

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No.D-5736 of 2024
(*M/S Mezan Tea (PVT) Ltd v Federation of Pakistan & others*)

Date	Order with signature of Judge
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Before:

Mr. Justice Salahuddin Panhwar

Mr. Justice Adnan-ulKarim Memon

Date of hearing and Order:- 13.11.2024

Mr. Amjad Ali Khan advocate for the petitioner.

ORDER

Adnan-ul-Karim Memon, J:- M/S Mezan Tea (PVT) Ltd has filed a petition to challenge the letter, opinion, and FIR No. 154/2024 lodged by the F.I.A. against them. They also seek to halt all coercive actions against them.

2. M/s. Tapal Tea Pvt. Ltd. filed a complaint against the Petitioner M/S Mezan Tea (PVT) Ltd for copyright infringement of their product "TAPAL DANEDAR." However, the complaint lacked the required affidavit. M/s. Tapal had a previous dispute with the Petitioner regarding "MEZAN HARDUM DANEDAR TEA," which was settled in October 2023. The Petitioner has since applied for copyright registration for their new product "MEZAN ULTRA DANEDAR TEA," and M/s. Tapal has filed counter-objections. The matter is currently pending before Respondent No. 5. However, in the intervening period Respondent No. 5 issued an opinion without proper verification, leading to an investigation by F.I.A which culminated into FIR No. 154/2024 against the petitioner, which triggered the cause to the petitioner to approach this court.

3. At the outset learned counsel for the petitioner-company has contended that the petitioner, a well-known entity, claims that the respondent authorities initiated proceedings against them without due process or a fair hearing. The learned counsel argues that Respondent No. 5 issued an opinion without proper verification, leading to an investigation and FIR lodging against them. He further contends that the opinion was issued without legal basis and hindered their defense. The petitioner seeks to declare the actions of Respondent No. 5 and others unlawful and quash the FIR based on such opinion. Additionally, he argued that Respondent No. 5 was aware of a pending copyright registration application

but failed to disclose it, issuing an opinion that halted proceedings. The petitioner believes the opinion was illegal and an abuse of power, leading to unlawful notice and FIR. He also claims the complaint lodged by M/s. Tapal was malicious and their brand is distinguishable from the petitioner company. The petitioner seeks to declare the opinion and subsequent actions unlawful and quash the FIR.

4. We have heard the learned counsel for the petitioner on the maintainability of this petition and perused the record with this assistance.

5. TAPAL TEA filed a copyright infringement complaint against an infringer in Sakardu. The Registrar's Office confirmed the copyright and similarity between the works. The case was referred for investigation, however, the petitioner's counsel argues that the correct procedure is to file a complaint with the Intellectual Property Organization (IPO) with details of the infringer and an affidavit. The IPO would then investigate, call both parties and refer the case to law enforcement if infringement is confirmed.

6. While not legally binding, the IPO's opinion significantly influences the FIA's investigations due to its expertise and potential for efficiency. However, the FIA retains the power to investigate the cognizable offense based on case details under the law laws. Since F.I.R. has been lodged by the F.I.A. under the direction of the competent authority under the law it needs to culminate into its logical conclusion, either in B Class, C Class, or in Charge sheet as the case is under investigation by the F.I.A. Besides an FIR is not proof of guilt or innocence. It is a document that initiates a police investigation. It can be used to support or contradict a witness's statement, but it is not always accurate. False FIRs can be used to harass people by misusing the legal system. The police are obligated to register FIRs for cognizable offenses, but this can lead to innocent people being implicated in false cases.

7. The Supreme Court in the case of Ghulam Sarwar Zardari vs. Piyar Ali alias Piyaro and another (2010 SCMR 624) has laid down that the High Court can intervene under Article 199 of the Constitution to correct mala fide or beyond-jurisdiction investigations by authorities. As such this Court can quash an FIR but not necessarily an investigation at its preliminary stage. Let the

investigation be carried out and the result whereof shall be submitted to the competent court for appropriate orders within one month.

8. In view of the above facts and circumstances of the case, no case for interference in the investigation, under article 199 of the Constitution of the Islamic Republic of Pakistan is made at this stage. This petition is dismissed in limine.

JUDGE

JUDGE

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