2026:BHC-NAG:15223

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

CRIMINAL APPLICATION [APL] NO. 918 OF 2026

APPLICANT : Shadab Sheikh Qayyum Sheikh,
Age 30 years, Occupation – Business,
R/o Naik Layout, Near Shiv Mandir,
Chhindwara Road, Saoner, Dist. Nagpur.

VERSUS

NON-APPLICANTS : 1] State of Maharashtra,
through Police Station Officer,
Police Station, Saoner, Dist. Nagpur.

2] Parashuram Sukhdev Karde,
Age 51 years, Occu. Investigation Officer,
EIPR (India) Pvt. Ltd.,
R/o Lokmanya Nagar, Room No.4,
Dear D'souza Compound, Thane West,
Mumbai. Mumbai, Saoner, Nagpur Rural,
Maharashtra, India.

Mr. Shoeb Asgar Khan and Mr. Syed Salman Ali, Advocates for the applicant
Mr. Abhijeet G. Mate, A.P.P. for the non-applicant no.1/State
Mr. Kartik N. Shukul with Mr. Gaurav Khatwani, Advocates for non-applicant no.2.

CORAM : M. W. CHANDWANI, J.
Judgment Reserved on : October 28, 2026.
Judgment Pronounced on : November 06, 2026.

JUDGMENT:

1. Heard. **ADMIT.** Taken up for final disposal forthwith by the consent of the learned counsel appearing for the parties.

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2. This application filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeks quashing of First Information Report (FIR) No. 62/2026 dated 28.01.2026 registered with Police Station, Saoner, Dist. Nagpur for the offence punishable under Sections 51 and 63 of the Copyright Act, 1957 (the Act of 1957).

3. The facts of the case, in brief, are as under :

(i) The complainant/non-applicant no.2 is an employee working with EIPR (India) Pvt. Ltd. as an Investigating Officer. JSW Steel Ltd. (the Company) on its behalf had authorized EIPR (India) Pvt. Ltd. to take action against such people who manufacture counterfeit products under the Company's name. The complainant was authorized by EIPR (India) Pvt. Ltd. to take such action. On 28.01.2026, the complainant lodged a report alleging that he has received an information that counterfeit Tin sheets bearing the name of the Company (JSW Steel Ltd. .50 MM) were sold within the territorial jurisdiction of the Saoner Police Station. He accordingly forwarded the information to the Dy. Superintendent of Police, Nagpur Rural and upon obtaining oral permission, the complainant along with the police party and the

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panchas conducted a raid at M/s New Kausal Traders, situated on Saoner - Chhindwada road at Saoner and belonging to the applicant. During the raid, the complainant allegedly found 137 pieces of counterfeit Tin sheets bearing the name as 'JSW Steel Ltd 0.50 mm' printed on it. The raiding party seized those Tin sheets, valued at Rs.1,57,550/-. Thus, on an allegation that the applicant was found selling counterfeit products of the Company, the complainant lodged a report on basis of which the FIR came to be registered against the applicant for the aforesaid offences.

4. Heard Mr. Shoeb Asgar Khan, learned counsel appearing for the applicant, Mr. Abhijeet Mate, learned Additional Public Prosecutor appearing for non-applicant no.1/State and Mr. Kartik N. Shukul, learned counsel appearing for non-applicant no.2. Perused the record.

5. Learned counsel appearing for the applicant submitted that the case at hand is not a case of infringement of copyright but of indulging in manufacturing/selling counterfeit Tin sheets of the Company. According to him, in the FIR itself there is no allegation of infringement of any copyright of the Company and at the most,

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the offence under Section 104 of the Trade Marks Act, 1999 (the Act of 1999) can be said to be made out. He submitted that the investigation is not carried out by the officer of the rank Deputy Superintendent of Police and as such, the investigation/FIR is vitiated. Therefore, he seeks quashment of the FIR.

6. To buttress his submissions, Mr. Khan seeks to rely on the decisions of this Court in the case of ***Sandip Ramashankar Dube and another Vs. State of Maharashtra and another in APL No. 1541 of 2025, decided on 12.06.2026*** (Nagpur Bench) and in the case of ***Shrenik Shantilal Dhadiwal Vs. State of Maharashtra and another. in APL No. 1289 of 2007, decided on 01.08.2018*** (Aurangabad Bench).

7. Mr. Shukul, learned counsel appearing for the complainant vehemently submitted that the applicant was indulged in selling counterfeit Tin sheets of the Company. According to him, the Logo of the Company is an artistic work and therefore, the Company has acquired a copyright under the Act of 1957. According to him, for claiming a copyright, registration of copyright is not *sine qua non*. He submitted that the allegation in the FIR

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discloses a cognizable offence and the FIR can be quashed in a rarest of rare case. The power under Section 482 of the Cr.P.C. is to be exercised sparingly. Mr. Shukul vehemently submitted that the applicant being indulged in selling counterfeit Tin sheets of the Company is nothing but an infringement of copyright. Therefore, the applicant has committed an offence under Section 63 of the Act of 1957. Learned counsel submitted that the investigation is yet to be concluded and it is a settled law that the FIR is not an encyclopedia which must disclose the facts and details of the offence reported. It would be premature to decide the application based on incomplete facts. Therefore, he seeks rejection of the application.

8. To buttress his submissions, Mr. Shukul seeks to rely on the decision in the case of ***Priya Shrivastava Vs. State of M.P. and others, in MCR Case No. 13000 of 2018, decided on 12.03.2019***, wherein the High Court of Madhya Pradesh in the given facts of the case observed that the case before the High Court was not of infringement of copyright only on the allegations of use of the word "Utsav" rather, it was a case of infringement of Copyright of the design of the Logo. Design of the Logo is certainly an Artistic work.

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9. Reliance is also placed on the decision in the case of ***Neeharika Infrastructure Private Limited Vs. State of Maharashtra and others,*** reported at ***(2021) 19 SCC 401***, wherein in paragraph 13, the Supreme Court has been observed as under

> *"13. From the aforesaid decisions of this Court, right from the decision of the Privy Council in King Emperror Vs. Khwaja Nazir Ahmad (1944 SCC OnLine PC 29), the following principles of law emerge:*
> *13.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences.*
> *13.2. Courts would not thwart any investigation into the cognizable offences.*
> *13.3. However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on.*
> *13.4. The power of quashing should be exercised sparingly with circumspection, in the "rarest of rare cases". (The rarest of rare cases standard in its application for quashing under Section 482 CrPC is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court.)*
> *13.5. While examining an FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.*
> *13.6. Criminal proceedings ought not to be scuttled at the initial stage*
> *13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule.*
> *13.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the above of the process by Section 482 CrPC.*
> *13.9. The functions of the judiciary and the police are complementary, not overlapping.*
> *13.10. Save in exceptional cases where non-interference*

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would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences.

13.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

13.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

13.13. The power under Section 482 CrPC is very wide, but conferment of wide power requires the Court to be cautious. It casts an onerous and more diligent duty on the Court.

13.14. However, at the same time, the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in R.P. Kapur Vs. State of Punjab (1960 SCC Online SC 21) and State of Haryana Vs. Bhajan Lal (1992) Supp (1) SCC 335), has the jurisdiction to quash the FIR/complaint.

13.15. When a prayer for quashing the FIR is made by the alleged accused, the Court when it exercises the power under Section 482 CrPC, only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.

10. Mr. Shukul also relied on the decision in the case of ***State of Madhya Pradesh Vs. Ramjan Khan and others***, reported at

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2024 SCC OnLine SC 3070, wherein the Supreme Court in paragraphs 11 and 12 has observed as under .

> *11. FIR is not an encyclopedia disclosing all facts and details relating the entire prosecution case. (See the decisions in Superintendent of Police, CBI v. Tapan Kumar Singh; State of UP v. Naresh; Lalitha Kumari v. Government of UP, and Amish Devgan v. UOI[2]).*
>
> *12. It is true that the aforementioned decisions would undoubtedly reveal the position that an FIR is not meant to be a detailed document containing chronicle of all intricate and minute details.*

11. Having heard the learned counsel appearing for the applicant and the complainant as well as the learned APP, I have gone through the FIR. No doubt, as held by the Supreme Court as well as various High Courts, it is a settled position of law that the inherent power of quashing of the FIR has to be used sparingly and in certain contingencies only. One of the golden principles for quashing the FIR is that even if the allegations made in the FIR are taken at its face value and if they do not constitute any cognizable offence, then the High Court in its inherent jurisdiction can quash the FIR being the abuse of the process of law. Keeping this principle in mind, let us turn to the facts of the present case.

12. As stated above, the complainant, who is the officer authorized by the Company, along with police officers of the rank

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of Sub Inspector and other Police Constables conducted raid at the premises of the applicant wherein he was running business by name M/s New Kausal Traders. It was found that the Tin sheets of different sizes having name of the Company printed on it were stored for selling. On these allegations the applicant is being prosecuted for having committed offence under Section 51 read with Section 63 of the Act of 1957. In order to claim Copyright, there must subsist Copyright in the areas and fields, as described in Section 13 of the Act of 1957. It will be appropriate to reproduce Section 13 of the Act of 1957 for ready reference. It reads as under :-

> "***13. Works in which copyright subsists.—***
> *(1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,—*
>
> *(a) original literary, dramatic, musical and artistic works;*
>
> *(b) cinematograph films; and*
>
> *(c) sound recording.*
>
> *(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 40 or section 41 apply, unless,—*
>
> *(i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India;*
>
> *(ii) in the case of an unpublished work other than work*

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of architecture, the author is at the date of the making of the work a citizen of India or domiciled in India; and

(iii) in the case of work of architecture, the work is located in India.

Explanation.—In the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work.

(3) Copyright shall not subsist—

(a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;

(b) in any 'sound recording made in respect of a literary, dramatic or musical work, if in making the 'sound recording, copyright in such work has been infringed.

(4) The copyright in a cinematograph film or a 'sound recording shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or, as the case may be, the 'sound recording is made.

(5) In the case of work of architecture, copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction.

13. Thus, it is evident from reading of Section 13 of the Act of 1957 that a Copyright can be claimed for the classes of work mentioned in clauses (a) to (c) of sub-Section (1) of Section 13 of the Act of 1957, which includes Artistic work. There is no dispute to the settled legal position that even a Logo, if qualified as an Artistic work, a Copyright can be claimed for the said Logo as held in the case of ***Priya Srivastava*** (*supra*).

14. Here, bare perusal of the FIR reveals that Tin sheets

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were found having printed the name of the Company, which according to the complainant is a counterfeit product. In the FIR, there is no allegation that any logo of the Company has been used on those Tin sheets. It is a specific case of the complainant that the name of the Company was used on those tin sheets. Needless to mention that there is difference between using a Logo of a Company and name of a Company. That apart, it is not alleged in the FIR that either the Logo or the name of the Company is an Artistic work, which is a condition for existence of Copyright. There is no whisper in the entire FIR that the name 'JSW Steel Ltd.' is an Artistic work either created by the Company or by an artist and the right is assigned to the said company. Thus, there is no allegation in the FIR that the Company was having any copyright in the name of the Company nor infringement of the said copyright has been alleged.

15. It is the specific case of the complainant that the applicant was found storing counterfeit Tin sheets having the name of the Company printed on it. This act does not amount to infringement of copyright within the meaning of the Act of 1957. From the facts averred in the FIR, at the most, applicant is seen to

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have committed an offence under Section 104 of the Act of 1999, that too, if the applicant claims that and not under Section 51 read with Section 63 of the Act of 1957.

16. Section 104 of the Act of 1999 provides for penalty for selling goods bearing trade marks. Section 104 of Act of 1999 reads as under:-

> ***104. Penalty for selling goods or providing services to which false trade mark or false trade description is applied.-*** *Any person who sells, lets for hire or exposes for sale, or hires or has in his possession for sale, goods or things, or provides or hires services, to which any false trade mark or false trade description is applied or which, being required under section 139 to have applied to them an indication of the country or place in which they were made or produced or the name and address of the manufacturer, or person for whom the goods are manufactured or services provided, as the case may be, are without the indications so required, shall, unless he proves,*
>
> *(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of commission of the alleged offence no reason to suspect the genuineness of the trade mark or trade description or that any offence had been committed in respect of the goods or services;*
>
> *(b) that, on demand by or on behalf of the prosecutor, he gave all the information in his power with respect to the person from whom he obtained such goods or things or services; or*
>
> *(c) that otherwise he had acted innocently, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which*

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may extend to two lakh rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees."

17. Section 115 of the Act of 1999 provides for the procedure for taking cognizance of the offences committed in relation to the trade marks. Sub-sections (3) and (4) of Section 115 of the Act of 1999, which are relevant for our purpose read as under:-

*"**115. Cognizance of certain offences and the powers of police officer for search and seizure.***

……

(3) The offences under section 103 or section 104 or section 105 shall be cognizable.

(4) Any police officer not below the rank of Deputy Superintendent of Police or equivalent, may, if he is satisfied that any of the offences referred to in sub-section (3) has been, is being, or is likely to be, committed, search and seize without warrant the goods, dye, block, machine, plate, other instruments or things involved in committing the offence, wherever found, and all the articles so seized shall, as soon as practicable, be produced before a Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be:

Provided that the police officer, before making any search and seizure, shall obtain the opinion of the Registrar on facts involved in the offence relating to trade mark and shall abide by the opinion so obtained."

From the above provision it is clear that only the police

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officer not below the rank of Deputy Superintendent of Police, if he is satisfied that an offence under Sections 103 or 104 or 105 of the Act of 1999 has been committed or is likely to be committed, he may search and seize goods, dye, block, machine, plate etc., without warrant. In the instant case, the search and seizure has been conducted by the Police Sub-Inspector contrary to the mandate. Thus the mandatory provisions of the Act of 1999 have not been complied with. Therefore, registration of the FIR and the consequent investigation thereon is vitiated.

18. The sheet anchor of the submissions of the learned counsel for the complainant is that the FIR is not an encyclopedia disclosing all facts and details relating the entire prosecution case. The investigation is yet to be completed. The FIR is not meant to be a detailed document containing chronicle of all intricate and minute details, as held in the case of ***Ramjan Khan*** (*supra*).

19. There is no dispute about the settled legal position of law that the FIR is not an encyclopedia, but at the same time, it is to be remembered that for registration of the FIR, the information given in the FIR or allegations in the FIR must disclose a cognizable

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offence as held in the case of ***Somjeet Mallick Vs. State of Jharkhand and others***, [***2024 INSC 772***], which is a pre-requisite condition for registration of the FIR under Section 154 of the Cr.P.C. Therefore, the decisions in the case of ***Neeharika Infrastructure Pvt. Ltd.*** (*supra*) and ***Ramjan Khan*** (*supra*) will be of no assistance to the complainant. Likewise, since, there is no allegation of using the Logo of the Company by the applicant. Therefore, the decision in the case of ***Priya Shrivastava*** (*supra*) will not be applicable to the facts of the present case.

20. To summarize, if the entire allegations made in the FIR are taken at its face value, it does not constitute an offence under Sections 51 and 63 of the Act of 1957 because nowhere it has been alleged that the Logo 'JSW Steel Ltd.' is an Artistic work for which copyright can be claimed. Neither there is any averment that the company acquired copyright for the said Logo, nor there is any allegation that any Logo of the Company has been used by the applicant. What has been alleged is that, the applicant used the name of the Company, which is a different stance than using a Logo having Artistic work, which company uses for its products. Thus, the case in hand is not of infringement of the Copyright, but

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is of selling of counterfeit products which is covered under Section 104 of the Act of 1999.

21. As stated above, the investigation is not carried out by an officer of the rank of Deputy Superintendent of Police. Therefore, the search and seizure in the case is illegal and consequent registration of the FIR is also vitiated.

22. A reference can be made to the decision of the Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others***, reported at ***1992 Supp (1) SCC 335*** which reads thus :

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> *(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

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(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

23. In view of the above, the case of the applicant is covered under clause (1) of para 102 of the decision in ***Bhajan Lal*** (*supra*).

24. In view of the above factual legal position, I find

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substance in the arguments of the learned counsel for the applicant that the FIR is nothing but an abuse of the process of the Court. Therefore, this Court can very well quash the present FIR against the applicant.

25. Considering the facts mentioned above, a case is made out for exercise of the inherent powers of this Court under Section 528 of the BNSS in favour of the applicant. Hence, the following order is passed :

ORDER

(i) The Criminal Application is allowed.

(ii) First Information Report (FIR) No. 62/2026 dated 28.01.2026 registered with Police Station, Saoner, Dist. Nagpur for the offence punishable under Sections 51 and 63 of the Copyright Act, 1957, is quashed and set aside.

(iii) The application stands disposed of in the above terms.

(M.W.Chandwani, J.)

Diwale

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