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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 520 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE P. M. RAVAL

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Approved for Reporting	Yes	No
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ATUL BHALERAAV PATIL
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR HARSH M SURTI(3907) for the Applicant(s) No. 1
MR SIKANDER SAIYED(3458) for the Applicant(s) No. 1
DR.ABHISST K THAKER(7010) for the Respondent(s) No. 3
NOTICE SERVED BY DS for the Respondent(s) No. 2
MR. ROHAN SHAH, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 30/09/2026

ORAL JUDGMENT

1. By way of the present application preferred under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), the applicant seeks to quash and set aside the FIR No.11191037211559 of 2021, dated 03.12.2021 registered at Odhav Police Station, Ahmedabad, for offences punishable under Sections 51, 63 and 64 of the Copyright Act, 1957, as well as the consequential charge-sheet and proceedings pending before the learned Magistrate Court.

2. Facts as narrated in the FIR relevant for the purpose of

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deciding the application qua present applicant is as follows:

> "...After completing the work at the above factory, all of us reached 73, Alok Estate, Merchant Association, Odhav, Ahmedabad. Upon arriving, when you, Sir, in the presence of the Panchas, asked the person present for his details, he stated his name as Atul Bhalerao Patil, age: 33 years, occupation: business, residing at A/504, Real Aura Flat, D-Cabin, Sabarmati, Ahmedabad, Mobile No.: 9824987431.
>
> Thereafter, keeping him present and inspecting the factory in the presence of the Panchas, two-wheeler accessories such as bumper guards, round footrests, seat covers, stickers, crash guards, etc., were found bearing stickers of the Honda Company. When asked whether the company had authorized him to affix such stickers on spare parts, or whether he possessed the rights to affix the company's stickers, Atul Bhalerao Patil stated that he does not possess any such rights. Furthermore, when asked to produce any bills/invoices regarding the purchase of these stickers, etc., he stated that he had no such bills.
>
> Therefore, upon searching the premises and surrounding area, the following duplicate seized items were recovered:
>
> 1. Duplicate Bumper Guards for Honda Activa Two-Wheelers: 200 units, estimated at approximately Rs.800/- per unit, total value calculated at Rs.1,60,000/-.
> 2. Duplicate Round Footrest Guards for Honda Activa Two-Wheelers: 53 units, estimated at approximately

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Rs.1,000/- per unit, total value calculated at Rs.53,000/-.

3. Duplicate Seat Covers for Honda Activa Two-Wheelers: 16 units, estimated at approximately Rs.150/- per unit, total value calculated at Rs.2,400/-.
4. Duplicate Side Accessories for Honda Activa Two-Wheelers: 400 units, estimated at approximately Rs.600/- per unit, total value calculated at Rs.2,40,000/-.
5. Stickers for Honda Activa Two-Wheelers: 250 units, total estimated value calculated at Rs.250/-.
6. Duplicate Steering Grip Covers for Honda Activa Two-Wheelers: 125 units, estimated at approximately Rs.80/- per unit, total value calculated at Rs.10,000/-.

All the above-mentioned seized goods have a total estimated value of Rs.4,65,650/-, which you, Sir, seized for investigation purposes. When asked for purchase bills for all the above items, he stated that he did not possess them.

Thus, the police seized total duplicate accessories from both factories, valued at Rs.7,22,600/-, for the purpose of investigation. Therefore, the owners/operators of the factories named 'Shyam Sales' and '73 Alok Estate':

1. Jignesh Haribhai Kanani, aged 33 years, occupation: business, residing at 68, Indradhara Society, Nikol-Naroda Road, Nikol, Ahmedabad, Mobile No. 8000328096, and
2. Atul Bhalerao Patil, aged 33 years, occupation: business, residing at A/504, Real Aura Flat, D-Cabin, Sabarmati, Ahmedabad, Mobile No. 9824987431, have illegally traded accessories bearing the trademark of Honda Company without

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> any license or permission, thereby violating the Copyright Act.
>
> Hence, this complaint is lodged against all of them to initiate legal action under Sections 51, 63 and 64 of The Copyright Act, 1957. My witnesses are you, Sir, as well as the police personnel mentioned in the complaint, the Panchas, my evidence, and whatever comes to light during the police investigation. Additional evidence will be submitted during the ongoing investigation.
>
> This is my complaint, and the facts stated above are true and correct."

3. **Rule.** Learned advocates for the respective respondents waive service.

I. FACTUAL MATRIX

4. The prosecution case, as disclosed in the FIR and charge-sheet papers, is that on the basis of information provided by the authorized representative of Respondent No. 2, a raid was conducted by the police along with panchas at two commercial premises—'Shyam Sales' and '73, Alok Estate, Merchant Association, Odhav, Ahmedabad'.

5. Applicant Atul Bhalerao Patil was found present at the spot. The search yielded a massive stash of counterfeit two-wheeler spare parts for Honda Activa scooters—including 200 bumper guards, 53

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round footrests, 16 seat covers, 400 side accessories, and 125 steering grip covers - bearing the "Honda" emblem. Critically, police also seized a batch of 250 standalone stickers featuring the "Honda Wing Logo". The aggregate value of the seized goods across both premises was calculated at Rs.7,22,600/- (including items worth Rs.4,65,650/- seized directly from Applicant No. 1's unit).

6. Upon failure of Applicant to produce authorization or purchase invoices for the stickers and logo-bearing components, police registered an FIR and subsequently submitted a charge-sheet for offences under Sections 51, 63, and 64 of the Copyright Act, 1957.

II. SUBMISSIONS OF THE PARTIES

A. Submissions of the Applicant:

7. The learned advocate for the Applicant Mr. Sikander Saiyed would submit that:

1. **Trademark vs. Copyright Offence:** The dispute relates strictly to automobile spare parts and brand identity, which falls under the Trade Marks Act, 1999. The police registered the FIR under the Copyright Act solely to bypass the mandatory safeguards under **Section 115(4) of the Trade Marks Act, 1999** (prior Registrar opinion and search by DSP-rank officer). Search and

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investigation is carried out of PI who is below the rank of DSP.

2. **Documents not forming part of Charge-sheet:** The Copyright Registration Certificates relied upon by the Complainant were not collected during investigation nor annexed to the charge-sheet filed before the Magistrate, and thus cannot be considered at this stage (As held in the case of Jitendrabhai Mohanbhai Kripalani).

3. Further, the reliance placed for the first time pointing out that the complainant is authorised to lodge FIR is also placed on record before this court for the first time and the said also is not part of the charge-sheet. Thus, respondent No.2 is not authorised to lodge FIR.

4. **Hardware articles not artistic works:** Hardware components and logo labels are commercial industrial designs protected under the Designs Act, 2000, and by operation of Section 15(2) of the Copyright Act, 1957, copyright protection ceases once reproduced industrially more than 50 times.

5. **Precedents relied upon:** Reliance was placed on *Jitendrabhai Mohanbhai Kripalani v. State of Gujarat* (R/CR.MA No. 21846 of 2022), *State of Haryana v. Bhajan Lal* (1992 Suppl (1) SCC 335), *Binita Rahul Shah v. State of Gujarat* (2009 (3) GLR 2688), *Sun Textiles Engineers v. State of Gujarat* (CR.MA No.

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3105/2002), and *Nainesh Chimanbhai Patel v. State of Gujarat* (CR.MA No. 8903/2013).

6. **Complainant not competent to lodge FIR:** The documents as relied upon namely the Power of Attorney does not name the present complainant as an authorised person to lodge the FIR and the letter of authority is given on 01.12.2021 whereas the FIR dated 03.12.2021 states that he is working since last 6 months with the company and thus contradictions are reflecting on the face of it.

B. Submissions of Respondent No. 2 (Complainant) & APP for the State

8. *Per Contra*, the learned Additional Public Prosecutor Mr. Rohan Shah for the State and learned Advocate Mr. Amol Dikshit with Mr. Ishan Rajdev for Dr. Abhisst K. Thaker for Respondent No. 3 submitted that:

1. **Registered Artistic Work & Statutory Presumption:** Respondent No. 2 holds valid Copyright Registration Certificates issued under Section 45 of the Copyright Act, 1957, for the "Honda Wing Logo" and "Honda Genuine Parts Packaging Artwork" as original *artistic works* under Section 2(c).

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2. **Explicit Non-Registration under Designs Act:** The Copyright Registration Certificate explicitly contains an official endorsement stating that the artistic work is not registered under the Designs Act, 2000. Thus, the bar under Section 15(2) of the Copyright Act is wholly inapplicable.

3. **Admissibility during Trial:** Non-inclusion of the Copyright Registration Certificate in the initial charge-sheet is a curable procedural aspect. Public documents/statutory certificates can be placed on record during trial under Sections 242(2), 294, or 311 of the Cr.P.C.

4. **Physical Seizure of 250 Logo Stickers:** The seizure of 250 standalone logo stickers and duplicate items with logo stickers directly demonstrates unauthorized reproduction of the artistic work in material form under Section 14(c)(i) read with Section 51, constituting a clear offence under Section 63.

5. **Locus Standi:** Under the principle laid down in *Vishwa Mitter v. O.P. Poddar* (AIR 1984 SC 5), any person or authorized corporate officer can set the criminal law into motion however, the POA itself states that powers can be further delegated to any person by those persons named in the POA.

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III. POINTS FOR DETERMINATION

1. Whether the non-inclusion of the Copyright Registration Certificate and authorisation letter in the police charge-sheet is fatal to the prosecution under Section 482 Cr.P.C., or whether it can be produced and proved during trial?
2. Whether the explicit endorsement on the Copyright Certificate that the work is not registered under the Designs Act, 2000, excludes the operation of Section 15(2) of the Copyright Act, 1957?
3. Whether copyright in an artistic logo exists independently of trademark rights, enabling prosecution under Sections 63 and 64 of the Copyright Act, 1957?
4. Whether the judgments relied upon by the petitioners—including ***Jitendrabhai Mohanbhai Kripalani*** **and** ***State of Haryana v. Bhajan Lal*** are distinguishable on facts and law?

IV. REASONING

1. Production of Copyright Certificate during Trial (Curable Irregularity)

9. The Applicant's preliminary contention that the Copyright Registration Certificate was not annexed to the charge-sheet and

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therefore cannot be considered is legally untenable.

10. Under the scheme of Criminal Procedure Code, the investigating agency or complainant is not precluded from producing additional evidentiary public documents at a later stage. Section 242(2) Cr.P.C. empowers the Magistrate to issue summons for the production of any document, while Section 294 Cr.P.C. provide ample statutory power to take public/official documents on record during trial.

11. A Registration Certificate issued by the Registrar of Copyrights is a statutory public document. Under Section 48 of the Copyright Act, 1957, the Register of Copyrights is *prima facie* evidence of the particulars entered therein. The mere administrative lapse of the Investigating Officer in not annexing a copy of the registration certificate with the charge-sheet is a procedural irregularity curable during trial. It does not go to the root of the jurisdiction of the Magistrate, nor does it justify quashing the entire prosecution at the threshold under Section 482 Cr.P.C.

11.1. Hon'ble Supreme Court in the case of **CBI v. R.S. Pai reported in (2002) 5 SCC 82** held that: *"that normally, the Investigating Officer is required to produce all the relevant documents at the time of submitting the charge-sheet. At the same time, as there is no specific prohibition, it cannot be held that the*

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additional documents cannot be produced subsequently. If some mistake is committed in not producing the relevant documents at the time of submitting the report or charge-sheet, it is always open to the Investigating Officer to produce the same with the permission of the Court……"

2. Inapplicability of Section 15(2) Bar (Designs Act, 2000 Endorsement)

12. The Applicant argued that because the logo stickers were applied to commercial spare parts produced industrially, copyright protection stands extinguished under Section 15(2) of the Copyright Act. This argument fails on both facts and law.

13. Section 15(2) applies strictly to an artistic work that is *capable of being registered as a design under the Designs Act, 2000*, but has not been so registered. A brand logo or graphic artwork per se is explicitly excluded from the definition of a "design" under Section 2(d) of the Designs Act, 2000, which specifically excludes any trade mark or artistic work as defined under Section 2(c) of the Copyright Act.

14. Furthermore, the Copyright Registration Certificate placed on record carries an explicit official entry by the Registrar of Copyrights stating that the artistic work is **NOT** registered under the

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Designs Act, 2000. Because the graphic "Wing Logo" and “Honda Genuine Parts Packing Art Work” are an original artistic work under Section 2(c) and is legally exempt from design registration, copyright protection under Section 13 read with Section 14(c) remains fully alive and subsisting. The registration under sub section (1) of Section 45 of the Copy Rights Act, 1957 grants Honda legal remedies under both Copyright Law (protecting against unauthorized copying/reproduction of the artistic design) and Trademark Law (protecting brand reputation in commerce). Unauthorized reproduction of this artistic logo on 250 standalone stickers as well as on the products fund during search/raid directly attracts Section 51 and Section 63 of the Copyright Act. Where the accused is found in possession of 250 loose counterfeit logo stickers—reproducing the exact artistic graphic of the brand owner without a license—an independent criminal cause of action for copyright infringement under Section 63 is clearly made out. The argument of learned advocate for the applicant that there is no production of stickers by the applicant or otherwise pales in to insignificance.

15. Consequently, the search and seizure executed by a Police Inspector (PI) under Section 64 of the Copyright Act, 1957—which empowers any police officer not below the rank of Sub-Inspector to seize infringing copies—is fully valid and lawful. The procedural constraints under Section 115(4) of the Trade Marks Act, 1999, apply exclusively to offences prosecuted under Chapter XII of the

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Trade Marks Act and cannot be imported to restrict or nullify powers under Section 64 of the Copyright Act.

3. Differentiation of Judicial Precedents Relied Upon by Petitioner

16. **Distinguishing *Jitendrabhai Mohanbhai Kripalani v. State of Gujarat* (R/CR.MA No. 21846 of 2022):**

- In *Jitendrabhai Kripalani*, the complainant failed to produce any subsistence of a registered copyright certificate for the artistic work, and the subject matter involved unbranded, generic physical hardware items without standalone artistic sticker reproductions. Even the complainant failed to point out form the investigation papers that brochures/user manuals were recovered and there was nothing to point out that the logo of Apple was found on any product. User manuals were placed on record before High Court which were not forming part of the charge sheet nor were they recovered during raid nor forming part of the recovery Panchanama. What was recovered in the referred case was Mono stickers, side stickers, MRP stickers, and seal stickers and not brochures/user manuals which otherwise could have changed the colour of case.

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- In sharp contrast, in the present case, Respondent No. 2 holds an active, subsisting Copyright Registration Certificate for the "Honda Wing Logo" and “Honda Genuine Parts Packing Art Work” as an artistic work, carrying a specific endorsement excluding the Designs Act, 2000. Furthermore, police physically seized 250 standalone logo stickers along with accessories with such pasted stickers on it directly reproducing the registered artistic work falling within the four corners of infringement of Copyright Act.

17. **Distinguishing *State of Haryana v. Bhajan Lal* (1992 Suppl (1) SCC 335):**

- In *Bhajan Lal*, the Supreme Court held that quashing under Section 482 Cr.P.C. is permissible only where allegations in the FIR/charge-sheet, taken at face value, do not disclose any offence whatsoever.
- Here, the physical recovery of 250 counterfeit logo stickers and hundreds of duplicate accessories bearing the registered artistic mark clearly discloses a *prima facie* case under Sections 51, 63, and 64 of the Copyright Act.

18. **Distinguishing *Binita Rahul Shah*, *Sun Textiles*, and**

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***Nainesh Chimanbhai Patel*:**

- In those decisions, the quashing proceeded on the absence of registered copyright or purely commercial breach of contract without unauthorized printing/reproduction of registered artistic works but for selling duplicate goods. Those rulings have no application to cases where registered artistic logo stickers are mass-counterfeited.

4. Scope of Section 482 Cr.P.C. & Locus Standi

19. As authoritatively settled by the Hon'ble Supreme Court in ***Vishwa Mitter v. O.P. Poddar*** (AIR 1984 SC 5), anyone can set the criminal law into motion. The authorized representative of Respondent No. 2 was fully competent to inform the police. Even otherwise, the complainant was authorised to lodge the FIR as would be evident form the authority letter and recitals of the POA and as held herein above can be relied upon and non-production of the said documents along with charge sheet or FIR has no bearing on quashing petition and is a curable defect causing no prejudice to the petitioner.

20. The High Court while exercising powers under Section 482 Cr.P.C. cannot conduct a pre-trial mini-investigation or evaluate disputed questions of fact – such as whether the Applicants

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possessed purchase bills, whether the stickers were genuine, or whether there was absence of *mens rea*. These are matters of defence to be established before the trial Court during trial.

V. CONCLUSION

21. In view of the above analysis answer to the points for determination are as follows:

1. A clear *prima facie* case under Sections 51, 63 and 64 of the Copyright Act, 1957, is disclosed against the Applicant.
2. The Copyright Registration Certificate for the "Honda Wing Logo" and “Honda Genuine Parts Packing Art Work” as an artistic work explicitly negates registration under the Designs Act, 2000, ensuring full copyright subsistence.
3. Non-inclusion of the certificate in the initial charge-sheet is a curable procedural issue that can be addressed during trial under Sections 242, 294 or 311 Cr.P.C.
4. The remedies under the Copyright Act, 1957, exist independently of the Trade Marks Act, 1999, and the search conducted under Section 64 of the Copyright Act is valid in law.

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ORDER

1. Criminal Miscellaneous Application No.520 of 2022 is hereby dismissed.
2. Interim relief, if any granted earlier, stands vacated. Rule is discharged.
3. The learned Trial Court is directed to proceed with the trial in accordance with law, without being influenced by any factual observations made in this judgment, which are limited solely to the determination of the application under Section 482 Cr.P.C.

(P. M. RAVAL, J)

FURTHER ORDER

After rejection of the application, learned advocate for the applicant would submit that interim relief has been extended since the year 2023, and therefore, prayed to extend it for the period of six weeks, since, they want to approach the Hon'ble Apex Court.

In view of the same, interim relief granted earlier to continue till six weeks from today.

(P. M. RAVAL, J)

NITIN MAKWANA

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