


<b>MHKO130010022015</b> 	<b>Presented On</b>	:	05/12/2015
	<b>Registered On</b>	:	05/12/2015
	<b>Decided On</b>	:	21/04/2026
	<b>Duration</b>	:	Y. M. D.

**REGULAR CRIMINAL CASE NO. 144/2015 EXH. NO. /B**  
**FORM No. XXXII**

**Part 'A'**

**(Title Page of Judgment)**

**(Para 44(i) of Chapter VI of Criminal Manual)**

<b>IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,</b> <b>COURT NO.1, KAGAL, TAL.KAGAL, DIST. KOLHAPUR.</b> <b>( Presided over by A.B.Madke)</b> <b>(Date of Decision :- 21/04/2026)</b> <b>(Regular Criminal Case No. 144/2015)</b>		
<b>(FIR/Crime No. 14/2015, U/s. 63, 69 of Copy Right Act registered  with Kagal Police Station.)</b>		
<b>Prosecution</b>		State of Maharashtra, through Kagal Police Station
<b>Advocate for Prosecution</b>		Adv. P. T. Pandhare
<b>ACCUSED</b>		Vijay Maruti Davare, Age : 44 Yrs, Occu.: Cable operator, R/o. Kagal, Tal. Kagal, Dist. Kolhapur
<b>Advocate for Accused</b>		Adv. M. R. Telvekar.

**PART – B**

**[Para 44(ii) of Chapter VI of Criminal Manual]**

Date of Offence	:-	05/12/2014 to 29/05/2015
Date of FIR/Complaint	:-	28/05/2015

Date of Charge-sheet	:-	30/11/2015
Date of Framing of Charges	:-	17/08/2022
Date of commencement of evidence	:-	16/03/2023
Date on which Judgment is reserved	:-	-
Date of the Judgment	:-	21/04/2026
Date of the Sentencing order, if any,	:-	<b>As per final order.</b>

**Accused Details**

Rank and Name	Date of Arrest	Date of Release on Bail	Offence charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C.
Vijay Maruti Davare	08/05/15	21/04/16	U/s. 63, 69 of the Copy Right Act, 1957	Acquitted	NIL	NIL

**PART – C****[Para 44(iii) of Chapter VI of Criminal Manual]****A. LIST OF PROSECUTION/DEFENCE/COURT WITNESSES.**

RANK	Name of the witness	Nature of witness	Exh.No.
PW.1	Kantilal Bhalchandra Burse	Witness	19
PW.2	Upendra Namdeo Jalgavkar	Informant	26
PW.3	Mehboob Baln Shekh	Witness	35
PW.4	Premkumar Bhagvat Kedar	IO	44

**B. LIST OF PROSECUTION/DEFENCE:-NIL.****C. COURT WITNESS IF ANY:-NIL.****LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.****A.PROSECUTION :-**

Sr.No.	Exh. No.	Nature of Document
1.	1	Complaint
2.	27	Appointment Letter
3.	28	FIR
4.	29,30	Muddemal Panchnama

5.	34	DVD
6.	45	Cr.PC. 313 statement

**B. DEFENCE EXHIBITS:-NIL**

**C. COURT EXHIBITS:-NIL**

**D. MATERIAL OBJECTS :-NIL**

**J U D G M E N T**

**(Delivered On 21<sup>st</sup> April, 2026)**

The accused is charged for offences punishable under section 63 r/w. 69 of Copy Right Act.

**The case of Prosecution in brief is that:-**

2. It is alleged that from 05/12/2014 to 29/05/2015 in Kagal town the accused being local operator of SPN cable network company(Super Power Network) having its head office at Kolhapur broadcasted Star India Pvt. Ltd. all channels without authority of Star India Pvt. Ltd. Company. The prosecution alleged that even though an authorized person on behalf of the Star India Pvt. Ltd. Company informed to restrain from telecasting of all channels by the accused through the control room, SPN cable telecasted the channels. On the basis of information by the informant Upendra Namdeo Jalgavkar crime being CR. No. 14/2015 was registered against accused for offence punishable under section 63 read with section 69 of Copy Right Act.

3. The investigation of the said crime was conducted by PI Premkumar Bhagvat Kedar. During the course of investigation, he recorded the statements of the witnesses. He conducted spot panchnama. As substantive evidence was obtained against the accused, a charge-sheet was filed in the Court against the accused.

4. On 17/08/2022, my learned predecessor framed charge against accused for offence punishable under sections 63, 69 of Copy Right Act vide Exh. 14. Thereafter, plea of the accused came to be recorded as per Exh. 15. He pleaded not guilty and claimed for trial. In order to explain incriminating evidence against the accused Statement of accused is recorded before this Court vide Exh. 45 to which the accused pleaded the case to be false.

5. Considering, rival submission of Prosecution and accused with evidence on record following points are framed for determination along with findings thereon for the reasons stated below:-

Sr. No.	POINTS	FINDINGS
1.	Whether the Prosecution proves that, from 05/12/2014 to 29/05/2015 at about 19:30 hours in town Kagal, Tal. Kagal, the accused being local operator of SPN cable network Company having head office at Kolhapur, broadcasted Star India's Pvt. Ltd's all channels from March 2015, even though authorized person on behalf of Star India's Pvt. Ltd's. Company inform him to stop the telecast of all channels from March 2015 and thereby he has committed an offence punishable under Section 63 of the Copy Right Act, 1957?	....No.
2.	Whether the Prosecution prove that on above mentioned date, time & place, the accused being authorized person on behalf of SPN cable network Co. Kolhapur was telecasted the channels and was responsible through such cable network Co. Kolhapur by telecasting Star TV channels at Kagal and thereby he has committed an offence punishable under sec. 69 of the Copy Right Act, 1957?	....No.

3.	What order ?	As per final order.
----	--------------	---------------------

**-: REASONS :-**

**AS TO POINT NO. 1 and 2 :-**

6. The prosecution succeeded to examine in all four witnesses. Prosecution has examined witness Kantilal Bhalchandra Burshe vide Exh. 19 as PW1. PW1 deposed that on 27/05/2015 he along with his wife had gone out of the town and his father Bhalchandra Burshe was alone in their house. At that time two unknown persons had came at their house and requested their father to switch on the television. Thereafter they recorded the video which was telecasted on the television. He deposed that this information was given to him by his brother in law Sachin Jagtal. He deposed that his father has expired.

7. Prosecution has examined the informant Upendra Namdeo Jalgavkar at Exh. 26 as PW2. PW2 deposed that on 28/05/2015 he was working as a consultant at Saikrushna Associate Company having its office at Noida, Delhi. He deposed that at that time the Star India Pvt. Ltd Company having its head office at Mumbai telecasted 38 channels through satellite. He deposed that Star India Pvt. Ltd company had appointed and authorized Saikrushna Associate to take legal action against all the cable operators in India who were telecasting their channels without consent and without authority. He deposed that he is authorized by Saikrushna Associate to take legal action against the cable operators telecasting channels without any authorization. He was shown the said authority letter. He deposed that the said letter is at Exh. 27. He further deposed that Super Power Network (SPN) located at Kolhapur

provides services of Star India Pvt. Ltd Company at Kolhapur and accordingly an agreement is executed between Star India Pvt. Ltd Company and SPN Company. He deposed that due to bad economic condition the SPN Company had canceled the agreement with Star India Pvt. Ltd Company. The said letter is at Article 'A'. Accordingly the services were terminated by Star India Pvt. Ltd Company with SPN Company, Kolhapur, that letter is at Article 'B'. Therefore the customers at Kolhapur could not see the channels which were telecasted by Star India Pvt. Ltd Company. He deposed that in March 2015 the SPN Company without permission and without authority telecasted the channels of Star India Pvt. Ltd Company and therefore they had issued notice to the cable operators at Kagal. That notice is at Article 'C'. In spite of the notice the cable operator, Kagal did not stopped telecasting all channels of Star India Pvt. Ltd Company. He deposed that therefore as per the authorization letter given by the Company dated 27/05/2015 he and his associate Mehboob Shekh verified the position by visiting the Kagal and found the accused(cable operator at Kagal) was telecasting the channels of Star India Pvt. Ltd Company. Accordingly they have also submitted the DVD which was recorded by them. He admitted that the contents of complaint at Exh. 28 to be true and correct. He deposed that on 29/05/2015 they visited control room of accused at Kagal wherein they saw that the broadcasting of channels of Star India Pvt. Ltd Company was in progress. At that time the police seized the amplifier board in the presence of Panchas. The said Panchnama is at Exh. 30. The intimation letter to the office of Superintendent police is at Article 'D'. He deposed that the video recording has been saved in the DVD which is at Ehx.34. The fiber Optical Node of Tanna Company is also seized from control room of accused. The signals from the main

operator are saved in this fiber optical node and thereafter forwarded to the customers. The fiber optical node is at Article 'E'.

8. In cross-examination he denied that in Kagal City other than the accused one person by name Jakate is also a cable operator and he owns B-News channel. In cross-examination he admitted that he does not know the name of person in whose house they have done video recording in the DVD. He denied that the accused had not provided the cable services to the person from where the complainant had done video recording of telecasted channels. He denied that the video recording of telecasted channels at Exh. 34 are not supplied through the cable of accused.

9. Prosecution has examined Mehboob Balan Shekh as PW3 vide Exh. 35. He deposed that in 2015 he was working as consultant in the Star India Pvt. Ltd Company which was broadcasting entertainment and the sports channels. Shrikrushna Associate was authorized by Star India Pvt. Ltd Company for taking action against unauthorized broadcasting of their channels. He has deposed in consonance with PW2 i.e. the complainant. In cross-examination he admitted that prior to 05/12/2014 he had knowledge that the accused was broadcasting the channels of Star India Pvt. Ltd Company. He denied that He denied that the accused had not provided the cable services to the person from where the complainant had done video recording of telecasted channels.

10. Prosecution has examined Premkumar Bhagavat Kedar as PW4 vide Exh. 44. He is the investigating officer. He deposed that the investigation in CR. No. 14/15 was given to him and during the course of investigation he seized the CD by way of Panchnama which

is at Exh. 29. He prepared spot panchnama which is at Exh. 30. He recorded statements of witnesses. In cross-examination he admitted that he has not recorded the statement of SPN network operator. He admitted that SPN network has not been added as accused. He admitted that the cable operators provide services to customers by levying charges. The accused is charged for offence punishable under section 63 and 69 of the Copy Right Act.

11. **Section 14 of the Copy Right Act, 1957 describes the meaning of copyright.**

**Section 14(1)**- For the purposes of this Act, “copyright” means the exclusive right, by virtue of and subject to the provisions of, this Act,...

**(a)**-----

**(b)**-----

**(c)** in the case of a cinematograph film, to do or authorize the doing of any of the following acts, namely:-

(i)to make a copy of the film;

(ii)to cause the film, in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public;

(iii) to make any record embodying the recording in any part of the sound track associated with the film by utilizing such sound track;

(iv) to communicate the film by radio-diffusion;

**(d)** in the case of a record, to do or authorize the doing of any of the following acts by utilizing the record, namely:-

(i)to make any other record embodying the same recording;

(ii)to cause the recording embodied in the record to be heard in public;

(iii) to communicate the recording embodied in the record by radio-diffusion.

12. **As per section 2(m) infringing copy is defined.**

**Section 2(m):- "Infringing copy" means,....**

(i) in relation to a literary, dramatic, musical or artistic work, a reproduction thereof otherwise than in the form of a cinematograph film;

(ii) in relation to a cinematograph film, a copy of the film or a record embodying the recording in any part of the sound track associated with the film;

(iii) in relation to a record, any such record embodying the same recording; and

( iv ) in relation to a programme in which a broadcast reproduction right subsists under section 37, a record recording the programme, if such reproduction, copy or record is made or imported in contravention of the provisions of this Act.

13. **Section 2(w) defines record.**

**Section 2(w):- "record" means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom, other than a sound track associated with a cinematograph film.**

14. **Section 2(x) defines recording.**

**Section 2(x):- "recording" means the aggregate of the sounds embodied in and capable of being reproduced by means of a record;**

15. **Section 2(y) defines work.**

**Section 2(y):- "work" means any of the following works, namely:-**

- (i) a literary, dramatic, musical or artistic work;
- (ii) a cinematograph film;
- (iii) a record;

16. The rights of broadcasting authorities are enshrined in chapter VIII of the Copy Right Act 1957. As per section 37 the broadcast reproduction rights are defined.

**Section 37:- Broadcast reproduction right:-**

(1) Where any programme is broadcast by radio-diffusion by the Government or any other broadcasting authority, a special right to be known as "broadcast reproduction right" shall subsist in such programme.

(2) The Government or other broadcasting authority, as the case may be, shall be the owner of the broadcast reproduction right and such right shall subsist until twenty-five years from the beginning of the calendar year next following year in which the programme is first broadcast.

(3) During the continuance of a broadcast reproduction right in relation to any programme, any person who, ---

(a) without the license of the owner of the right ---

(i) rebroadcasts the programme in question or any substantial part thereof; or

(ii) causes the programme in question or any substantial part thereof to be heard in public; or

(b) without the license of the owner of the right to utilize the broadcast for the purpose of making a record recording the programme in question or any substantial part thereof, makes any

such record, shall be deemed to infringe that broadcast reproduction right.

17. Therefore in order to make a person liable under section 63 and 69 of Copy Right Act 1957 the person or a company must have committed the offence of infringement of copyright or other rights conferred by this Act.

18. So far as the present case is concerned the Star India Pvt. Ltd Company who has authorized the complainant to take legal actions against cable operators illegally telecasting their channels must prove that they had a copyright and broadcast reproduction right. The prosecution must prove that the Star India Pvt. Ltd Company had exclusive right of broadcasting the channels which were allegedly telecasted by SPN network or the accused herein. The prosecution has not brought any evidence to show that Star India Pvt. Ltd Company had special right known as broadcast reproduction right with respect to the programs or channels allegedly telecasted by the accused. More so there is no evidence on record to show that the accused has telecasted the channels through his cable network wherein the Star India Pvt. Ltd Company had exclusive right or a special right. In such circumstances the prosecution has failed to prove beyond reasonable doubt the infringement of copyright and other rights on the part of accused. Therefore the accused is entitled for the benefit of doubt. Therefore I answer point No. 1 and 2 in the negative. In answer to point No. 3 I pass following order.

**-: ORDER :-**

1.	The accused <b>Vijay Maruti Davare</b> is hereby acquitted vide section 248(1) of Code of Criminal Procedure for the offence punishable under section 63 read with section 69 of the Copy Right Act 1957.
2.	Bail-bonds of accused are stands canceled.
3.	The accused is directed to furnish bail of Rs.15,000/- as a compliance towards the provision under Section 437(A) of The Code of Criminal Procedure.
4.	Seized Muddemal i.e. C.D at Exh. 34 and Optical Node at Article 'E' be preserved till the appeal period and thereafter be disposed off as per law.

**[Pronounced and dictated in open Court.]**

Date : 21/04/2026.

Place : Kagal.

**(A.B.Madake)**

Judicial Magistrate F. C.,  
Court No.1, Kagal.