

Mere allegations of selling counterfeit branded goods do not, by themselves, constitute offences under Sections 51 and 63 of the Copyright Act, 1957, where the allegations relate to false brand labels and not to any work in which copyright subsists under Section 13 of that Act

The **Bombay High Court** in the case of **Sandip vs State of Maharashtra [Criminal Application (APL) No. 1541 of 2025]** dated **June 12, 2026**, has held that mere allegations of selling counterfeit branded goods do not, by themselves, constitute offences under Sections 51 and 63 of the Copyright Act, 1957, where the allegations relate to false brand labels and not to any work in which copyright subsists under Section 13 of that Act. Such facts may instead attract the Trade Marks Act, 1999, particularly Section 104.

However, the Court clarified where the mandatory procedure under Section 115(4) of the Trade Marks Act is not followed, including the requirement that search and seizure be carried out by an officer not below the rank of Deputy Superintendent of Police, the FIR and investigation stand vitiated.

The Court observed that under Section 13(1) of the Copyright Act, 1957, copyright can subsist only in original literary, dramatic, musical and artistic works, cinematograph films, and sound recordings. On the allegations in the charge-sheet, the Court found that the case was not about any claim of copyright in the seized goods, nor about manufacturing works in which copyright subsists, but about sale of counterfeit goods containing brand labels. The Court therefore held that such allegations do not amount to infringement of copyright within the meaning of the Copyright Act, and that the facts, at best, pointed towards an offence under Section 104 of the Trade Marks Act, 1999.

The Court further observed that Section 115(4) of the Trade Marks Act, 1999 requires search and seizure in relation to offences under Sections 103, 104 or 105 to be conducted by a police officer not below the rank of Deputy Superintendent of Police, after obtaining the opinion of the Registrar on the facts relating to the trade mark offence. In the present case, the search and seizure had been conducted by a Police Sub-Inspector, contrary to the statutory mandate. The Court held that this non-compliance with the mandatory provisions of the Trade Marks Act vitiated the registration of the FIR and the consequent investigation.

The Court also noted that even the ingredients of Section 420 of the IPC were not made out because there was no complaint from any person or consumer alleging that they had been cheated by purchasing the goods from the applicants. It also clarified that the fact that charge had already been framed and the matter was listed for evidence could not prevent quashing where, even if taken at face value, the allegations did not constitute the alleged offences.