

Form A

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| IN THE COURT OF JUDICIAL MAGISTRATE, 3 <sup>rd</sup> COURT AT HOWRAH                                                                                                                                                                                                                                                                                                         |                                                                                                 |
| Present : Sarmistha Bose (JO Code WB01187)<br>Judicial Magistrate, 3 <sup>rd</sup> Court at Howrah<br>[DATE OF DELIVERY OF JUDGMENT: 23.06.2026]<br><br><b><u>G.R.NO: 188 of 2006</u></b><br><b><u>(CIS No. 3583 of 2014)(CNR No.WBHW04-000815-2010)</u></b><br><br>Ref : Golabari PS Case no. 21 of 2010 dated 25.01.2010 under sections<br>63/64/65 of Copyright Act, 1957 |                                                                                                 |
| COMPLAINANT                                                                                                                                                                                                                                                                                                                                                                  | STATE OF WEST BENGAL                                                                            |
| REPRESENTED BY                                                                                                                                                                                                                                                                                                                                                               | LD. APP SANCHITA CHAKRABORTY                                                                    |
| ACCUSED                                                                                                                                                                                                                                                                                                                                                                      | SUMITA DUTTA<br>WIFE OF ASHOK DUTTA OF 94, SALKIA SCHOOL ROAD,<br>P.S GOLABARI, DISTRICT HOWRAH |
| REPRESENTED BY                                                                                                                                                                                                                                                                                                                                                               | MR. JOYDIP CHATTOPADHYAY                                                                        |

Form B

|                                      |            |
|--------------------------------------|------------|
| Date of Offence                      | 25.01.2010 |
| Date of FIR                          | 25.01.2010 |
| Date of Charge Sheet                 | 29.12.2011 |
| Date of Framing of Charge            | 18.09.2013 |
| Date of Commencement of Evidence     | 24.01.2014 |
| Date on which Judgment is reserved   | N.A        |
| Date of the Judgment                 | 23.06.2026 |
| Date of the Sentencing Order, if any | N.A.       |

Accused details

| Rank of the Accused | Name of Accused | Date of arrest | Date of release on bail | Offences charged with           | Whether acquitted or convicted | Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C |
|---------------------|-----------------|----------------|-------------------------|---------------------------------|--------------------------------|-------------------------------------------------------------------------------|
| 01                  | SUMITA DUTTA    | 26.01.2010     | 26.01.2010              | 63/64/65 of Copyright Act, 1957 | ACQUITTED                      | N.A                                                                           |

Form C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. PROSECUTION :

| RANK | NAME                   | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS,<br>OTHER WITNESS) |
|------|------------------------|-----------------------------------------------------------------------|
| PW1  | SHANE RICHARD OSBOURNE | DEFACTO COMPLAINANT                                                   |

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|     |                 |                      |
|-----|-----------------|----------------------|
| PW2 | ASHA RAM        | SEIZURE LIST WITNESS |
| PW3 | NISHA SAHANI    | SEIZURE LIST WITNESS |
| PW4 | PREMNATH MISHRA | POLICE WITNESS       |

B. DEFENCE WITNESS, IF ANY : NO DEFENCE WITNESS

C. COURT WITNESS, IF ANY : NO COURT WITNESS

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. PROSECUTION:

| SR. NO | EXHIBIT NUMBER       | DESCRIPTION                                      |
|--------|----------------------|--------------------------------------------------|
| 1      | EXHIBIT - 1 (SERIES) | SIGNATURE OF THE WRITTEN COMPLAINANT (3 SHEETS)  |
| 2      | EXHIBIT- 2           | SIGNATURE ON THE SAID SEIZURE LIST AS WITNESS    |
| 3      | EXHIBIT - 3          | SIGNATURE ON THE SEIZURE LIST 25.01.2010 OF PW 2 |
| 4      | EXHIBIT – 4          | SIGNATURE ON THE SEIZURE LIST 25.01.2010 OF PW 3 |
| 5      | EXHIBIT – 5          | SIGNATURE ON THE SEIZURE LIST 25.01.2010 OF PW 4 |

B. DEFENCE EXHIBITS: NONE

C. COURT EXHIBITS: NONE

**JUDGMENT**

1. Briefly stated, the prosecution story as has been culled out from the written complaint filed by the defacto complainant and stated that the Hindustan Unilever Limited is associated with production of various cosmetics like Vaseline cream, ponds cream etc and the the Hindustan Unilever Limited is the registered owner of the Trademark and copyright in respect of the aforesaid brands and no other person has any right to use the same in India. The said company also holds registration of different version of its artistic levels in respect of the said brands under Copyright Act 1957. He further stated that no other has a right to use the said Trademark as well as artistic work in India without the consent of the said company. But the accused person namely Sumita Dutta is engaged in selling, producing, manufacture and stocking for sale of spurious/duplication in India products in the name of Vaseline cream. Hence, the record was placed for trial.

3. The prosecution has examined four witnesses to prove their case. On closure of the prosecution evidence, statement of the accused was recorded in terms of Section 313 of the Code of Criminal Procedure, where he denied all the allegations against him and refused to

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adduce defence evidence. The defense case is simply the denial of the prosecution's allegation and plea of innocence.

4. Heard arguments of both side at length.

**POINTS FOR DETERMINATION**

5. Upon considering the materials on record the following points are noted for discussion to arrive at a definite conclusion:-

1) Whether the accused is guilty of the offences charged punishable under Sections 63/64/65 of Copyright Act, 1957?

2) Whether the prosecution story is worth credence and whether the prosecution has been able to prove the charges framed under Sections 63/64/65 of Copyright Act, 1957 beyond reasonable doubt against the accused ?

**DECISION WITH REASONS**

6. Both the points are taken together for discussion for the sake of convenience, brevity and unnecessary repetition and to reach a definite conclusion.

7. It is the settled principle of law that the prosecution is under obligation to prove the case beyond all reasonable doubt. It appears that four witnesses have been examined in this case.

8. PW-1 Shane Richard Osbourne, defacto complainant, deposed before the Court that the alleged incident took place on 25.01.2010 at about 13.45 hours, the accused person was dealing in spurious "vaseline" which was a copyright product of Hindustan Unilever Limited and also she was refilling the spurious cream into empty plastic bottles and caught her with empty, refilled and the cream products. She was doing the same illegally without any authority because the said product is under the exclusive trade mark of Hindustan Unilever Limited and nobody else had the right to pass off spurious goods in the label of Vaseline, a product of Hindustan Unilever Limited. Thereafter, they asked for authorization document from accused person which she had obtained from Hindustan Unilever Limited for dealing in such Vaseline product but she failed to produce the same and then all the articles i.e. the empty, filled up plastic bottles

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and the cream product seized. He identified his written complaint along with the signature and the signature on the seizure list as witness which have been marked as Exhibit – 1 (series) (three sheets) and Exhibit 2.

9. During cross-examination, PW-1 admitted that today he does not have the authorization letter issued by Hindustan Unilever Limited in his name. He does not have any the papers showing his proprietorship of SRO Risk Solutions and he had not handed over same to the Investigation Officer. He was trained by Hindustan Unilever before his appointment and the company gave him the certificate in regard to such training but he does not have the certificate now. The main ingredient of Vaseline product is petroleum jelly and he cannot disclose the other ingredients of such Vaseline products without authorization from the company and also he cannot say the factors of petroleum Jelly. He cannot say ignition point of Petroleum Jelly.

10. In order to fortify its case the prosecution has examined two seizure witnesses i.e. Asha Ram as CSW – 4 as P.W – 2 who deposed before this Court that in the year 2010, she used to work in Sindur Factor. She identified her signature as witness which is marked as Exhibit P3/P2. During her cross-examination, she stated that she has put her signature as per the directions of the police and she does not know what is written in the said paper. Witness i.e. Nisha Sahani as CSW-5 as P.W. -3 who deposed before this Court that she does not know anything about this case and she does not know when and where and why he put the signature. She identified her signature as witness on the seizure list dated 25.01.2010 which is marked as Exhibit P4/P3.

11. Thereafter, the prosecution has examined CSW-8 Premnath Mishra as PW-4 who deposed that on 25.01.2010, he was posted at DEB, Howrah as constable being no. 3292 and he also know S.I. A. Shome who was posted as the Sub-Inspector of Police at DEB Howrah in the year 2010. On 25.01.2010 at about 14.35 hours, he went on a raid with S.I. A. Shome at Salkia School Road along with Inspector Debnath Babu, Constable Tapan Kumar Das and Vijay Kumar Chowdhury in the house of one Sumita Dutta. On reaching the house of Sumita Dutta, we saw the petroleum jelly was being made in the said house and there were some empty containers and filled up containers of the said petroleum jelly. He identified his signature as

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witness on the seizure list dated 25.01.2010 which is marked as Exhibit P5/PW4. During his cross-examination, he stated that he cannot see the seized the articles before this Ld. Court. They went out of DEB, Howrah on the raid at 14.35 hours and most probably, the house of the accused person is 103, Salkia School Road. He further stated that he cannot specifically mentioned which articles were exactly seized.

12. On a close scrutiny of the evidences on record, it appears before the Court that the seizure listed two independent witnesses i.e. PW-2 and PW-3 only have identified their signatures on the seizure list but have not supported the factum of seizure by the police from the possession of the accused. Both the seizure witnesses even stated that they have no knowledge about the contents of the said documents i.e. the seizure list. The prosecution even did not try to identify the seized alamats by production of the same during the evidence of the prosecution witnesses.

14. Though the defalcator-complainant has been examined in this case as PW-1 and stated that he has prepared the seizure list after making the seizure from possession of the accused Sumita Dutta and the said seizure list has been exhibited but the prosecution neither produced the seized articles before this court nor tendered the seized articles and as such the seized articles were not even proved before this Court with identification by the P.W.1. On the other hand though the P.W.4 stated about the seizure but in his cross-examination he stated that he did not see the seized articles before this Ld. Court.No document has been tendered before the Court from which it has been deciphered that the instant accused is the owner of the said shop.

15. From the above discussion, I find that the prosecution case has suffered from several vital latches in the investigation as well as in the trial and from the available materials of evidence, I do not find any confirmation of fact that the alleged accused was at all involved in the alleged incident.

16. Having reference of the above findings, failure of the prosecution to adduce several material witnesses as well as the lacunae in the investigation process itself, the evidence adduced by the prosecution had failed to stand up to convince the mind of the Court in proving the guilt of the accused person and the testimony of the prosecution witnesses do not suffice in

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proving the guilt of the accused person beyond reasonable doubt. Thus, it is quite evident that the prosecution has miserably failed to prove the guilt of the accused person beyond shadow of reasonable doubt and hence the accused person deserves to be acquitted from this case.

17. Hence, it is

**ORDERED**

That the sole accused namely, **Sumita Dutta** is found not guilty of offences punishable u/s 63/64/65 of Copyright Act, 1957 and is hereby acquitted U/S.248 (1) of Cr.P.C. and set to liberty forthwith.

The bail bonds on behalf of the accused shall remain in force for next six months in view of section 437A of Criminal Procedure Code. Sureties are accordingly discharged.

The seized alat if any, shall be disposed in accordance with law after expiry of the stipulated period.

Let a copy of this Judgment of acquittal be forwarded to the District Magistrate and DLSA concerned for due intimation to the victims as defined under Section 2(a) of the Code of Criminal Procedure and the victims have every right to prefer appeal under Section 372 Proviso of the Code of Criminal Procedure and if necessary the victim has right to avail free legal Aid.

The case is disposed off on contest by pronouncement of this judgment in the open Court on the 23<sup>rd</sup> day of June 2026.

Dealing assistant is directed to make necessary entries in the germane registers and Case Information System.

Dictated & Corrected by me.

(Sarmistha Bose)  
Judicial Magistrate, 1<sup>st</sup> Class,  
3<sup>rd</sup> Court, Howrah

(Sarmistha Bose)  
Judicial Magistrate, 1<sup>st</sup> Class  
3<sup>rd</sup> Court, Howrah  
(JO Code WB01187)