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EDITORIAL

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When The Creators Of A Song Don't Hit The Right Legal Notes

Who is the owner of the intellectual rights of a film song? Could it be the composer? Could it be the producer? Does the lyricist have literary rights? Does the singer have performers rights?

In the case of ***M/s. Agi Music Sdn Bhd & Ors. v. Ilaiyaraja (C.S.308 of 2013 and C.S.No.625 of 2014),*** the Madras High Court in its judgement dated 04.06.2019 gave Mr. Ilaiyaraja special, moral rights under section 57 of the Copyrights Act,1957 to claim authorship and monetize his compositions.

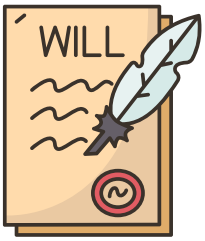
On a recent appeal by ***M/s Echo Recording Company Pvt. Ltd. vs Ilaiyaraja & Ors.[OSA-51/2024]*** that is still pending, a split bench of Justice R Mahadevan and Justice Mohammed Shaffiq of the Madras High Court has now questioned Mr. Ilaiyaraja's counsel as to what happens to the legal rights of the singer and lyric writer of the same song. Is the song to be considered solely the work of Mr. Ilaiyaraja?

The creation of a film song involves a multitude of roles and rights. There's the composer, the lyricist, the singer, and even the Producer who funds the entire venture, each with their own unique contributions and legal entitlements.

The producers generally hold the master copyright as they fund the entire exercise of the creation of the film song. The singers are vested with performers' rights under section 38 of the Copyright Act, which is valid for a period of 50 years from the year of the publication of the song. The right to paternity and the right to refrain others from using a work are envisioned under section 57 as moral rights. Section 14 (a) of the Copyrights Act,1957 provides the rights of an author which includes right to reproduce, mechanical rights, synchronization rights, derivative rights, adaptation rights and right to display and communicate the work to the public.

The composer's claim to authorship rights in exclusion of all others may not be legally tangible. However, in summary, one has to wait until the Madras High Court clears the air regarding the commercial exploiting rights of various parties involved. I am just reminded of the lyrics in Ilaiyaraja sir's composition in the Vikram starrer movie Sethu "**Engey sellum intha paathai**...." (where will this road lead).

LEGAL CRISPS



Validity of video will

-NithyaParvathy R.G

A will is a legal declaration of a person's intention to transfer his property or wealth to his heirs or to whomever he wishes. Will take effect only after the testator's death. Indian courts accept video-recorded wills as additional evidence to prove the validity of the will in the court of law, as well as to prove that the testator was of sound mind and that the will was signed freely rather than through coercion, undue influence, or force.

In ***Shilpa Khullar Sood vs. Vipul Khullar (CS (OS) 586/2017)***, the Hon'ble High Court of Delhi heard a case on the validity of a video-graphed will. The Single Judge of the Hon'ble High Court was adjudicating upon the application under **Order XII Rule 6** moved by the Plaintiff on the grounds that the Defendant has raised a plea of the existence of a video-recorded will in his Written Statement and has admitted that there is no documentary will under the provisions of the Indian Succession Act, 1925, and as such, the Plaintiff prayed for a decree of partition on the grounds that the video-recorded will is not a legally valid will, and the Honourable High Court dismissed the aforementioned application by holding that "prima facie this Court cannot hold that a will which is video-recorded will not be a will in the eyes of law."

In the case of ***Shayar Kumari v. State and Others(MANU/DE/2629/2009)***, a petition was filed under **Section 222 of the Indian Succession Act**, seeking grant of probate of a will executed by the testatrix. This case involved a video recording of the will execution. Although the Information Technology Act of 2000 had not been enacted when video recordings of will execution were made available in court, the video recordings were accepted as admissible evidence for proving the will in question.

Commercial Electricity Charges for a Lawyer?

-Anoushka Samyuktha

What does an advocate actually do? How do they get paid? So, when advocates get paid, isn't it taxable under the commercial consumer category? Is the money that advocates make commercial income? ***Chairman, MP Electricity Board, and Ors v. Shiv Narayan and Anr (Appeal (civil) 1065 of 2000)*** are the answer to all these questions. The court clearly stated that commercial activity, which has been derived from the term "commerce," is "the exchange of goods, productions, or property of any kind, the buying, selling, and exchanging of articles." The services of an advocate do not fall into this category since they involve a trade angle. It was noted that neither the lawyer nor his firm are "commercial establishments.". Though it is non-domestic in nature, it need not necessarily be commercial. Professional activity includes activities that include skills and intelligence. This is not mandatory when it comes to a commercial establishment. In ***BN Magon v. South Delhi Municipal Corporation AIR 2015 (NOC) 875 (DEL.)***, it was mentioned that professional services rendered by advocates cannot fall under commercial establishment. Therefore, there is a clear judicial interpretation of what a professional activity is and why advocates fall under this category and not as a commercial establishment.

Contractual workers and Security benefits

-Seethala B.

The Supreme Court recently ruled in the case of ***Mahandi Coalfields Ltd. Vs. Brajrajnagar Coal Mines Workers' Union [2024 LiveLaw (SC) 230]*** that workers doing permanent or long-term work cannot be treated as contract workers just to avoid giving them job security benefits. 13 workers were denied the basic benefits as they were treated as contractual workers. The Court stated that since the nature of their work was similar to that of regularized workers, they should be given the same benefits, including back wages. Back wages are the wages that would have been earned if they had been regularised earlier. The Central Industrial Disputes Tribunal supported the 13 workers' claim, noting that the nature of their work was indeed regular and perennial. This decision of the Tribunal was upheld by the High Court, and the plea against the Tribunal's decision was dismissed, so the Coalfield factory appealed to the SC, stating that the Tribunal has no power to grant permanent status to workers. The Supreme Court granted permanent status and back wages from the tribunal's order date to the 13 workers. Consequently, the Supreme Court dismissed the appeal.

CASE CHRONICLE

Blood Money cannot be Given to Victims Compensation

-Sowmiya R.K

In the case of **Shivani Tyagi vs State of U.P & Anr Criminal Appeal Nos.1957-1961 of 2024 (Arising out of SLP(Crl.) Nos.3484-3488 of 2024)**

The victim of an acid attack filed an appeal before the Supreme Court against the Allahabad High Court Order for suspending life imprisonment and releasing the convicts on bail since they had offered to pay an amount of Rupees 25,00,000 to the victim under Section 389 of Criminal Procedure Code, 1973 and refused to accept the money. The victim suffered burn injuries to the extent of 30%-40%, resulting in total disfigurement of her face.

Section 389 of Criminal Procedure Code, 1973 deals with release on bond and the suspension of a sentence while there is an ongoing appeal. According to the law, written justification must be documented before a convict's sentence can be suspended and they are subsequently released on bail. Recording the grounds for a suspension of sentence or bail award is mandated by Section 389 of the Criminal Procedure Code, 1973.

Supreme Court set aside the Allahabad High Court Order stating the serious nature of the offence involved and other relevant parameters was not taken into account by Allahabad High Court for invoking Section 389 and the compensation awarded was in a way kind of "Blood money" offered by the convicts to the victim for there is no acceptability in our criminal justice system and cancelled the bail granted to the convicts.

BEYOND THE OBVIOUS

Overpricing a bottle will lead to legal trouble

-Sri Sai Kamalini M S

Case: State Consumer Disputes Redressal Commission, Punjab Vs. Drinkery 51

The respondent, Drinkery 51, charged Rs.99 for two bottles of water, instead of Rs.20 as mentioned in the MRP. The Complainant was aggrieved by this unfair practice as MRP was not followed and filed a complaint with the District Commission, Chandigarh. The Respondent contended that the Legal Metrology Act, 2009 is silent regarding the imposition of costs over the MRP by restaurants and hotels. The Respondent also contended that the complainant didn't raise any complaints with them or Zomato before approaching the forum. The District Commission agreed to the contentions of the Respondent and dismissed the complaint. The Complainant filed this appeal, and the state commission did not accept the contentions of Respondent and ruled in favour of the Complainant.

Test Identification Parade: Checking Admissibility and Credibility

-Kamali A N

Whether the non-identification of the appellant vitiate the entire case of prosecution? In this case, of **Raju Manjhi v. The State of Bihar (AIR 2018 SC 3592)** the allegation was made that the appellant and a group of assailants consisting of 10 to 12 members barged into the house of one Kamdeo and decamped with golden ornaments, cash, and other property altogether worth Rs. 25,000/-. When the inmates of the house protested, the assailants caused injuries to Kamdeo, and one of the inmates succumbed to the injuries. Kamdeo complained and the case has been registered under **Sections 395 and 412** of the IPC. The Court identified the main issue, which is that the non-identification of the appellant vitiates the entire prosecution case. To justify this, the court interpreted that the concept of a test identification parade (TIP) belongs to the stage of an investigation, and the code does not mandate the investigation agency to grant the accused the right to claim a test identification parade. TIP is a method used to assess the credibility of witnesses to identify an unknown person. These tests do not constitute substantive evidence, and these tests are governed by **Sec. 162 of the Indian Evidence Act, 1872**. The Court concluded that failure to hold TIP would not make the evidence of identification inadmissible in court. It was further held that the main purpose of TIP is only to help the investigating agency check whether the investigation into the offense is proceeding in the right direction or not. Finally, the non-identification of the appellant by any prosecution witness would not vitiate the prosecution case.

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