

KAKB720015872015



1

Presented on : 06-11-2015
Registered on : 06-11-2015
Decided on : 26-05-2026
Duration : 10 years 6 months 20 days

IN THE COURT OF THE CIVIL JUDGE AND J.M.F.C.
SEDAM

C.C.No.615/2015

Dated this the 26th day of May-2026

Present: Sri. BALU
B.A. L.L.B,
Civil Judge & JMFC, Sedam.

Complainant	The State Represented by Sedam Police Station. (By A.P.P.)
-- Versus --	
Accused	Sujaram S/o Nitiram Solanki, Age: 48 years, Occ: Kirana business, R/o D.B.R Compound near Matrachaya school, Sedam, Tq: Sedam. (By Sri. V.J.M. Advocate)
Date of commission of offence	24.12.2013
Date of report of offence	24.12.2013
Name of the Complainant	Mustafa S/o Jamiluddin Shaik
Date of starting of recording of evidence	26.12.2024
Date of closing of	13.03.2026



recording of evidence	
Offence complained of	U/Sec.63 and 65 of Copy right Act 1957 and 103 and 104 of Trade Mark Act-1999
State represented by	Assistant Public Prosecutor
Accused defense by	By Sri. V.J.M Advocate
Opinion of judge	As per final order

**Sd/-
(Balu)
C.J. & JMFC.,Sedam.**

J U D G M E N T

The PSI Sedam has submitted charge sheet against the accused for the offence punishable U/Sections 63 and 65 of Copy right Act 1957 and under section 103 and 104 of Trade Mark Act 1999.

2. The brief facts of the prosecution case is as under;

The Criminal Law has been set into motion based on the First Information Statement of Mustafa S/o Jamiluddin Shaik. The averments made in the First Information Statement discloses that, the complainant is the employee of IPR vigilance India Ltd. Who has been authorized by the Emami company to investigate instant copy right infringement and violence of product below to the survey of duplication units shop on behalf of company in all over India. The first information statement further discloses that, the complainant is the investigating officer in IPR (Vigilance India



Ltd.) Who is authorized by the company to conduct the survey such to file legal complaint and to take action against the infringement among such survey as he found in shops located in Sedam. Further it is alleged that, on 24-12-2013 at about 12-40 PM CW-1/informant visited Karnataka Provision store located at Trivine cross road Sedam and purchase a product of Zandu Balm of Emami company on seeing this product it was confirmed that the product is duplicate and after enquiry he came to know the owner name of Sujaram S/o Nitiram. Upon search the shop he found 390 small Zandu Balm pieces of Emami company total worth of Rs.10,530/-. Thereafter, the Complainant went to the police station and First Information Statement against accused. Based on the first information statement the case in crime No.260/2013 is came to be registered for the offences under section 63 and 65 of Copy right Act 1957 and under section 103 and 104 of Trade Mark Act 1999.

3. The investigating officer after completion of investigation filed the charge sheet against the accused for the offence punishable U/sec. 63 and 65 Copy right Act 1957 and under section 103 and 104 of Trade Mark Act 1999.

4. After filing the charge-sheet cognizance is taken for the aforesaid offences as there are sufficient of material against the accused, after due service of summons, accused appeared through his counsel and got enlarged on bail. Thereafter, prosecution papers are supplied to the accused as per Sec.207 of Code of Criminal Procedure. Charge has been read over and



explained to the accused in his vernacular. Accused pleaded not guilty and claims to be tried. Therefore, case is posted for prosecution evidence.

5. In order to prove the guilt of the accused, prosecution has examined 7 witnesses as PW.1 to PW.7 and got marked Ex.P.1 to 5 documents along with its sub-markings. Further M.O. No.1 to 8 are marked. The accused has been examined under Sec.313 of Cr.P.C. The accused has denied all the incriminating circumstances appearing in the prosecution case and submitted no defense evidence.

6. Heard, arguments of Learned Assistant Public Prosecutor for state and so also heard arguments of Learned Advocate for accused.

7. After going through the evidence on record and documents marked in this case and so also on hearing of arguments of both side the following points that would arise for the consideration of this court are as under,

POINTS

- 1.** Whether the prosecution proves beyond all reasonable doubt that, on 24-12-2013 at about 12-40 PM CW-1/informant visited Karnataka Provision store located at Trivine cross road Sedam and purchase a product of Zandu Balm of Emami company on seeing this product it was confirmed that the product is duplicate and after enquiry he came to know the owner name of Sujaram S/o Nitiram. Upon search the shop he



found 390 small Zandu Balm peaces of Emami company total worth of Rs.10,530/- and thereby he committed an offence punishable U/Sec. 63 and 65 of Copy right Act 1957 and under section 103 and 104 of Trade Mark Act 1999.

2. What order/sentence?

8. My answers to the above points are as under

Point No.1 : In the Negative

Point No.2 : As per final order

for the following.

REASONS

9. Points No.1:- It is the fundamental principle of criminal jurisprudence that prosecution has to prove its case beyond all reasonable doubt. In order to prove the case, the prosecution got examined PW.1 to PW.7 and got marked Ex.P.1 to Ex.P.5 documents along with its sub-markings.

10. CW-1/PW-6 Mustafa S/o Jamiloddin is the informant, PW.1 Babu S/o Nagappa and PW-4 Siddarameshwar S/o Shivasharanappa are the eye witnesses, PW-2 Parasappa S/o Shivappa Vanajkar and PW-7 Bapu Gouda are the Investigating officers, PW-3 Shivasharanappa S/o Nagappa and PW-5 Suresh S/o Sabanna Harijan are the pancha witnesses. CW-6 and 7 are dropped and CW-8 and 9 are given up by learned APP. Ex.P-1 is the First Information Statement, Ex.P-2 is the First Information Report, Ex.P-3 is the seizure panchanama, Ex.P-4 is the spot



panchanama, Ex.P-5 is the report of suspected fake Zandu balm sample and FSL report. Further M.O. No.1 to 8 are marked.

11. In order to prove that the accused was stored and selling duplicate Zandu Balm of Emami company in order to personal gain. The prosecution has examined CW-1 as PW-6, CW-4 as PW-4 and CW-5 as PW-1. Firstly, I draw my attention to the testimony of PW.1 and he in his examination in chief deposed that, on 24-12-2013 there are duplicate Zandu balm in the shop of accused and when he went there to catch the duplicate Zandu balm he found 390 Zandu balm bottles in the shop. Thereafter, he went to the police station and lodged the First Information statement as per Ex.P-1 and submitted the FIR copy to his company. CW-1/PW-6 during the course of cross examination admitted that ನಾವು ಯಾವುದೇ ಜಂಡು ಬಾಮಗಳು ನಕಲಿ ಅಂತಾ ಹೇಳಬೇಕಾದರೆ ಮೊದಲು ಅದರ ಪರೀಕ್ಷೆಯನ್ನು ಮಾಡಿದ ನಂತರ ಹೇಳಬಹುದು ಎಂದರೆ ಅದು ಕಂಪನಿಯವರು ನೋಡುತ್ತಾರೆ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. This admission by PW-1 clearly goes to show that he does not know whether the Zandu balm bottles stored in the shop of the accused are original or duplicate.

12. It is to be noted that, as per Ex.P.1 first information statement it indicates that, complainant claims himself as officer of IPR (vigilance) and further claims that, he has authority to lodge complaint of behalf of IPR (vigilance) against the infringement. On perusal of Ex.P.2 FIR along with the charge sheet papers, it indicates that, the M/S Emami Ltd. Company has executed the power of attorney in favour of IPR vigilance (India) LTD. To do certain acts including investigate the instances



of copy right infringements/violation of products, undertaking surveys of duplication unit. Further, it indicates that, the complainant is authorized to investigate instances of copy right infringement/violation of products and to undertake surveys of duplicate units, shops for the period of 14.12.2013 to 31.12.2013 for the state of Karnataka, Andrapradesh and Maharashtra. It is worth to mention here that, in view of Bar contained in sec.115(4) of the act read with the rule 110 of Trade marks rules would not permit permission of registration of FIR for the offence punishable U/sec. 103 to 105 of the act without obtaining opinion from the registrar for infringement of trade mark. Charge sheet paper does not disclose that such opinion has been obtained by the informant. It does not disclose that registrar for infringement of trade marked as opined that, zandu balm which are sold at shop of the accused were infringing provision of section 103 to 105 of trade mark act.

13. PW-1 and 4 are the eye witness to the present case. PW-1 in his examination in chief deposed that on 24-1-2013 when he along with CW-4 were on station duty CW-4 informed them to make a raid on the Karnataka Provisional General Store as the accused is selling the duplicate Zandu balm. Thereafter, PW-1 along with CW-4 and CW-10 went to the aforesaid general store and upon enquiry they found that, duplicate Zandu balm. Thereafter, CW-10 seized the duplicate Zandu balm bottles in the presence of CW-2 and 3 under Ex.P-3 seizure panchanama.



14. In order to prove the Ex.P.3 seizure panchanama, the prosecution has examined PW-3 Shivashanappa and PW-5 Suresh who in their examination in chief identified their signature at Ex.P-3 seizure panchanama and Ex.P-4 spot panchanama and deposed that they have not conducted any panchanama and they does not know the contents of Ex.P-3 and 4. Further, they have deposed that they have put their signature on Ex.P-3 and 4 on the request of police. The testimony of PW-3 and 5 clearly shows that as the police have not conducted any panchanama in their presence. Therefore, the seizure of Zandu balm bottles from the shop of accused is in reasonable doubt.

15. This court finds htat, in this case the prosecution has not duly proved the seizure in presence of independent witnesses even though the place of seizure is the public place. The prosecution has miserably failed to prove that, the seized articles were sealed and samples were also prepared in accordance with law. Seizing and sampling both are highly doubtful and not duly proved. Therefore, in the absence of valid and clinching evidence the accused can not be convicted for the alleged offences. Offcourse, Ex.P-5 FSL report discloses that the specimen printed and questioned printing mark are different with one another. But, in the absence of proof about the seizure of the Zandu balm from the proper custody of accused he cannot be convicted.

16. PW-2 and 7 are the investigating Officers who have deposed about the duty done by them during the course of



investigation. Therefore, on the basis of the testimony of these witnesses it can not be said that the accused have committed the offence as alleged by the prosecution. There is no proof as to seizure of material object from the proper custody of accused therefore, it cannot be said that the case of prosecution is beyond all reasonable doubt. Therefore, it could be concluded that the prosecution has totally failed in establishing the guilt of the accused. As such benefit of doubt is extended to the accused and he is entitled for acquittal. Hence, I answer point No.1 in **Negative.**

17. Point No.2: In view of my findings on point No.1, I proceed to pass the following:

ORDER

In exercise of power conferred U/sec. 248(1) of Code of Criminal Procedure the accused is acquitted for the alleged offences punishable U/Sec.63 and 65 of Copy right Act 1957 and U/sec. 103 and 104 of Trade Mark Act 1999

Bail bond and surety bonds stands canceled after completion of appeal period.

M.O. NO.1 to 8 are being worthless is hereby ordered to be destroyed after completion of appear period.



(Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced by me, in the open Court on this the 26th day of May-2026).

**Sd/-
(Balu)
C.J. & JMFC., Sedam.**

ANNEXURE

List of the witnesses examined on behalf of the Prosecution:-

PW.1 : Babu S/o Nagappa
PW.2 : Parasappa S/o Shivappa Vananjkar
PW.3 : Shivasharanappa S/o Nagappa
PW.4 : Siddarameshwar S/o Shivasharanappa
PW.5 : Suresh S/o Sabanna Harijan
PW.6 : Mustafa S/o Jamiruddin Shaik
PW.7 : Bapugouda S/o Siddangouda Patil

**List of the witnesses examined on behalf of the
Accused:-**

-NIL-

List of the documents marked on behalf of Prosecution

Ex.P-1 : First Information Statement
Ex.P.1(a) : Signature of PW-2
Ex.P-1(b) : Signature of PW-6
Ex.P-2 : First Information Report
Ex.P-2(a) : Signature of PW-2
Ex.P-3 : Seizure Panchanama
Ex.P-3(a) : Signature of PW-2
Ex.P-3(b) : Signature of PW-3
Ex.P-3(c) : Signature of PW-5
Ex.P-4 : Spot Panchanama
Ex.P-4(a) : Signature of PW-2
Ex.P-4(b) : Signature of PW-3
Ex.P-4(c) : Signature of PW-5

KAKB720015872015



11

C.C.No.615/2015

Ex.P-5 : Report of suspected fake Zandu
balm sample and FSL report

List of the witnesses examined on behalf of Court:-

- NIL -

List of the documents marked on behalf accused:-

M.O.No.1 to 8: Zandu Balm bottles.

**Sd/-
(Balu)
C.J. & JMFC., Sedam**
