

steps taken by the respondent Nos. 1 to 3 to have expert opinion on the allegations of infringement by them. The respondent Nos. 1 to 3 with the said objective in perspective have filed Special Criminal Application No.649 of 2019 under Section 482 of the Code of Criminal Procedure, 1973 and the prayers read thus:-

" A. This Hon'ble Court may be pleased to admit and allow the present petition.

B. This Hon 'ble Court may issue a writ of mandamus or any other writ order or direction to the investigation officer to get an expert opinion by the Forensic Science Laboratory in respect of the disputed machines and its spare parts to make a comparison with the machines of the complainant alleged to have been copied.

C. This Hon'ble Court be pleased to pass any such other and further orders as may be deemed fit and proper in the interest of justice."

5. The High Court vide order dated 05.02.2019 ordered the application and the operative portion of the order for better appreciation of the grounds urged in the appeal are extracted hereunder:-

"4. The aforesaid three machines shall be examined by experts, who is also requiring the presence of one engineer. Let an Engineer from some government recognized institution having sufficient experience and expertise shall be invited by the

F.S.L. for examining of the patent who may accompany the F.S.L.

5. Let this examination be done within a period of FOUR WEEKS. The expenses and also cost of examination and remuneration of the expert engineer shall be paid by the petitioner. Once the details are provided, the scientist concern may invite both the sides for the prior visit so that proper arrangement can be made and if one representative is desirous of remaining present from both the sides, they may chose to do so, without causing any kind of interference in the work of scientist and / or in the examination of the machines."

6. As per Annexure 'P-11', the Committee consisting of the Investigating Officer (for short, 'I.O. '), the Assistant Director- DFS and the expert Mr. Mineshkumar inspected the units as follows and submitted the report dated 21.03.2019:-

Sr.#	Industries Visited	Visit Date
1	M/s. Line O Matic Graphic Industries D/62, Diamond Park, G.I.D.C., Naroda, Opp. Toyota Showroom, Naroda, Ahmedabad 382330, Gujarat, India.	07/03/2019
2	M/s. True Lines Technologies 10, Hitendranagar Audhyogik Vasahat, B/h. Honda Showroom, NH- 8, Naroda, Ahmedabad 382340, Gujarat, India.	08/03/2019

3	M/s. Unity Enterprise Plot No.23, G.I.D.C., Vanana, Nr. Toll Booth, Porbandar 360575, Gujarat, India.	12/03/2019
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7. The respondent Nos. 1 to 3 not being satisfied with the examination and the manner of examination again filed Criminal Miscellaneous Application No.1/2019, in the disposed of Special Criminal Application No.649 of 2019 praying for the following reliefs:-

“ A) This Hon'ble Court may be pleased to issue appropriate directions in the present matter to the Forensic Science Laboratory, Gandhinagar to comply with the directions of this Hon'ble Court passed in Special Criminal Application No. 649 of 2019 dated 05.02.2019 and further may be pleased to direct Respondent No. 1 to submit the Forensic Science Laboratory report in accordance with law and as per the directions of this Hon'ble Court.

B) This Hon'ble Court may be pleased to pass any such other and further order/s as may deem fit and proper in the interest of justice.”

8. The High Court through the order impugned in the appeal directed as follows:-

“9. On detailed examination and on careful consideration of every aspect and the expertise posses by the person concerned,

who was selected by the IO, at the instance of the FSL, this Court would NOT REQUIRE to set aside his report/opinion dated 21.03.2019. At the same time, the IO is being DIRECTED to invite the expert from the roll of the Scientific Adviser for the purpose of getting additional opinion, the COSTS of which shall be borne by the present applicant. Let this entire exercise be completed within a period of EIGHT WEEKS from the date of receipt of a copy of this order."

9. Hence, the appeal at the instance of the informant.

10. Mr. Ahmadi, appearing for the appellant argues that the High Court committed a serious illegality by entertaining an application in a disposed of Special Criminal Application No.649 of 2019. Secondly, the High Court on the one hand records favourable findings in favour of the appellant, and declined to set aside the report dated 21.03.2019; while on the other hand directs the I.O. to invite the expert from the Roll of the Scientific Advertisers for the purpose of getting additional opinion. The availability of two reports in a matter as the present will not take the prosecution to a logical conclusion. On the maintainability of an application in the disposed of cases, he relies on the decision of this Court

in *Hari Singh Mann Vs. Harbhajan Singh Bajwa and Others*: 2001 (1) SCC 169 and *Nazma Vs. Javed alias Anjum*: 2013 (1) SCC 376. He prays for setting aside the order impugned in the appeal.

11. *Per contra*, Mr. Manmohan Singh, appearing for the respondent Nos.1 to 3 would urge that the prayer asked for in Criminal Miscellaneous Application No.1/2019 filed in Special Criminal Application No.649 of 2019 ought not to be understood as praying for appointment of a second expert by respondent Nos.1 to 3. The report dated 21.03.2019 does not conform to the explicit mandate of the order in the Special Criminal Application No.649 of 2019 as per the Patents Act, 1970. The absence of an expert will not enable the I.O. to consider the alleged deviation, if any, under the Patents Act. The second opinion, if sought for, is not going to prejudicially affect the appellant in any manner.

12. We have taken note of the contentions urged on behalf of the appellant and the respondents. The objective of chronologically reproducing the prayers and the order passed by the High Court is to make the narrative simple and appreciate the error apparent in directing the I.O. to have a second opinion in the matter.

13. After perusing the order impugned, we are of the view that the respondent(s) in the appeal are not bound by the view expressed in the opinion dated 21.03.2019 at any stage including at the present stage. They are entitled to bring to the notice of the I.O. the nuances or objections the respondents have on the report dated 21.03.2019. The investigation is pending before the I.O., and directing a particular course of action by the High Court in the facts and circumstances of the case is untenable. Further, the High Court ought not to have recorded a finding that no case is made out for setting aside the report/opinion dated 21.03.2019.

14. The said finding, would necessarily compel the I.O. to assume a particular state of affairs and proceed to investigate the matter further and reach a conclusion. In such an eventuality, respondent Nos.1 to 3 would be subjected to prejudice. While accepting the argument that the report dated 21.03.2019 need not be set aside, inviting another expert opinion or report would result in confusion or prejudice to one or the other party.

15. Having regard to the nature of controversy between the parties, we are of the view that the

directions/findings in Para '9' of the impugned order warrant our interference and are set aside.

16. Taking note of the order in Special Criminal Application No.649 of 2019 and the objections of respondent Nos.1 to 3, we give liberty to the respondent Nos.1 to 3 to bring to the notice of the I.O., the nuances/objections on the report dated 21.03.2019 and the I.O. is given complete discretion to consider the report and also the points raised by the respondent(s). The I.O. is free to obtain an opinion of an expert in compliance with the requirements of law if it is warranted in his discretionary power of investigating an issue under the Special Acts referred to in the FIR.

17. The present appeal stands disposed of as indicated above.

18. Pending application(s), if any, shall stand disposed of.

.....J.
[PANKAJ MITHAL]

.....J.
[S.V.N. BHATTI]

NEW DELHI;

MARCH 18, 2025.

ITEM NO.23

COURT NO.15

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Crl.) No. 2341/2020

[Arising out of impugned final judgment and order dated 13-02-2020 in CRLMA No. 1/2019 passed by the High Court of Gujarat at Ahmedabad]

LIN-O-MATIC GRAPHIC INDUSTRIES

PETITIONER(S)

VERSUS

TRULINES TECHNOLOGIES & ORS.

RESPONDENT(S)

Date : 18-03-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PANKAJ MITHAL

HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. Huzefa Ahmadi, Sr. Adv.
Mr. Pradhuman Gohil, Adv.
Mrs. Taruna Singh Gohil, AOR
Mr. Dhruraj Rana, Adv.
Mr. Alapati Sahithya Krishna, Adv.
Ms. Hetvi Ketan Patel, Adv.
Mr. Rushabh N. Kapadia, Adv.
Ms. Taniya Bansal, Adv.
Mr. Rohan Sharma, Adv.
Mr. Ashray Chopra, Adv.

For Respondent(s) Mr. Varinder Kumar Sharma, AOR (N.P.)

Mr. Manmohan Singh, Sr. Adv.
Mr. Y. J. Trivedi, Adv.
Mr. Manish Kumar Choudhary, Adv.
Mr. Ashutosh Kumar, Adv.
Ms. Srishti Choudhary, Adv.
Ms. Shefali Choudhary, Adv.
Ms. Namita Choudhary, AOR

Ms. Ruchi Kohli, Sr. Adv.
Ms. Swati Ghildiyal, AOR
Ms. Abhipsa Mohanty, Adv.
Ms. Shristi Mishra, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

1. Leave granted.
2. The present appeal stands disposed of in terms of the signed order which is placed on the file.
3. Pending application(s), if any, shall stand disposed of.

**(SNEHA DAS)
SENIOR PERSONAL ASSISTANT**

**(NIDHI MATHUR)
COURT MASTER (NSH)**