IN THE COURT OF MS. ARJINDER KAUR
ADDITIONAL CHIEF METROPOLITAN MAGISTRATE-02
(CENTRAL DISTRICT), TIS HAZARI COURTS, DELHI.

CNR No. DLCT020103132018



Case No.13505/2018
FIR No.240/2015
PS – Karol Bagh
State Vs. Devinder Singh

JUDGMENT

(a)	Case No.	13505/2018
(b)	Date of offence	17.03.2015
(c)	Complainant	Sh. Kapil Dev Rathi
(d)	Accused	(1) Devinder Singh Late S/o Sudarshan Singh R/o 29/28, West Patel Nagar, Delhi Also at : H. No. 5/1200, Naiwala, Karol Bagh, Delhi (2) Surjeet Singh Arora (pleaded guilty in Plea Bargaining Court vide order dated 22.07.2019) Late Sh. Prem Singh R/o H No.C-42A, Sudarshan Park, Moti Nagar, Delhi
(e)	Offence	u/s 63 Copyright Act
(f)	Plea of accused	Pleaded Not Guilty
(g)	Final Order	Acquittal
(h)	Date of Institution	16.03.2018
(i)	Date when judgment was reserved	07.10.2026
(j)	Date of judgment	07.10.2026

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BRIEF FACTS

1 The prosecution case, in substance, is that on 17.03.2015 the accused Devinder Mukesh and Surjeet Singh Arora were found at a shop Arora Auto Traders situated at 5/1200, Nai Wala, Karol Bagh, Delhi with counterfeit products of M/s. Bosch Ltd. which were recovered/seized from the premise and the prosecution alleges that their possession/use infringed the copyright and trademark of the complainant. The charge dated 12.10.2018 and 24.01.2020 records allegations under Section 63 of the Copyright Act and Section 104 of the Trade Marks Act.

CHARGE

2 Vide charge dated 12.10.2018, the accused were charged on the allegation that on 17.03.2015, at the stated time and place, they were found in possession of articles bearing a falsified trademark of Bosch, as detailed in the seizure memo, and thereby committed an offence punishable under Section 63 of the Copyright Act, 1957.

PROSECUTION EVIDENCE

3 In order to prove its case, the prosecution got examined four witnesses.

(i) PW-1 Sh. Subhash Chaudhary.

(ii) PW-2 SI Satender Narayan (Duty Officer)

(iii) PW- Neeru Sethi

(iv) PW-4 Sh. Vivek Tiwari (examined on behalf of complainant).

The prosecution also relied on the following pieces of documentary

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evidence:

1	Original authority letter in favour of complainant Sh. Kapil Dev Rathi	Ex. PW 1/A.
2	Copy of training certificate of Sh. Kapil Dev Rathi	Mark PW 1/A
3	The copy of FIR	Ex.PW2/A (OSR)
4	Certificate under Section 65 B of Indian Evidence Act	Ex. PW 2/B
5	Endorsement on rukka vide DD No.14A dated 17.03.2015	Ex. PW 2/C
6	The affidavit as well as tenure of Doctor Steffen Berns	Ex. PW 3/A
7	Authority letter	Ex. PW 3/B
8	SPA issued by BOSCH Ltd in favour of M/s. Pinkerton Corporate Risk Management	Mark A
9	Seizure memo dated 17.03.2015	Ex. PW 4/A
10	Arrest memo dated 17.03.2015	Ex. PW 4/B
11	Personal search memo	Ex. PW 4/C
12	Disclosure statement	Ex. PW 4/D

4 PW-1: Sh. Subhash Choudhary stated that in the year 2014 he was posted as Director, IPR with Pinkerton Company. He stated that on 30.10.2014 he had issued letter of authority in favour of Sh. Kapil Dev Rathi to file the complaint, conduct the raid and to depose before the court and exhibited original authority letter as Ex. PW 1/A. He stated that Sh. Kapil Devi Rathi had also undergone the training to differentiate between the original and

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spurious articles of complainant company and also exhibited certificate of training of Sh. Kapil Dev Rathi Mark PW 1/A.

5 PW-2: SI Satender Narayan stated that on 17.03.2015 he was posted at PS Karol Bagh as Duty Officer from 4:00 PM to 12:00 mid night. That on 05:50 PM Ct. Puran chand came to PS with rukka sent by SI Vikas Malik and he got the FIR No.240/2015 Ex. PW 2/A (OSR) registered at PS Karol Bagh on the basis of said rukka upon the computer installed at PS while the same was under his lawful custody. That print out of the said FIR was handed over to Ct. Puran Chand for further transmission to SI Vikas Malik and copy of the said FIR was maintained in the register kept in the PS in compliance of PPR rules. That witness also placed certificate under Section 65B of Indian Evidence Act Ex. PW 2/B in support of FIR. That endorsement on rukka vide DD No.14 A dated 17.03.2015 was made Ex. PW 2/C (OSR). That during cross it is deposed that it took around one hour to type the FIR. That Ct. Puran left for spot at about 6:55 PM. PW-2 did not remember the name of typist who typed the FIR and denied the suggestion that he did not know the facts of the case or that he was not doing duty as Duty Officer and did not got the FIR registered.

6 PW-3 Ms. Neeru Sethi, Regional Manager, Administration, Bosch Ltd. deposed that she is the AR of the Doctor Steffen Berns, the then Managing Director whose tenure has already been completed and who is no longer working with Bosch Ltd. That affidavit as well as the tenure of Doctor Steffen Berns Ex. PW3/A. PW-3 has been authorized by Bosch Ltd. to depose on behalf of Doctor Steffen Berns vide authority letter Ex. PW3/B (OSR). That PW-3 had worked with Doctor Steffen Berns in official capacity

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and seen him writing and signing in usual course of business and can identify his handwriting and signatures. Special power of attorney issued by Bosch Ltd. in favour of M/s Pinkerton Corporate Risk Management shown to the witness and the witness correctly identified the signatures of Doctor Steffen Berns at point A Mark A. During cross examination witness denied the suggestion that she had not worked with Doctor Steffen Berns and cannot identify the handwriting and signatures of Doctor Steffen Berns. It is admitted that PW-3 was not carrying the original special power of attorney which has been marked as Mark A or that she did not have any personal knowledge about the case. It is further denied that that she deposed falsely.

7 PW-4 Sh. Vivek Tiwari deposed that in the year 2014/2015 he was working in the company namely Pinkerton as a Manager. That aforesaid company has its office at Gurugram, Haryana. Being Manager (Operation) and he used to visit for verification of employees at later stage after the raid. In the year 2015, PW-4 left the job at the aforesaid company. At that time, the complainant Kapil Dev Rathi was also working in aforesaid company as Assistant Manager and he was also AR of the company. That company was duly authorized on behalf of M/s Bosch Company pertaining to violation of its copyright and trademark. Being AR, Mr. Kapil Dev Rathi was authorized to file the complaint and pursue legal matter on behalf of M/s Bosch. PW-4 had worked with Mr. Kapil Dev for about 3-4 years in the company. However, PW-4 cannot identify his signatures. The complaint in the present case was filed by Mr. Kapil Dev Rathi before DCP pertaining to violation of copyright and trademark. PW did not remember the

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exact date when the raid was conducted, however, it might be in the year 2015. Witness did not participate in the raid. However, he was called in the office of DIU, Daryaganj, Delhi. At the instance of IO, PW-4 had signed some documents. PW-4 signed 3-4 documents, however, he did not remember its particulars. PW-4 was apprised by the IO that those documents were pertaining to seizure of goods, however, he did not know the particulars of articles. Witness has shown seizure memo, dated 17.03.2015 Ex.PW4/A and witness correctly identified his signature at point A on the said seizure memo. The witness has also shown arrest memo dated 17.03.2015 Ex.PW4/B and witness correctly identified his signature at point A on the said arrest memo. The witness has shown personal search memo dated 17.03.2015 Ex.PW4/C and witness correctly identified his signature at point A on the said personal search memo. The witness has shown disclosure statement dated 17.03.2015 Ex.PW4/D and witness correctly identified his signature at point A on the said disclosure statement. PW-4 had signed those documents in the office of DIU. That PW-4 had gone through the contents of seizure memo before putting his signature. PW-4 signed other documents after going through its contents, however, those documents were already prepared by the IO and PW-4 only signed the same. PW-4 was not apprised by the IO about the name of accused arrested in the present case. MHCM has brought the case properties and same was placed in front of lockup branch. With the permission of court, MHCM, learned counsel for accused person, witness and Naib court went there and after sometime, all the above-said persons came and witness stated that he had seen the case

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properties which were in five sacks out of which two were samples and three were belonging to false and the said sacks were bearing seal however, only one seal of 'VM' is visible in the pullanda serial no.2 and same were opened with permission of the court and the said pullanda were found containing spark plug and witness identified the same however witness states that he is not an expert to differentiate between original and duplicate products of spark plug. The said case properties Ex.P1 to Ex.P5. Thereafter, attention of witness drawn towards the accused Devender but witness failed to identify as he had not seen the accused before the court dates. After that learned substitute APP for the State seeks permission to cross-examine the witness as witness has failed to identify the accused Devender. Heard. Allowed It is admitted by witness that arrest memo, personal search memo and disclosure statement and same are already Ex.PW4/B, Ex.PW4/C and Ex.PW4/D bears his signature at point A. It is denied that PW-4 intentionally and deliberately had not identified the accused Devender despite having my signature at point A on the exhibits Ex.PW4/B, Ex.PW4/C and Ex.PW4/D as he had been won over by accused Devender. It is admitted that on the disclosure statement of accused Surjeet Singh, his signature is present and said disclosure statement is now Ex.PW4/E bearing his signatures at point A. It is denied that PW-4 intentionally and deliberately did not identify accused Devender despite that case properties were recovered from the possession of the accused Devender and its seizure memo Ex.PW4/A also bears his signature at point A. It is denied that PW-4 had not identified the accused Devender as he had settled the matter with the accused. During cross examination

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by learned counsel for accused Devender it is stated that no accused persons were arrested in his presence and his signatures were obtained at DIU. It is denied that no case property was recovered in his presence from the possession of accused Devender or that he signed on the documents as instructed by the IO.

8 Since no incriminating evidence has come on record against the accused, Devender, his examination under Section 313 of the Code of Criminal Procedure is hereby dispensed with. Further, as the prosecution does not wish to examine any other witnesses, the remaining witnesses are ordered to be dropped from the list of witnesses. Prosecution Evidence stands closed. Matter is adjourned for final arguments.

APPRECIATION OF EVIDENCE

9 This Court has carefully scrutinised the oral and documentary evidence adduced by the prosecution, considered the material brought on record during trial, and assessed the same in the light of the ingredients of the offence punishable under Section 63 of the Copyright Act, 1957. The fundamental question for determination is whether the prosecution has established, beyond reasonable doubt, that accused Devinder Singh knowingly infringed or abetted the infringement of copyright or any other right falling within the ambit of the said provision.

10 The burden of establishing the guilt of the accused rests throughout upon the prosecution. The accused is entitled to the benefit of every reasonable doubt arising from the evidence;

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however, such doubt must be real and reasonable, and not merely speculative.

11 PW-1 Sh. Subhash Chaudhary proved the authority letter Ex. PW-1/A issued in favour of Sh. Kapil Dev Rathi and referred to the latter's training in distinguishing original products from spurious products. His testimony is relevant to the question of authorisation and training of the complainant's representative. However, PW-1 did not depose to having personally participated in the alleged raid or witnessed the recovery of the articles in question. His testimony, therefore, does not independently establish the circumstances of the alleged recovery, the identity of the person from whose possession the articles were recovered, or the nature of the seized articles.

12 PW-2 SI Satender Narayan, the Duty Officer, proved the registration of FIR No. 240/2015 on the basis of the rukka received at the police station, together with the related documentary record, including Ex. PW-2/A, Ex. PW-2/B and Ex. PW-2/C. His testimony establishes the formal steps concerning registration of the FIR, subject to the evidentiary value of the documents proved by him. The fact that an FIR was registered establishes neither the truth of the allegations contained therein nor the commission of the offence by the accused. The substantive allegations must independently stand scrutiny on the evidence adduced during trial.

13 PW-3 Ms. Neeru Sethi, Regional Manager (Administration) of Bosch Ltd., deposed regarding the affidavit and tenure of Dr. Steffen Berns, the authority letter Ex. PW-3/B and the special power of attorney marked as Mark A. During cross-examination,

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she admitted that she had no personal knowledge of the facts of the present case and that the original special power of attorney was not in her possession. Although she claimed familiarity with Dr. Steffen Berns's handwriting and signatures, the evidentiary value of the document marked as Mark A must be assessed in accordance with the applicable rules of proof.

14 The testimony of PW-3 may be relevant to the question of corporate authorisation, but it does not establish that the articles were recovered from the possession of accused Devinder Singh or that their recovery constituted an infringement punishable under Section 63 of the Copyright Act.

15 The testimony of PW-4 Sh. Vivek Tiwari assumes particular significance because he identified his signatures on the seizure memo Ex. PW-4/A, arrest memo Ex. PW-4/B, personal search memo Ex. PW-4/C and disclosure statement Ex. PW-4/D. Nevertheless, his testimony must be read as a whole and not merely by reference to the signatures appearing on those documents.

16 PW-4 stated that he had not participated in the raid, that he was called to the office of DIU, Daryaganj, and that his signatures were obtained there. He further stated that he had not witnessed the arrest of the accused. Although he acknowledged having gone through the contents of the seizure memo before signing it, he did not claim to have personally witnessed the recovery recorded therein.

17 The distinction between identifying a signature and proving the truth of the facts recorded in a document is material. The identification of a signature may establish the fact of execution or

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signing, as applicable, but it does not invariably establish that the signatory personally witnessed the underlying occurrence. The seizure memo is, therefore, required to be evaluated in conjunction with the witness's explanation of the circumstances in which it was signed and the remaining evidence concerning the alleged recovery.

18 PW-4 further failed to identify accused Devinder Singh when his attention was drawn towards the accused in court. The prosecution was permitted to cross-examine him, during which suggestions were put that he had deliberately withheld identification and had been won over by the accused. The witness denied those suggestions.

19 The Court does not treat the failure of identification as automatically fatal to the prosecution. Its significance must be determined in the context of the entire evidence. In the present case, however, PW-4's inability to identify the accused is accompanied by his categorical testimony that he did not witness the raid or the arrest. His evidence consequently does not provide direct ocular confirmation of the prosecution's allegation that the articles were recovered from the possession of this accused. The prosecution's case on that material fact must, therefore, be tested against the other evidence actually brought on record.

20 As regards the physical case property, PW-4 identified the articles produced in court as Ex. P-1 to Ex. P-5, which comprised spark plugs contained in the pullandas. He also noticed the condition of the seals and stated that the pullandas were opened with the permission of the Court. However, he expressly stated that he was not an expert capable of distinguishing original spark

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plugs from duplicate products.

21 The Court distinguishes between the identity of the physical articles produced during trial and proof of their alleged counterfeit character. Identification of the articles as spark plugs does not, by itself, establish that they were spurious, counterfeit or infringing articles. Equally, the absence of expert testimony cannot, as an abstract proposition, be treated as fatal in every case, since the nature and sufficiency of proof depend upon the circumstances and the other admissible evidence available. In the present case, however, the testimony of PW-4 does not establish the alleged counterfeit character of the articles, and no other testimony recorded in the evidence summarised herein supplies that deficiency.

22 The prosecution was also required to establish the necessary connection between the accused, the alleged recovery and the seized articles. Proof that certain articles were produced before the Court does not, without reliable connecting evidence, establish that those articles were recovered from the possession of the accused in the manner alleged. Similarly, proof of the registration of the FIR and the existence of seizure-related documents cannot substitute for proof of the material facts constituting the offence.

23 In the present case, PW-4's testimony does not establish from personal observation that the articles were recovered from the possession of accused Devinder Singh. The documentary record must be considered in light of this limitation, rather than treated as conclusive merely because the witness identified his signatures. The prosecution evidence, as recorded, does not satisfactorily resolve the material doubt concerning the alleged recovery from

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this accused.

24 A further and independent consideration arises from the nature of the charge. Section 63 of the Copyright Act, 1957, penalises the knowing infringement or abetment of infringement of copyright in a work or another right conferred by the Act, subject to the statutory exceptions. The prosecution must, therefore, establish the particular infringement alleged and the requisite knowledge or abetment contemplated by the provision. An allegation that articles bear a falsified trademark does not, without more, establish every ingredient of an offence under Section 63 of the Copyright Act.

25 The charge framed in the present case refers to articles bearing a falsified trademark of Bosch. However, the evidence summarised in the record does not satisfactorily establish the particular copyright or other right under the Copyright Act alleged to have been infringed, the factual basis constituting that infringement, or the requisite knowledge attributable to the accused. The Court cannot presume these essential ingredients merely from the allegation that the articles were counterfeit. The alleged trademark infringement and the charged copyright offence must be kept analytically distinct.

26 The Court has also considered the disclosure statement Ex. PW-4/D. Its mere exhibition does not dispense with the requirement of establishing the admissibility and evidentiary value of its contents in accordance with law. No conclusion regarding the accused's guilt can be founded merely upon the existence of a disclosure statement, particularly when the evidence summarised in the record does not identify any independently established fact

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arising therefrom that proves the essential ingredients of the charged offence.

27 On a cumulative assessment, the prosecution has established the formal registration of the FIR and the production of certain articles and documents during trial. However, the material evidence does not satisfactorily establish that the seized articles were recovered from the possession of accused Devinder Singh in the circumstances alleged, that the articles constituted infringing copies or otherwise involved infringement of a right covered by Section 63, or that the accused knowingly committed or abetted such infringement.

28 These are not merely peripheral discrepancies. They concern the connection of the accused with the alleged occurrence and the essential ingredients of the offence charged. The deficiencies cannot be cured by relying solely upon the formal proof of the FIR, the identification of signatures on documents, or the production of the case property.

29 Accordingly, accused Devinder Singh is entitled to the benefit of reasonable doubt.

JUDICIAL RESOLUTION

30 In view of the foregoing discussion, this Court holds that the prosecution has failed to establish beyond reasonable doubt the essential ingredients of the offence punishable under Section 63 of the Copyright Act, 1957, against accused Devinder Singh. The evidence does not satisfactorily establish the alleged recovery from his possession, the infringing character of the seized articles in terms of the provision charged, or the requisite knowledge or

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abetment attributable to him.

31 The accused cannot be convicted on the basis of suspicion, the mere registration of an FIR, or the existence of seizure-related documents in the absence of sufficient evidence proving the charge. The benefit of the reasonable doubt arising from the prosecution evidence must consequently be extended to him.

FINAL VERDICT

32 Accordingly, accused Devinder Singh, son of Late Sh. Sudarshan Singh, is hereby acquitted of the charge for the offence punishable under Section 63 of the Copyright Act, 1957, by extending to him the benefit of reasonable doubt.

33 File be consigned to Record Room after due compliance.

Announced in open Court.

On this 07th October 2026
This Judgment contains 15 pages and is signed by me.

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(ARJINDER KAUR)
ACJM-02, (CENTRAL)
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