

The Court of JM 1st Class, Ramgarh**Present: Smriti Tripathi****Judicial Magistrate****24th January, 2023****District: Ramgarh****G.R. Case No. 658/2018****CNR No. JHRG030010282018****Gola PS Case No. 53/2018**

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| Informant Represented By | State (Through Yogendra Prasad Singh) <i>Smt. Manju Kachchap, Id. APP</i> |
| Accused | 1. Devendra Mahto s/o Andu Mahto, male, aged about 32 years, r/o village Sotai, PS Gola, District Ramgarh [A1] 2. Govind Munda s/o Jhari Munda, male, aged about 38 years, r/o village Tirla, PS Gola, District Ramgarh [A2] |
| Represented By | <i>Sri Bhagirath Kumar, Ld. Adv.</i> |

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|----------------------------------|------------|
| Date(s) of Offence | 25.05.2018 |
| Date of FIR | 25.05.2018 |
| Date of Chargesheet | 30.06.2018 |
| Date of framing of charge | 30.08.2018 |
| Date of Commencement of evidence | 20.11.2018 |
| Date when Judgment is reserved | 24.01.2023 |
| Date of Judgment | 24.01.2023 |
| Date of Sentencing Order, if any | N/A |

| Rank of the Accused | Name of the Accused | Date of Arrest | Date of Release on Bail | Offences charged with | Whether acquitted or convicted | Sentence Imposed | Period of detention undergone during trial for purpose of s. 428, CrPC |
|---------------------|---------------------|----------------|-------------------------|--|--------------------------------|------------------|--|
| A1 | Devendra Mahto | 25.05.18 | 12.07.18 | s.420 & 120B, IPC; | Acquitted | None | N/A |
| A2 | Govind Munda | 25.05.18 | 12.07.18 | s. 63, 65, 67 & 68A, Copyright Act, 1957 | Acquitted | None | N/A |

J U D G M E N T

1. The aforementioned accused persons (hereinafter referred to as “A1 to A2”) are facing trial for charges framed u/s.420 and 120B of The Indian Penal Code, 1860 (Hereinafter referred to as the "IPC") and s. 63, 65, 67 and 68A of the Copyright Act, 1957.

2. The compendious case of the prosecution as founded upon the self-written report of Yogendra Prasad Singh (hereinafter referred to as the "informant") is that on 25.05.2018, at about 9:00am, the informant, being Senior Executive Officer of Anti-piracy, Super Cassette Industries Ltd., Noida, UP under the aegis of National Level Drive conducted by T-Series Company alongwith Rajesh Kumar Pankaj, Ravi Ranjan Toppo, Raju Kumar Singh reached DVC Chowk, Gola *Bazaar*. They surveyed the whole market during which they found that shop-keepers of Downloading Mobile Shop were illegally downloading and selling the songs of T-Series company from various movies like *Mohanjodaro*, *Akira*, *Waani*, *MS Dhoni*, etc. There were also involved in conspiracy and cheating by downloading it in Laptops, Hard Disks, Pen Drives, Mobile Phones, etc. and selling to customers openly at cheaper prices due to which, rights of the company were affected; which is a crime under the Copyright Act and IPC. Thereafter, he reached Gola PS and informed them about this crime upon which, SI Md. Salimuddin formed a raiding team with the help ASI Dudheshwar Singh and they proceeded on a police jeep for search and raid. When they reached near DVC Chowk, Gola *Bazaar*, search, seizure and arrest was conducted in front of Rajeshwar Kumar and Ravi Ranjan Toppo. Firstly, the shop of Devendra Kumar who is the owner of M/s Jaanu Xerox and Mobile Shop situated at DVC Chowk, Gola was conducted in his presence and monitor-01pc, CPU-01pc, Keyboard- 01 pc, Mouse-01 pc, UPS-01 pc, USB hub-01pc, Cable wires-03 pcs were seized. Then, repairing shop of Govind namely M/s Pari Mobile, situated at DVC, Chowk was searched in front of him and from there, complete downloading materials including Monitor-01pc, CPU- 01pc, Keyboard- 01 pc, Mouse-01 pc, UPS-01 pc, USB Hub-01pc, Cable Wire-01 pc were seized. Then seizure list was prepared as per rules in front of shop owners and other witnesses and signature of witness was obtained on them and copy of same was given to both shop keepers/owner. Then, both were arrested and asked their name again. Upon being asked about the songs on their systems, they did not give any satisfactorily reply nor produced any valid document or material. Thus, this case.

3. After investigation, the Investigating Officer submitted charge-sheet bearing no. 74/2018 dated 30.06.2018 against A1 and A2 for the offence u/s. 420 and 120B, IPC & s. 63, 65, 67 and 68A Copyright Act, 1957 and thereafter, cognizance was taken under the same sections against them by the Id. predecessor court on 01.08.2018.

4. After supply of police papers, on 30.08.2018 charges were framed u/s. 420 and 120B, IPC & s. 63, 65, 67 and 68A Copyright Act, 1957 against A1 and A2 and read over to

them in simple Hindi to which they pleaded not guilty and claimed to be tried and the record was advanced for prosecution evidence.

5. After closing the **prosecution evidence** on 24.01.2023, the material brought by prosecution was put to A1 and A2 and their respective **statements u/s. 313 of CrPC** was recorded in which they denied the material available against them and claimed to be innocent.

6. Thereafter, the defence was provided with an opportunity to adduce evidence on its behalf, if any but the Id. counsel for the defence submitted that they do not want to adduce any evidence. Upon their prayer, the **defence evidence** was closed and the matter was posted for arguments.

7. The prosecution did not argue much in light of lack of evidence against A1 and A2.

8. The defence on the other hand argued that a false case has been lodged and no offence as alleged is made out. It was also submitted that the prosecution has failed to prove the guilt of A1 to A2 beyond reasonable doubt.

9. Now, the Court will consider as to whether the prosecution has been able to substantiate the charges levelled against A1 beyond reasonable doubt or not. But, before the court dwells to consider the same, it would be apt to enlist the evidences brought in this case by all sides for the sake of brevity and proper reference:

List of Prosecution/Witnesses

A. Prosecution:

| Rank | Name | Nature of Evidence |
|-------------|------|--------------------|
| --- nil --- | | |

B. Defence:

| Rank | Name | Nature of Evidence |
|-------------|------|--------------------|
| --- nil --- | | |

List of Prosecution/Defence/Material Exhibits

A. Prosecution:

| Sr. No. | Exhibit Number | Description |
|-------------|----------------|-------------|
| --- nil --- | | |

B. Defence:

| Sr. No. | Exhibit Number | Description |
|-------------|----------------|-------------|
| --- nil --- | | |

B. Material Objects:

| Sr. No. | Exhibit Number | Description |
|-------------|----------------|-------------|
| --- nil --- | | |

FINDINGS

10. To substantiate the charges levelled against A1 and A2, despite several opportunities given to the prosecution for adducing evidence, and issuance of various processes including summons, bailable and non bailable warrants to the witnesses and letter to the concerned authority for production of evidence, not a single evidence was adduced. Thus, the prosecution case is shorn of even a single piece of evidence in support of the prosecution case which could point towards the guilt of A1 and A2.

12. Thus, this court is of the considered opinion that the prosecution has failed to substantiate the charge u/s. 420 and 120B, IPC & s. 63, 65, 67 and 68A Copyright Act, 1957. Hence, the A1 and A2 are hereby **acquitted** in this case of the charge. A1 to A2 as well as their respective bailors stand discharged from the liabilities of their respective bail bonds.

Pronounced by me in open court.

(Dictated and corrected)

Sd/-

Sd/-

(Smriti Tripathi)

JO Code: JH02021

JM 1st Class, Ramgarh

Ramgarh, dated the 24th January, 2023

(Smriti Tripathi)

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