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EDITORIAL

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Law Protects this VIP the most: Importance of Victim Identity Protection

Did you know if you reveal the identity of a rape victim, you could be imprisoned for 2 years?

Social media is always abuzz with crime stories and the plight of victims while the process of law is underway. No one knows the whole truth. It must be borne in mind that the victim of a sexual crime or crimes that may cause stigma doesn't have the exact support and counselling always to overcome the mental burden and trauma met them. Society is always knowingly a culprit that hurts them more by narrating their tale to bring them justice, only to make things worse.
In this write-up, let us explore some of the protections given by law under various acts in India.

1.**Section 228 A of the Indian Penal Code** (IPC) restricts, with certain exceptions, any person from printing or publishing the name or any matter to reveal the identity of a victim of rape as defined **u/s 376** of the IPC. The penalty prescribed is imprisonment for a period that may extend to 2 years and liable to a fine.

2.**The Mental Healthcare Act 2017** provides the Right to Confidentiality to persons with mental illness **u/s 23** of the Act. Any person contravening and revealing the identity and treatment except as allowed will be liable **u/s 108** to be imprisoned for 6 months and the second contravention for two years.

3.The **POCSO (Protection of Children from Sexual Offences Act), 2012**, **u/s 23**, punishes anyone who publishes the name, address, photograph, or family details that may lead to the disclosure of the identity of the child with imprisonment for a period of 6 months which may extend to a year.

4.The **Juvenile Justice (Care and Protection Act) 2015, u/s 74**, punishes any report in any magazine or media that reveals the identity of the child in conflict with the law or the child in need of care and protection except with the permission of the Board with an imprisonment of 6 months or a fine that may extend to Rupees 2 lakhs.

5.The **HIV Act 2017 u/s 39,** prohibits the disclosure of information or details related to the HIV status of a person shall be punished with a fine of Rupees one lakh. According to Section 37, any person who instigates any hatred against persons with HIV shall be punishable with imprisonment for a period of 3 months to 2 years.

Citizens and society must understand the respect we owe to victims and try not to overdo it. We indeed have to rise against injustice, but it is also essential that we pay due attention to the privacy and dignity of the victims. Social sensitivity needs to be unlocked in this regard.

LEGAL CRISPS

Pay the Price for Your Views

-Anoushka Samyuktha A

YouTubers and Instagram influencers have gone to all extents to create new content in order to increase their viewership. Many have been appreciated for being innovative, and the videos have been useful to them in generating income. But due to the increase in the number of influencers, there is a need for new content every hour to get likes and views. These days, there are a lot of travel vlogs that require shooting videos in the car and modifying the car. Now this has sparked a legal question.

Recently, Justices Anil K Narendran & Harisankar V Menon in ***Suo Motu v. State of Kerala & Ors (SSCR No. 29 of 2023 / 2023 (4) KHC SN 11)*** took notice of illegally modified vehicles and those vloggers who take videos while driving these cars and ordered stern action. Such cars and their owners were to be made liable of a fine of Rs. 5,000. The addition of unauthorised after-market multi-coloured LEDs, neon lights, etc., to the vehicles, which will potentially blind other drivers, causing difficulty, is a clear violation under **Rule 278 of the Kerala Motor Vehicles Rules, 1989, Rule 315 of the and Rule 154(6) of the Karnataka Motor Vehicles Rules, 1989** also state the same. The Court further ordered the Enforcement Officers of the Kerala Motor Vehicle Department to take action against all such vehicles by tracing them from their YouTube videos. A detailed report was ordered from the Regional Transport Office regarding a very shocking incident involving a YouTuber who set up a mini swimming pool in his car.

The Court further issued directions to the State Authorities to take action against such violations, that the registration certificates of such vehicles should be seized, and that such vloggers shall be booked under **Section 190(2) of the Motor Vehicles Act, 1988.**

Understanding the Tax Implications of Marriage Gifts

-Nithyaparvathy R.G

In India, gifts given at weddings are subject to taxation under **Section 56 of the Income Tax Act of 1961**. According to Section 56 of the Income Tax Act of 1961, a person is subject to tax on any gift of money if the total amount received for the year crosses the threshold of ₹50,000.

It's important to note that both moveable and immovable gifts are exempt from taxation. This includes money, real estate, stocks, jewellery, cars, technology, artefacts, a house or a plot of land. For example, it won't be taxable if your parents transfer Rs. 10 lakh to your bank account as a wedding present.

It's also crucial to remember that this exception only applies to presents you receive from others. Gifts from businesses, organisations, or other entities are not tax-exempt; their value is added to the individual's income and is subject to taxation. In addition, a car given as a wedding present might not be subject to taxes, but if it is later sold or used for taxi service, the money collected will be subject to taxes.

Also, presents from individuals or entities unrelated to the marriage with a value greater than Rs. 50,000 may be subject to taxation as they would be considered 'income from other sources'.

For instance, you get presents worth Rs 49,000 from individuals who are not your immediate family members. There is no tax on this sum. If you get presents totalling an additional Rs 10,000 from identical sources, your gifts would be Rs 59,000, fully taxable as "income from other sources" at your slab rate.

CASE CHRONICLE

Could Differing Doctor Opinions Potentially Lead to a Case of Medical Negligence?

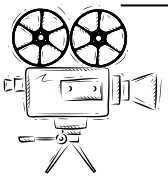
-Sri Sai Kamalini M S

Case: Jagdish K Sharma Vs. Medanta, The Medicity; C.C. No. 1934/2018

Medical opinions are essential to treatment; many patients get opinions from multiple doctors to ensure proper treatment. In the present case, the complainant's wife (complainant no 2) had a complicated medical history, and the complainant was prone to a high risk of the development of a stroke. The patient was taking medicine Pradaxa 150mg twice per day for the prevention of the same. Complainant no 2 went through a Pacemaker Implantation in the Opposite Party hospital, and the complainant contended that he was not allowed to visit his wife after surgery without paying the bills. After the payment, when he met his wife, she was unattended properly in the post-surgery ward. The complainant also contended that the stroke medicine was not appropriately provided after the completion of surgery, and due to this, there were a lot of medical complications like paralysis.

Complainant no 2 was later discharged but developed a pacemaker infection due to certain unsanitary conditions of the Opposite party hospital. There was no proper response from the opposite party, and they denied any negligence. Hence, the Complainant filed this case u/s 21(a)(i) of the Consumer Protection Act, 1986, asking for a compensation of Rs. 2,78,24,904/- with interest at the rate of 12% p.a. from the date of Complaint till realisation. To this complaint, the opposite parties responded that the Complainant was informed about the medicine dosages and all the steps were followed while doing the treatment. However, after arguments, the expert opinion provided by AIIMS concluded that there was no negligence.

The NCDRC mentioned that even though, Complainant 1 himself is a doctor, he cannot interfere with the treating doctor and the procedure followed in the hospital. They also stated that there is no proof to mention that the cardiac arrest and other consequences suffered by Complainant 2 was due to the implementation of pacemaker by the Opposite parties. Thus the complaint was dismissed and held there was no negligence as standard care was provided. This decision was based on the various previous judgements such as ***Jacob Mathew vs. State of Punjab & Anr., Criminal Appeals Nos. 144-45 of 2004*** **and** ***Kusum Sharma & Ors. Vs. Batra Hospital & Medical Research Centre & Ors., Civil Appeal No. 1385 of 2001***



BEYOND THE OBVIOUS

No Contractual Relationship Between a Film Creator and the Viewers of a Cinematic Film

-Seethala B

Do you know that there is no contractual relationship between a film creator and the viewers of a Cinematic Film?

This was established in the case of ***Yash Raj Films Private Limited v. Afreen Fatima Zaidi [2024 SCC OnLine SC 578].*** The SRK- starrer movie 'Fan' was released in the year 2016 had a song named "Jabra Fan" which was featured in the promo trailer but was not included in the actual film. The complainant, who watched the movie, was disappointed by the non-appearance of the particular song and filed a complaint against the producer, Yash Raj Films (YRF). The complainant stated that she was cheated by the non-appearance and claimed compensation of Rs.60,550 as damages. The District Consumer Redressal Forum dismissed the complaint as there is no relationship between the consumer and the service provider. Whereas the State Commission held that YRF engaged in unfair trade practice and awarded compensation of Rs. 10,000 for mental harassment and Rs.5000 as the cost to the complainant, which was also supported by the National Consumer Disputes Redressal Commission (NCDRC). However, the Supreme Court set aside the NCDRC's order and stated that Promotional trailers, which are unilateral advertisements meant to encourage viewers to purchase movie tickets, do not constitute an offer; no contract or promise is formed based on it.

The viewer's expectation based on the song in the promo does not create a contractual obligation. There is no deficiency of service, and purchasing tickets is an independent transaction unrelated to the promo trailers. There was no unfair trade practice on the part of the YRF, as there is no supporting evidence. The promotional trailer did not make any false statements or intend to mislead the viewers. The creative and artistic element in promoting a film does not fall under unfair trade practices. It can be noted that there is no contractual relationship between the Filmmakers and the viewers; viewers are considered Consumers under the Consumer Protection Act of 2019.

Rule Of Estoppel Vis-A'-Vis Doctrine of Spes Successionis

-Sowmiya R.K

Section 6(a) of the Transfer of Property Act, 1882 ("The Act") lays down a substantive rule prohibiting the transfer of ***spes successionis*** or mere expectations of inheriting property in the future. It declares that the chance of an heir apparent succeeding to an estate, the chance of obtaining a legacy upon the death of a relation, and any other similar possibilities cannot be alienated or transferred. The rationale is that such speculative interests, contingent upon uncertain future events, do not constitute concrete rights over the property. Therefore, Section 6(a) prevents the transfer of mere possibilities before they materialise into actual rights or interests.

Section 43 of the Act, on the other hand, establishes an evidentiary rule of estoppel. It applies when the transferor, despite lacking title or ownership at the time of transfer, represented having an interest in the property. If the transferor subsequently acquires the represented interest, Section 43 gives the transferee the option to either proceed with the transfer or rescind it. This provision is based on the principle of estoppel, allowing the transferee to hold the transferor to their initial representation, even if the title was acquired later. While Section 6(a) prohibits transferring spes successionis, Section 43 enables the transferee to enforce or revoke the transfer based on the estoppel principle.

The court upheld the principle that mere spes successionis or expectation of inheriting property in the future cannot be validly transferred under Section 6(a) of the Transfer of Property Act in the case of ***Elumali and Another Vs M. Kamala & others CIVIL APPEAL Nos.521-522 OF 2023 (Arising out of SLP(C)Nos.14948-14949 of 2017)***. However, if the expectant heir receives consideration and conducts themselves in a manner that creates an estoppel, they and their legal heirs would be precluded from asserting any right over the property when the actual succession opens up, based on the doctrine of equitable estoppel. In this case, although the release deed executed by the appellants' father relinquishing his rights in his father's property was void as a transfer of spes successions, the court held that by accepting consideration, he created an estoppel against himself.

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