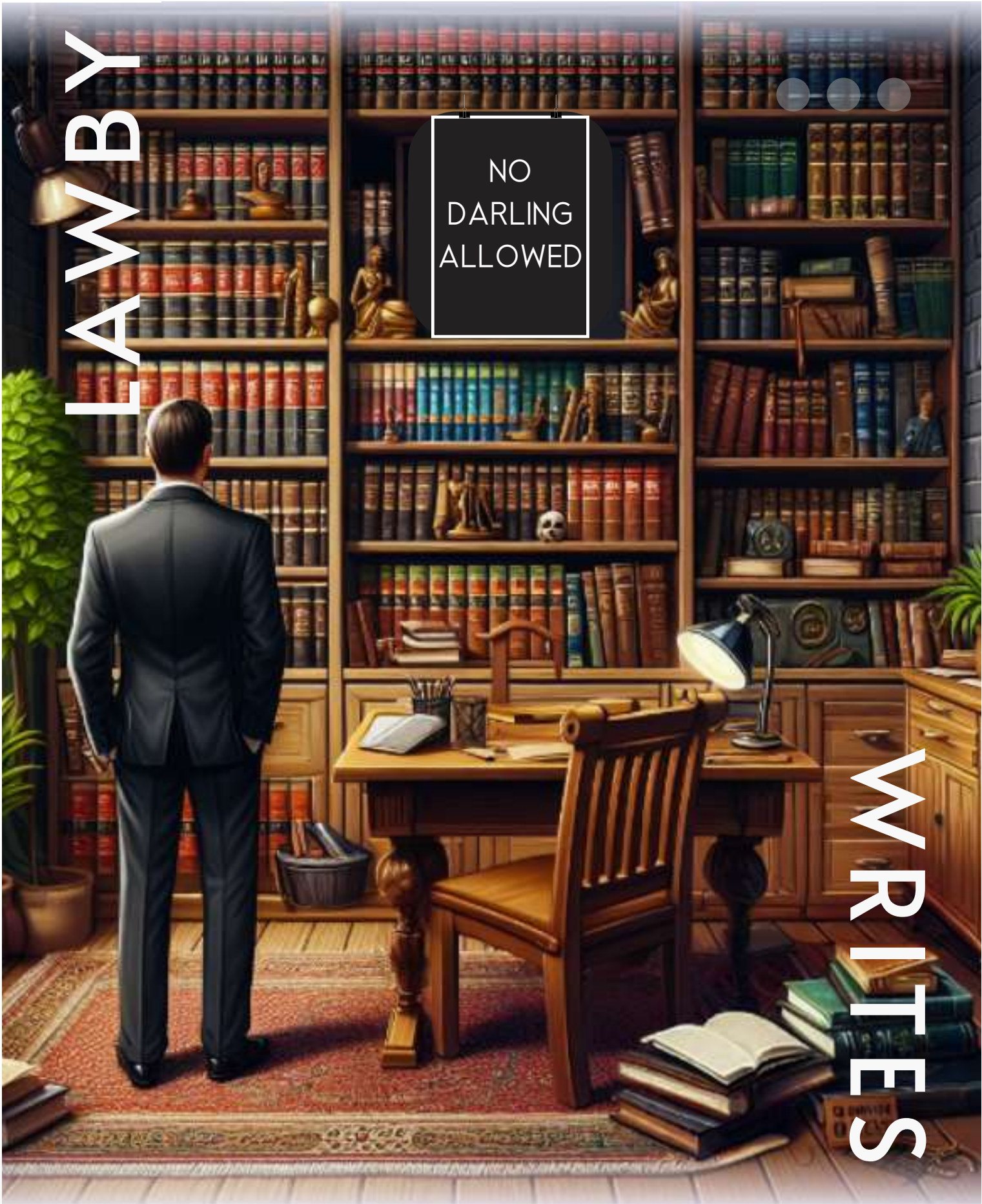




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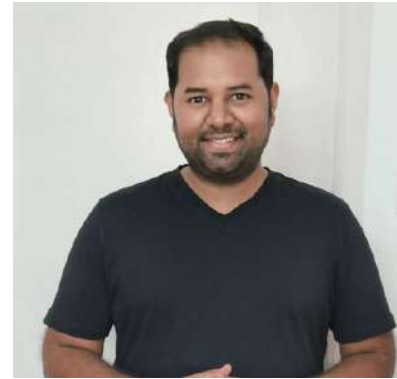


NO
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The Curious Case of Standup Comedy Acts and Defamation: When Laughter Meets Liability



Arun Sugavaneshvar
Founder

Standup comedy acts have become a staple of many weekend itineraries in India. It is a wonderful experience where the rumbling laughter when a fellow audience member gets grilled, matches the inherent fear of not being pulled up next. In the midst of all this, the comedians use references to trending issues in society, which often land them in trouble. The anatomy of a standup comedy includes exaggeration, wit, and not-so-mild grazing of egos, but does the law take it easy and laugh it away?


In the case of *Ashutosh Dubey vs. Netflix Inc. & Ors 2020/DHC/1861; MANU/DE/1008/2020*, the plaintiff claimed that comedian Vir Das made remarks that brought disrepute to the legal fraternity in one of the series on Netflix titled "Hasmukh.". The Delhi High Court, however, held that lawyers, as a class, are incapable of being defamed. In doing so, it upheld the right to freedom of speech and expression guaranteed under **Article 19(1)(a)** of the Indian Constitution.

It is relevant to note that people are booked under **Sec. 499 (defamation)** and **Sec. 505 (2) (public mischief)** of the IPC for their remarks. Defamation requires that a communication be made to third parties about a person to cause harm to their reputation, which, if proved, entails a jail term of 2 years. Public mischief requires communication with the intent to cause enmity, hatred, or ill will between classes, which, if proved, entails a jail term of 3 years. In most cases, people understand a good joke or understand the anatomy of a roasting session, but when the law comes calling, it would be prudent for standup comedians to keep in mind that a class of people cannot be defamed until they are determinable. Until then, let's laugh.

LEGAL CRISPS

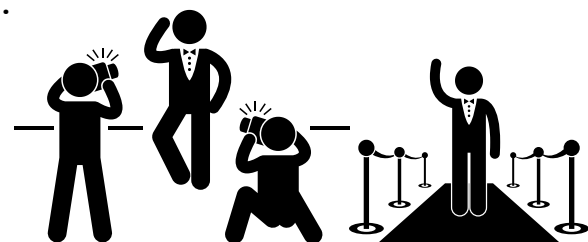
Your Face, Your Brand- Decoding the Personality Rights of Celebrities

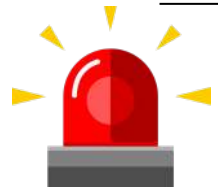
-Anoushka Samyuktha. A



We commonly tend to associate the term personality with being famous or celebrities, but have we wondered do they special rights they have? They are also citizens of the country, and they have all the rights that any other common citizen has. However, the concept of personality rights seems to be very loud in the intellectual property domain these days. The term personality or celebrity is not defined under law. The root of the personality right is in the law of torts. The **tort of passing off** prevents selling or making profits through the deceptive representation of another person. Therefore, when a product is being marketed and sold with the image of famous personalities without their consent, it is deceptive marketing and false representation.

To avoid such circumstances, celebrities register their names so that if anyone uses them without their consent, it becomes a trademark infringement. For eg, "messi" is a trademark and if anyone uses it without due consent, it becomes a trademark infringement. In **Mr. Shivaji Rao Gaikwad v. M/S Varsha Productions 2015(62) PTC 351 (Madras)**, it was held that even though there are no clear definitions for personality rights, it is vital to note that if someone uses a celebrity's name or identity without their consent, the celebrity is entitled to an injunction if they are easily identified by their names. The concept of publicity was termed by the Delhi High Court as "the right to control commercial use of human identity is the right to publicity in **Titan Industries Ltd v. Ramkumar Jewellers (2012) (50) PTC 486 (Del)**". Even though there are no special rights for their names, they do come with a marketing value, and that needs to be respected.





You Need To Worry, Darling

-Sri Sai Kamalini M.S

Case: Janak Ram vs State of West Bengal

The victim was a police constable who received a complaint that the accused-appellant was creating a ruckus and reached the area. The accused (appellant) was intoxicated and made a sexually coloured remark, “**Kya darling challan karne aai hay kya?**” which translates into, “Have you come here to create a challan darling?” against the victim. The appellant was convicted after trial under **u/s. 354-A(1)(iv) and 509 of the IPC** and was sentenced to simple imprisonment for 3 months and concurrently to pay a fine of Rs. 500 each under the provisions. The accused filed a criminal appeal, which was dismissed, and has currently filed this revisional application challenging the order passed by the learned Additional Session Judge, Andaman and Nicobar Islands. The appellant’s counsel contended that darling was a colloquial word and Section 509 could not be applied as there was no intent to insult modesty. However, the Court mentioned that the term was patently offensive, and it was a sexually coloured remark as it was said to an unknown person irrespective of their job. The Court also mentioned that the gravity of the offence would be higher if the person was not intoxicated, hence dismissing the application.

Unravelling the Power of the Doctrine of Absolute Privilege



-Sowmiya R.K

The Delhi High Court in **Vikas Pahwa vs. Pankaj Oswal, R.F.A. (O.S.) 14 OF 2023** invoked the doctrine of privilege to dismiss a defamation suit against a senior advocate. The Court said that the doctrine of privilege tries to loosen the strict liability principle in some situations, like when it is in the public interest or for the sake of common convenience, and people will not be able to freely express their opinions on important issues. Likewise, where court and parliamentary proceedings are concerned, the doctrine of privilege kicks in based on the public interest. The Court held that statements, though defamatory, were made discharging professional duties and attracted absolute privilege. This safeguards lawyers from liability while representing clients. However, absolute privilege doesn't permit irrelevant defamatory remarks. This ruling balances lawyers' duties with individuals' reputation rights.

CASE CHRONICLE



Jail The Rule, Bail An Exception

-Kamali A.N

Whether mere delay in trial is grounds to grant bail for grave offences? Of course not! In the case of Gurwinder Singh v. State of Punjab & Another, the SC denied bail to Gurwinder Singh for promoting the Khalistani terror movement and charged him under the UAPA, stating that trial delay is not sufficient cause for granting bail for serious offences. The Court emphasized the distinctive nature of bail provisions under the UAPA, stating that **“jail is the rule and bail is an exception.”** **Section 43D(5) of the UAPA** outlines the inquiry a Court must conduct when deciding bail applications, and it can be briefed with the help of a **‘twin-prong test’**.

The test determines whether there are reasonable grounds to believe that the accusations are prima facie true, limited to the final report and case diary submitted **u/s 173 of the CrPC**, and then bail will be denied based on the findings. If not so, then the Court applies a **‘tripod test’** that considers flight risk, witness testimony, and evidence tampering. The Court also emphasized the ‘prima facie’ standard, which suggests a low threshold for satisfaction, and clarified key points, including the meaning of **‘prima facie true’**, by prioritizing the need for evidence to support allegations. Further highlighted the duty of the Court to give reasons for granting or refusing bail without considering the substance of the evidence in detail. The applicability of **Section 43D(5) of the UAPA** is from the FIR stage until the end of the trial. Based on this analysis, the Court rejected the bail application.



BEYOND THE OBVIOUS



Unlocking Financial Futures: Navigating Minor Demat Accounts in India

-Nithyaparvathy R.G

A demat account is required for investing in stocks, ETFs, and listed bonds. According to the **Indian Contracts Act of 1872**, minors are not legally permitted to execute or participate in financial agreements. However, under the **Companies Act of 2013**, any Indian citizen, regardless of age, is permitted to own shares in publicly listed companies. As a result, you can legally open a minor Demat account in India.

Although a minor's Demat account is technically theirs, they cannot actively use it to buy or sell shares. Instead, a parent or legal guardian must be the primary party in charge of transferring shares as a gift to the minor's Demat account. As a result, until the child reaches the age of 18, his or her parent or legal guardian is responsible for opening, closing, and managing a minor's Demat account. According to **SEBI rules**, securities can only be sold through a minor's demat account if they inherit family shares, receive shares as a gift, or receive shares pursuant to a court or other legal authority's order.



First of All- The Trademark

-Seethala.B

The Trade Marks Act of 1999 and the Trade Marks Rules of 2017 regulate trademark registration in India, providing the legal framework for registering, protecting, and enforcing trademarks to safeguard brand owners' intellectual property rights. The earliest identified trademark is No. 10, granted to James Buchanan & Company Ltd. by the Kolkata Trademark Office on June 1, 1942, for BLACK AND WHITE (a device mark), a British whisky manufacturer. This mark has been renewed and was valid until July 1, 2016.

Although the Trademarks Act does not specifically cover provisions for architectural designs, **Section 2(1)(zb) of the Trade Marks Act, 1999** states that a 'trademark' means a mark capable of being represented graphically and distinguishing the goods or services of one person from those of others, which may include the shape of goods or their packaging and combinations of colours. The iconic Taj Mahal Palace in Mumbai has secured India's first design trademark, marking a significant milestone for the 114-year-old structure. This registration highlights the **"first-to-use"** principle in India's trademark system, where the first entity to use a trademark in commerce is recognised as its rightful owner. Prior user rights play a crucial role in trademarks.



MEET THE TEAM



Anoushka
Samyuktha A

Junior Legal
Consultant



Nithyaparvathy R. G

Junior Legal
Consultant



Seethala B

Junior Legal
Consultant



Kamali A.N

Junior Legal
Consultant



Sowmiya R.K

Junior Legal
Consultant



Sri Sai Kamalini M.S

Junior Legal
Consultant
