

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 942 of 2017

1. Murlidhar Gyanchandani
 2. Rohit Gyanchandani
 3. Rahul Gyanchandani
 4. Vijay Pratap Singh
 5. Manoj Kumar Singh Petitioners

Versus

The State of Jharkhand & Anr. Opp. Parties
 With

Cr.M.P. No. 2018 of 2018

1. Murlidhar Gyanchandani
 2. Rohit Gyanchandani
 3. Rahul Gyanchandani Petitioners

Versus

The State of Jharkhand & Anr. Opp. Parties
 With

Cr.M.P. No. 2023 of 2018

1. Vijay Pratap Singh
 2. Manoj Kumar Singh Petitioners

Versus

The State of Jharkhand & Anr. Opp. Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners : Mr. Ajit Kumar, Sr. Advocate
 Mr. J.S. Singh, Advocate
 Mr. Vikash Kumar, Advocate
 For the State : Mrs. Vandana Bharti, Advocate
 Mr. Santosh Kumar Shukla, Advocate
 Mr. Tapas Roy , Advocate
 For the O.P. No. 2 : Mr. B.M. Tripathy, Sr. Advocate

10/Dated: 06/09/2021

Heard Mr. Ajit Kumar, learned senior counsel and Mr. J.S. Singh, learned counsel for the petitioners, Mrs. Vandana Bharti, Mr. Santosh Kumar Shukla and Mr. Tapas Roy, learned counsel for the State and Mr. B.M. Tripathy, learned senior counsel for the O.P. No. 2.

These petitions have been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due

to COVID-19 pandemic.

Controversy in all these petitions has arisen out of allegation made in August, 2016 by R.S.P.L. Health Pvt. Ltd., against M/s Vedanta Tea Agro Industries, Dhanbad with regard to misuse of Trade Mark Ghari which is subject matter of Suit No. 65 of 2016 under section 134 and 135 of the Trade Marks Act, 1999 and the Copyright Act, 1957 for seeking permanent injunction.

By order dated 30.08.2016 after observing that M/s Vedanta Tea Agro Industry is infringing well known Trademark name of M/s RSPL Limited the learned District Court, New Delhi passed an ex parte ad interim injunction in favour of M/s. R.S.P.L. Ltd. By the said order a local commissioner was appointed to inspect the premises and search and seize all infringing goods/packaging material including stationery, packaging material, cartons, display boards, sign boards, advertising material, dias or blocks, unfinished, packed unpacked impugned goods, documents, wrappers etc. The report was submitted by the Commissioner on 21.10.2016. The order dated 30.08.2016 was not complied and for violation of order dated 30.08.2016, suit bearing TM/CS No. 13768 of 2016 was filed under section 151 of Code of Civil Procedure, 1908 for a reference to the High Court under section 15(2) of the Contempt of Courts Act, 1971 for initiating criminal contempt. That reference was dealt with by the Hon'ble High Court of Delhi in CM(M) 365/2017 & CM Nos. 12799/2017 and 12800/2017. Para nos. 6 and 10 are relevant which are quoted here-in-below:

"6. Notices were received by the said accused from the police. It is then that the respondent has filed an application for reference to the High Court under section 15(2) of the Contempt of Courts Act for initiating criminal contempt. As per the said application respondents have pointed out that a perusal of the report of the Local Commissioner would show that the commission has been executed only after a copy of the order was handed over to Shri Janardan Prasad Singh who has acknowledged receipt of copy. The entire commission was carried out in the presence of the police provided by concerned SHO of Dhanbad Police Station. The

complaint has now been got initiated by Shri Ravi Kumar complainant-cum-proprietor Denn Jordan, son of Shri Janardan Prasad Singh. The respondent further submits that it is clear that the act of filing of false criminal complaint tantamount to obstructing the process of judicial proceedings and amounts to criminal contempt hence the application has been filed.

.....

.....

10. Having seen the record of the case one cannot help coming to a prima facie conclusion that the criminal complaint has been instituted by the defendants in the suit prima facie only as a counter blast to the local commission carried out pursuant to orders of the trial court dated 30.08.2016. The trial court is currently proceeding with the matter. No final adjudication has been done. The limited grievance of the petitioners who were police officers is that the direction of the trial court directing them to remain present on the next date of hearing be quashed."

The Delhi High Court found no allegation against the S.S.P., Dhanbad and quashed the order of the trial court. So far as S.H.O. was concerned, liberty was granted to the S.H.O. to move an appropriate application before the Trial Court seeking exemption.

The complainant and his father moved before the Delhi High Court in CM(M) 366/2017 wherein the Delhi High Court in para 5 & 6 has observed as under:-

".5. In my judgment dated 30.03.2017 I have already concluded as follows:-

"10. Having seen the record of the case one cannot help coming to a prima facie conclusion that the criminal complaint has been instituted by the defendants in the suit prima facie only as a counter blast to the Local Commission carried out pursuant to orders of the trial court dated 30.08.2016."

6. I may note that in the application the allegations against the petitioners herein is for more serious as compared to the police officers. In view of my prima facie finding which I have already noted in the judgment dated 30.03.2017, in my opinion, there are no reasons to interfere in the impugned order. However, it would always be open to the petitioners to approach the trial court for appropriate relief regarding exemption. In case such an application is made it is for the trial court to dispose of the same, as per law."

Mr. B. M. Tripathy, learned senior counsel for the complainant submits that there is no relevancy of the proceeding before the Delhi High Court. He submits that the name of the company of the complainant is

Denjorden wherein order has been passed against M/s Vedanta Tea Agro Industries and unnecessarily the petitioners' premises have been enquired. Referring para nos. 31, 34, 35, 42, 43, 44 of the case diary, learned senior counsel for the complainant submits that the property is different. He submits that these petitions may be heard on merit as there is no relevancy of the proceeding of the Delhi High Court.

Referring para 20 of the case diary, Mr. J.S. Singh submits that there is clean chit of the allegation made in the complaint. He submits that both the companies are running the business in the same premises in Dhanbad. The S.H.O. has been provided liberty by the Delhi High Court to move appropriate application before the Trial Court.

Before coming to the conclusion of the case, it transpires that pending proceeding before the Delhi Courts will have far reaching effect in these cases and it requires to be heard after disposal of the proceeding before Delhi Courts.

Let these matters appear on 29.11.2021.

On the next date, learned counsel for the parties shall inform the Court about the present status of the proceeding before the Delhi Courts.

Till then, interim reliefs granted earlier shall continue.

(Sanjay Kumar Dwivedi, J.)