

(2018) 07 DEL CK 0138

In the Delhi High Court

Case No : CRL.M.C. 3515 OF 2016

**Gopal Engineering & Chemical Works Pvt Ltd & Ors @APPELLANT@Hash
Vikrant Chemico Industries Pvt Ltd**

Date of Decision : 03-07-2018

Acts Referred:

Code of Criminal Procedure 1973 — Section 482
Copyright Act, 1957 — Section 66
Trademarks Act, 1999 — Section 103, 104
Indian Penal Code 1860 — Section 420

Citation : (2018) 07 DEL CK 0138

Hon'ble Judges : R.K.GAUBA, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

1. This petition invokes the jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.PC) to seek quashing of the

proceedings arising out of the first information report (FIR 29/2007) lodged by the second respondent herein with police station Sadar Bazar involving

offences allegedly committed under Sections 63 of the Copy Rights Act, 1957, Section 103 and 104 of Trademarks Act, 1999 and Section 420 of the

Indian Penal Code 1860.Â

2. The allegations in the FIR indicate complicity of the petitioners in the aforesaid offences.Â From the submissions made, it is clear that a charge-

sheet has already been submitted in the court of competent jurisdiction and the case is at the stage of consideration for framing of charge.Â The

ground on which the above mentioned prayer for quashing of the proceedings is made relates to a compromise deed statedly entered upon by the

petitioners with the second respondent (first informant of the case) on 05.09.2016.Â The compromise deed statedly executed has been filed with the

petition.

3. Notice was issued to the second respondent who was served and in response thereto he appeared through counsel on 22.08.2017.Â Thereafter,

the matter has remained pending.Â On 04.09.2017 on joint request the matter was again adjourned.Â From 08.02.2018, the second respondent has

failed to appear even though a fresh notice was issued to his counsel.Â Same is the position on the matter being taken up today.

4. The settlement agreement on the basis of which the prayer is made for the proceedings in the criminal case to be set aside vaguely refers to some

â??misunderstandingâ? having led to the registration of the FIR and such misunderstanding having since been â??clearedâ? leading to amicable

resolution and settlement of the dispute.Â It does not clarify as to what was the misunderstanding and why the allegations against the petitioners in

the aforementioned criminal case ought not be pursued further.Â Â

5. A perusal of the copy of the charge-sheet (pages 31 to 44 of the paper book) which has been submitted by the police on conclusion of investigation

in the court of Magistrate would show that the first informant is the owner of the registered trademark in respect of certain healthcare products

(condoms).Â The first petitioner is described in the case as the trader dealing in such products on the allegations about he indulging in illicit trade in

such products constituting breach of the trademark rights and the copyright of the first informant.Â During a raid by the police certain incriminating

recoveries are shown to have been effected from his possession.Â

6. In the given facts and circumstances, having regard to the nature of the offences involved and the disinclination shown by the second respondent in

burying the dispute by having failed to come in response to the notices to the court, this court is not inclined to grant the prayer in the petition.Â The

petition is dismissed.Â Â

The petitioners, however, will have the liberty to rely upon the document described as compromise deed dated 05.09.2016 during the proceedings in

the criminal case by submissions to be made on such basis.Â Â