademarks at any time thereafter The accused persons have also admitted that they will not apply for a similar trademark either starting from 'MOHIT or involving the MOHIT & RATN & RATANA, RATTANA in any combination whatsoever.

5. That the accused persons propose to approach Hon'ble High Court of Delhi urging for quashing the FIR No. 704/20, PS Punjabi Bagh immediately after the substitution of M/s Rattan Milk Specialties Pvt. Ltd. as the Proprietor of trademarks 'MOHIT RATN by the office of Registrar of Trademarks. The complainant has undertaken to co-operate in their said endeavour viz. preparation of the petition, signing, swearing



affidavits, appearing in court and making statement etc. The said proceeding for quashing will only commence once the abovesaid trademarks have been successfully restored/transferred to M/s Rattan Milk Specialties Pvt. Ltd.

6. That the accused persons will not file any type of suit of damages and any civil suit in future against the complainant/company.

7. That the complainant, in view of this settlement, has no objection to the pending bail application of accused persons being allowed with clear disclaimer that in the event of breach of Terms above, the complainant shall have the right to apply for cancellation of their bail to the concerned Court.

8. That on compliance of above terms, no dispute or difference known/unknown shall remain surviving between the parties in respect of the subject matter of the referred case, till date. They undertake not to rake up or initiate any issue or action in his behalf against each other anywhere at any time in future.

9. That the parties have gone through the terms hereinbefore recorded and have confirmed and verified the same to be correct and that they are going to sign it without any threat, pressure, coercion or undue influence from any quarter. Both Sides undertake to abide by these terms.”

3. Pursuant to the said Settlement Agreement, an application was filed by the Petitioners herein before the Deputy Registrar of Trade Marks for rectification of the Trade Mark. Vide Order dated 02.05.2022, the Deputy Registrar has disposed of the said application by observing as under:



“Hear the Id. Counsels and perused the record.

In view of the submissions made by both sides and the material and position on record, I deem it fit to close the matters.

Accordingly, the entry relating to Shri Nirmal Kumar as subsequent proprietor of impugned regd. trademark No. 1116678 is hereby forthwith rectified and removed and the name of M/s. Rattan Milk Specialities Private Limited is hereby restored as original proprietor of the impugned regd. trademark No, 1116678.

As regards, rectification proceedings No. DEL-269149 against regd. trademark No. 2094984, in the light of above submissions made by the Ld. Counsels and the facts narrated in the application for rectification and the interlocutory petition, the entry relating to the said regd. trademark No. 2094984 is hereby rectified/removed from the register forthwith. The registration certificate No. 2319897 dated 19.11.2019 is also cancelled forthwith.

The rectification proceedings No. DEL-269074 against regd. trademark No. 1116678 and the rectification proceedings No. DEL-269149 against regd. trademark No. 2094984 and the respective interlocutory petitions filed therein are accordingly disposed off as above.

No separate order will be issued in respect of rectification No. DEL- 269149. TOP Section is directed to scan and upload the instant order in e-record of rectification No. DEL-259149 also.

TOP Section is further directed to take necessary steps to update the records as above.

No costs.”



4. A perusal of the said Order indicates that the entry relating to Sh. Nirmal Kumar, i.e. the Petitioner No.1 herein, as subsequent proprietor of the Trademark has been removed and the name of M/s Rattan Milk Specialties Pvt. Ltd. has been restored as original proprietor of the trademark in question.
5. It is stated by the learned Counsel for the Respondent No.2 that trademark has yet not been transferred in the name of M/s Rattan Milk Specialties Pvt. Ltd. Learned Counsel for Respondent No.2 states that an application for the said purpose will be moved by the Respondent No.2.
6. Today, Petitioners and Respondent No.2 are present in Court. They have been identified by their respective Counsels and the Investigating Officer.
7. Petitioners undertake to co-operate with the Respondent No.2 for the purpose of restoration of the trademark to M/s Rattan Milk Specialties Pvt. Ltd.
8. Parties are bound by the undertaking given to this Court.
9. In view of the undertaking given by the Parties and in view of the settlement agreement, this Court is of the opinion that no useful purpose will be served in continuing with the present proceedings. Resultantly, FIR No.704/2020, dated 14.08.2020, registered at Police Station Punjabi Bagh for offences under Sections 420/468/471 IPC and the proceedings emanating therefrom are hereby quashed. The parties shall remain bound by the terms of the settlement and the undertaking given to the Court.
10. The petition stands disposed of with the above observations along with pending application(s), if any.



11. It is made clear that violation of this Order would attract proceedings under the Contempt of Courts Act.

SUBRAMONIUM PRASAD, J

SEPTEMBER 19, 2024

Rahul