



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

292

CRM-M-11221-2025 (O&M)
Date of decision: 23.01.2026

Davinder Pal Bakshi

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Munish Behl, Advocate
for the petitioner.

Ms. Himani Arora, DAG, Haryana.

None for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioners under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of FIR No.0453 dated 30.10.2021, registered under Section 51 and 63 of the Copy Right Act, 1957 (Amendment 2012) [for short 'the Act'] at Police Station Ambala City, District Ambala, report filed under Section 173 of Cr.P.C. dated 07.12.2021 and order of framing of charge and chargesheet dated 11.11.2022 and all the subsequent proceedings arising therefrom.

2. The brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by complainant Manoj Pai on 30.10.2021 alleging therein that he was the proprietor of *M/s Mas Valiant Agencies* and has been granted copyright rights by the Raymond Company. He had also



been specifically authorized by the company to identify spurious garments being sold in the name of Raymond Company and to initiate legal action against such offenders with the assistance of the police. It was further alleged that Raymond Company had informed him that *Manu Textile Agency* and *Bakshi Enterprises*, situated in Cloth Market, Ambala City, were engaged in preparing and selling combo packs of spurious garments by falsely representing them as original Raymond products. Such acts were stated to be causing financial loss to customers as well as damage to the goodwill and reputation of Raymond Company. The complainant prayed for taking action against the owners of *Manu Textile Agency* and *Bakshi Enterprises* under Sections 51 and 63 of the Act. On his complaint, the present FIR was registered against the petitioner, who is owner of Bakshi Enterprises. During the course of investigation, some spurious goods/fake cloths, fraudulently branded as made by Raymond, were recovered from the premises of the petitioner. The same were taken into custody. The petitioner was taken into custody and subsequently released on bail. During interrogation, the petitioner suffered disclosure statement admitting his guilt in commission of alleged offences. After completion of necessary investigation and usual formalities, challan was presented before the Court.

3. On presentation of challan and on finding a *prima facie* case against the petitioner, the learned trial Court framed charges against him under Section 51 read with Section 63 of the Act, to which he pleaded not guilty and claimed trial, which is going on. Aggrieved from the same, the petitioner has filed the present petition seeking quashing of impugned FIR as well as the subsequent proceedings having emanated therefrom.



4. It is argued by learned counsel for the petitioner that the very registration of the impugned FIR and the subsequent proceedings emanating therefrom are an abuse of the process of law and deserve to be quashed at the threshold as the basic ingredient for invocation of Sections 51 and 63 of the Copyright Act, 1957 is the existence of a “work” which is protected under the Act and Section 13 enumerates the particular classes of work to which copyright protection is confined. It is argued that cloth, fabric or garments do not find any mention in Section 13 of the Act, nor can they, by any stretch of imagination, be treated as a “work” protected under the Copyright Act.

5. It is further argued by learned counsel for the petitioner that as per the allegations in the FIR, the petitioner was involved in the sale of garments or cloth allegedly bearing the brand name “Raymond”. At best, such allegations may fall within the domain of trade mark law or passing off, but the same cannot be brought within the mischief of the Copyright Act. In the absence of any copyrightable work, the very foundation of the FIR collapses, rendering the invocation of Sections 51 and 63 of the Act wholly misconceived and unsustainable in law. It is, therefore, argued that the continuation of criminal proceedings in the present case would amount to gross miscarriage of justice and abuse of the process of the Court, particularly when the alleged subject matter does not fall within the ambit of the Act. Hence, it is urged that the petition deserves to be allowed and the impugned FIR along with all the subsequent proceeding is liable to be quashed.

6. Status report has been filed by the respondent-State. Learned



State counsel has argued that the impugned FIR has been registered on the basis of a written complaint on the allegations that the petitioner was involved in manufacturing and selling spurious garments by falsely representing them as original products of Raymond Company. During investigation, spurious goods bearing the branding of Raymond were recovered from the premises of the petitioner. The petitioner was arrested, interrogated and thereafter challan was presented before the competent Court. It is further submitted that upon consideration of the material collected during investigation, the learned trial Court found a *prima facie* case and framed charges against the petitioner. The trial is already in progress. The allegations levelled in the FIR and the material on record clearly disclose commission of the alleged offences and the same require adjudication by way of evidence during trial. The petitioner is seeking to short-circuit the criminal proceedings, which is impermissible. Hence, it is prayed that the present petition, being devoid of merit, is liable to be dismissed.

7. There is no representation on behalf of respondent No. 2, though he was duly served.

8. This Court has given thoughtful consideration to the rival submissions advanced by learned counsel for the parties and has carefully perused the record.

9. Before proceeding further, it would be appropriate to have a look on the provisions of Section 13 of the Act, which read as follows:

Section 13 of the Act of 1957 :-

Section 13. Works in which copyright subsists:-



(1) *Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,--*

- (a) *original literary, dramatic, musical and artistic works;*
- (b) *cinematograph films; and*
- (c) *1[sound recording].*

(2) *Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 40 or section 41 apply, unless--*

- (i) *in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India;*
- (ii) *in the case of an unpublished work other than a [work of architecture], the author is at the date of making of the work a citizen of India or domiciled in India; and*
- (iii) *in the case of a [work of architecture], the work is located in India.*

Explanation.--In the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work.

(3) *Copyright shall not subsist*

- (a) *in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;*
- (b) *in any [sound recording] made in respect of a literary, dramatic or musical work, if in making the 3[sound recording], copyright in such work has been infringed.*

(4) *The copyright in a cinematograph film or a record shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or, as the case may be, [sound recording] is made.--*

(5) *In the case of a [work of architecture], copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction."*



10. The allegations against the petitioners are that he was engaged in sale of spurious garments allegedly bearing the brand name “Raymond” and representing the same as genuine products of the said company. The prosecution case, therefore, rests entirely on the alleged sale of spurious garments. A plain reading of Section 13 of the Act makes it abundantly clear that copyright subsists only in respect of the specific classes of works enumerated therein. Garments or cloth, as such, do not fall within the ambit of the said provision. This issue is no longer *res integra*. A Coordinate Bench of this Court, while dealing with an identical controversy, has categorically held that manufacture or sale of garments using a particular brand name does not, by itself, attract the penal provisions of the Copyright Act.

11. In ***Deepak v. State of Haryana and others (CRM-M-39653-2021, decided on 29.03.2023)***, it was held that prosecution under the Act in respect of spurious goods, which are not copyrightable works under Section 13 of the Act, is legally unsustainable. The said principle has recently been reiterated by another Coordinate Bench of this Court in ***Arun Kumar v. State of Punjab and another (CRM-M-54104-2023, decided on 25.11.2024)***, wherein prosecution relating to fake branded garments was quashed on the ground that no copyright subsists in garments. Reliance can also be placed upon ***M/s Bikaner Steel Mills v. State of Punjab, 2007 (1 RCR (Criminal) 773, Anil Kumar v. State of Punjab and another, 2011 (18) RCR (Criminal) 302, Satpal v. State of Punjab, 2011 (1) RCR (Criminal) 281 and Gurmukh Singh v. State of Punjab, 2011 (18) RCR (Criminal) 308***, wherein the similar view had been taken by this Court.



12. Applying the aforesaid settled position of law to the facts of the present case, this Court finds that even if the allegations in the FIR are taken at their face value, the same do not disclose the commission of offences under Sections 51 and 63 of the Act. Continuation of criminal proceedings on such allegations would, therefore, be nothing but an abuse of the process of law. This Court is conscious of the settled principle that inherent jurisdiction for quashing criminal proceedings is to be exercised sparingly. However, where the allegations, even if accepted in entirety, do not constitute an offence, and where the proceedings suffer from fundamental legal infirmities, this Court would be failing in its duty if it permits such prosecution to continue. In the considered opinion of this Court, allowing the present proceedings to go on would result in unnecessary harassment of the petitioner and would amount to misuse of the criminal justice system. In view of the discussion as made above, the present petition is allowed. The impugned FIR, final report filed under Section 173 of Cr.P.C., the impugned order framing charge as well as all the other subsequent proceedings having emanated therefrom are hereby quashed.

23.01.2026

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No