AJEENKYA D Y PATIL UNIVERSITY
THE INNOVATION UNIVERSITY
School of Law

MOOT PROPOSITION

3rd National Moot Court Competition, 2023 (NMCC)

FACTUAL MATRIX:

The year is 2011. Mr. Aditya Parchuri, a resident of Mumbai was an Engineering student who tried his hand at baking and confectioneries, and experimented particularly with cookies. With Diwali fast approaching he decided to bake cookies in the shape and form of Diwali crackers and posted a picture of a batch of half a dozen cookies shaped like an Anaar, Rocket and Ground Chakra, fresh out of the oven, on Instagram. Aditya had 20 followers on Instagram up until 2012 and he discontinued posting content soon thereafter.

His account remains visible for all to see but has been dormant ever since with the number of his followers falling to 13, as of this day.

The year is 2021. Mr. Meher Acharya is an NRI who returned to India to follow his passion for baking, and decides to start a bakery and confectionery in Mumbai and starts trading as M/s Medium Escobar. Mr. Meher Acharya reaches out to M/s IdeaLoft Studio to have branding and packaging done for M/s Medium Escobar and the products he intended to sell under the trade name. In a brainstorming session with the founder of M/s IdeaLoft Studio to identify the right segmentation, target market and brand communication, M/s IdeaLoft Studio's market research suggests that the Corporate Festive Gifting market is sizable and that he could cater to this market segment by baking cookies and other edibles to cater to the Festive seasons in India. Mr. Meher Acharya decides to bake cookies and other edibles in the shape and form of articles which are relatable to festivals including Valentines, Diwali, and Christmas, conceived in the shape and form of

Heart, Cupid, Diwali Firecrackers, Christmas Trees, Socks, Snow Flakes, Reindeers, Santa Clause etc.

Mr. Meher Acharya proceeds to bake a sample batch and circulated them among his friends in Mumbai and being enthused by the response, decides to proceed with his plan of baking the goods in bulk and having them packed and ready in time for the Valentine season. He manages to do reasonable business and makes significant inroads in building a supplier and dealer network, essential for widening his reach in the niche market.

Mr. Meher Acharya then begins experimenting with new artistic shapes of baked goods for the upcoming festive season of Diwali and New Year. He narrows down on some of the most prominent and relatable firecrackers namely, Ground Chakra, Anar, Sutli Bomb and Rocket and circulates them to his friends and professional network. Mr. Paresh Kamat, who is a Lawyer before the Bombay High Court, enquires if Mr. Meher Acharya had considered seeking Intellectual Property Rights (IPR) protection for his baked goods for their unique and artistic shape and Mr. Meher Acharya agrees to discuss the possibility further.

Mr. Kamat, having taken Mr. Acharya through the fundamentals of IPR suggests that a Copyright search be undertaken to identify any pre-existing firecracker shaped baked goods in the market and Mr. Acharya readily agrees.

In the course of the ensuing search it is discovered that firstly, the Copyright register maintained by the Govt of India is not searchable, and secondly, that an internet search returned no similar goods. Mr. Kamat promptly informs Mr. Acharya that to avail copyright protection, registration is not mandatory and so Mr. Acharya decides to save on the legal expenses and proceed with the product launch.

The day is 25th October, 2021. Diwali is a week away. Mr. Meher Acharya's manufacturing plant in Mumbai is bustling with activity and just then, without any prior notice, Mumbai Police raids his premises,

ceases and confiscates all his packed goods and baking molds worth over Rs. 60 Lakhs, citing infringement of Copyright. The Police is accompanied by Mr. Aditya Parchuri who filed an FIR against M/s Medium Escobar and its proprietor Mr. Meher Acharya.

Mr. Aditya Parchuri claims to be the copyright owner in the Diwali Firecracker shaped baked goods and relies on his Instagram posts from 2011 as evidence in his favor.

M/s Medium Escobar suffers immense loss of money and reputation, and a death knell is blown over his business prospects. He is asked by the Police to accompany them to the Police station for further questioning and documentation. On legal advice from Mr. Kamat, Mr. Acharya proceeds to file a petition for Quashing of FIR on legal grounds available to him. The matter is now before the Bombay High Court.

Note: Parties may proceed under the presumption that Mr. Aditya Parchuri and Mr. Meher independently referred to the same firecrackers as source/reference material to create their respective artistic shapes for their cookies/baked goods.

ISSUES

1. Is FIR maintainable against Mr. Meher Acharya for alleged infringement of unregistered Copyright?
2. Whether publication on social media platforms is sufficient to attribute knowledge of subsistence of Copyright to an alleged infringer.

SIDES

Petitioners shall represent M/s Medium Escobar represented through its Proprietor Mr. Meher and argue ***for*** Copyright registration being mandatory in order to avail Criminal remedies and argue ***for*** the quashing of FIR.

Defendants shall represent the State of Maharashtra and Mr. Aditya Parchuri, argue ***against*** the registration of copyright being mandatory and ***oppose*** the quashing of FIR.