

HIGH COURT, BOMBAY

0259283

jpc

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
ORIGINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1353 OF 2010

Bharat Bhogilal Patel . Petitioner
Versus
The Commissioner of Customs (Exports & Imports)
and others Respondents

Mr. D. P. Merchant, Senior Counsel i/by H.N. Associations for the
petitioner
Mr. Pradeep S. Jetly for the Respondents
Mr. H.W. Kane for the Importer

CORAM: V. C. DAGA, &
S. J. KATHAWALLA, JJ.

DATED: 29 August, 2010

P. C.:

1. Heard Mr. Merchant learned senior counsel appearing for the petitioner and Mr. Jetly, learned counsel for the respondents.
2. During the course of hearing, Mr. Jetly makes a statement that the petitioner would be given hearing as requested by him in the petition. He further states that if any known importers appear at the time of hearing, they would also be heard. Mr. Jetly further states that Notice will also be given to the known importers along with the petitioner for hearing. In this view of the matter the learned counsel appearing for the petitioner seeks permission to withdraw this petition. All rival contentions are kept open.
3. Petition is dismissed as withdrawn with order as to costs.

(S. J. KATHAWALLA, J.)

(V. C. DAGA, J.)

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AM 05/08/10
Section Officer
High Court, Appellate Side
Bombay

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Date : 23/11/2010

Case No. 272/10/10

ORDER BELOW EXH. 1

1. Perused the COMPLAINT. The present complaint is filed by the complainant against the accused for infringement of copyrights so also for the offence punishable u/s. 406, 420 and sec. 51, 52(A), 63(A), 63(B) of copyright Act and also Tread Marks and Patent Act.
2. Heard learned advocate for the complainant at length. It appears that though police complaint is made by the complainant and his statement is recorded by Economic Wings of Mumbai Police, they have failed to take cognizance of the offences which are cognizable in nature. It is the duty of every Police Officer to take cognizance of a Cognizable Offence if he receives such information and he should start investigation.
3. It appears that the complainant is engaged in the business of creativity and he is also a Scientist. It appears that accused are doing the business and they have misused the technology and utilized the intellectual property which is vested with complainant and secured by patent rights. Therefore the nature of allegations requires minute and through investigation by the police. The allegations made by the complainant in the present complaint are serious one and cognizable one. Therefore prima-facie case is made out and the offence is disclosed. Therefore the following order :

ORDER:

1. Senior Police Inspector, Juhu Police Station is directed to register FIR and start investigation and submit report u/s. 156(3) of Cr. P.C.

Phonijen

K. R. Joglekar
(K. R. Joglekar)

Metropolitan Magistrate,
10th Court, Andheri, Mumbai.
23/11/2010.

Dpp/-.

C.C. No. 297/MISC/2008

Order below Complaint

1. The complainant presented the complaint in regard to allegations U/secs. 406,420 of IPC r/w Secs. 51, 52(A), 63(A), 63(B) of Copyright Act read with provision of Trade Marks and Patent Act.

2. I have heard the learned Advocate for the complainant. The complainant seems to be carrying on his business in the field of creativity and scientist. Accused Nos. 1 and 2 are carrying on their business as Managing Directors in the Firm name and style of accused No.3. The complainant invented the technology and the same is registered with the Patent Office under Rule-74. It seems from the allegations that the accused misused the technology and utilized which is invented by the complainant. So, according to the complainant, accused cheated him and have committed offence as per the provision of Copyright Act. Copies of the documents are placed on the record in support of allegations. Allegations are of cognizable nature and there needs investigation by the Police machinery. Juhu Police have not taken cognizance of the complaint. So, prima facie case is made out to direct Sr. P.I. Juhu Police Station to submit report U/sec. 156(3) of Cr. P.C. Hence order :

ORDER

Sr. P.I. Juhu Police Station shall submit a report U/sec.156(3) of Cr. P.C.

Dt.:27.07.2010.

(K. R. Chaudhari)
Metropolitan Magistrate,
22nd Court, Andheri, Mumbai.

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[Signature]
Judicial Clerk
Metropolitan Magistrate
22nd Court, Andheri, Mumbai

कार्यालय लेखनिक

[Signature]
जुहू पोलीस ठाणे, मुंबई
दिनांक : 0.10.10