

LAWBY WRITES



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EDITORIAL



P. Arun Sugavaneshvar
Founder

What not to speak in public 101: Kind Attn. social media influencers

The Supreme Court recently condemned social media influencer Ranveer Allahbadia, better known as Beerbiceps, for his vulgar jokes and comments in the show hosted by comedian Samay Raina titled “India’s Got Latent”. Ranveer had moved to the Supreme Court seeking protection against arrest as multiple FIRs have been filed in various jurisdictions like Mumbai, Guwahati and Jaipur. The Apex Court had granted him protection but restrained him from doing any show for the time being calling him out for his crass and filthy comments on a public platform.

The Ministry of Information and Broadcasting has issued an advisory to all OTT platforms dated 19.02.2025 referring to Part III of the Information Technology (Intermediary Guidelines and Digital Media, Ethics Code) Rules, 2021, which provides for a Code of Ethics for OTT platforms. The Code of Ethics requires OTT platforms not to transmit any content which is prohibited by law, further undertake age-based classification of content based on guidelines provided in the Schedule and implement an access control mechanism for ‘A’ rated content to restrict access by a child, and also exercise due caution and discretion. The advisory further brought attention to the provisions of the Indecent Representation of Women Act, 1986, Bharatiya Nyaya Sanhita (BNS), 2023, Protection of Children from Sexual Offences (POCSO) Act, 2012 and Information Technology (IT) Act, 2000, wherein publication of obscene/pornographic content is a punishable offence.

The Constitution of India, under Article 19(1)(a), provides for Freedom of Speech with reasonable restrictions. The restrictions prescribed include speeches against national security, sovereignty, public order, decency and morality, foreign relations, incitement of offence, defamation and contempt of court. I urge social media influencers to get guidance from their respective legal counsels on the Information Technology Act, 2000, Consumer Protection Act, 2019 for endorsements related laws, criminal laws, BNS for violation of privacy, and Copyright laws for third-party content fair use. Though this list is not exhaustive, this is a good start point.

It would be best if social media influencers:-

1. Verify facts before making their content
2. Ensure you avoid over-the-top drama (violating laws eg. pranking the public and violating privacy)
3. Avoid content that has sexually explicit material or obscene language
4. Ensure that you classify content based on age and provide proper disclaimers and age-appropriate warnings
5. Please set moral standards that provide credibility for your channel

The Creator Economy is growing leaps and bounds and so is the controversy around inappropriate content made merely for the sake of capturing more likes, comments and followers. GRWM videos showing scantily clad women and bike stunts in crowded roads are not a flex. It is a sign of attention deficit disorder, prompting us to do immature stuff. **Doing anything to get famous is a trend that is deeply disturbing. This social disease has to stop.**

Click bait is understandable, but credibility matters.





LEGAL CRISPS

Books in chains: The law, censorship and free speech in India

-Murshida Banu T

Books have always been more than ink and paper; they are ideas, voices, and sometimes revolutions confined between covers. But what happens when a book becomes so powerful and so controversial? The governments mostly ban them, citing public order or morality. Yet, courts often intervene, deciding whether such censorship is justified or a violation of free speech.

In India, there are specific provisions by which the state can ban books. The principal law currently invoked in this regard is **Section 98** of the **Bharatiya Nagrik Suraksha Sanhita, 2023 (BNSS)**, which allows state governments to prohibit the publication, sale, or distribution of books in contravention of laws dealing with sedition, obscenity, or communal disharmony. The **Bharatiya Nyaya Sanhita, 2023 (BNS)** supplements this, especially **Section 196, which penalizes writings that provoke enmity among religious groups, races, languages, or castes.** **Section 294** of BNS defines 'obscenity' and criminalizes the selling, distribution, and possession of obscene materials and **Section 299** of BNS punishes willful acts intended to outrage religious feelings. This also ensures that banned books cannot enter India's borders; for example, the **Customs Act, 1962** empowers the government to disallow the importation of banned books.

Book bans must also be subject to constitutional limits on freedom of speech under **Article 19(1)(a)**. This freedom, being no absolute right, can be limited under **Article 19(2)** and on grounds such as public order, morality, and national security. Still, the judiciary has, from time to time, emphasized that these restrictions must be reasonable and not arbitrary.

Ranjith Udhesi v. State of Maharashtra ([1965] 1 S.C.R. 65) was the case wherein the Supreme Court endorsed the prohibition of "**Lady Chatterley's Lover**" on the ground that obscenity fell outside the pale of free speech. One remarkable instance of lifting restrictions was in the case of **Manishi Jani v. State of Gujarat (CR.MA./9865/2009)**, wherein the Apex Court nullified the ban on "**Jinnah: India, Partition, Independence**", a controversial book on Muhammad Ali Jinnah facing political opposition. The High Court declared that the State government's notification on banning the book did not meet the legal requirements under Section 95 of Cr.PC, 1973 (Section 98 of BNSS). In **S. Tamilselvan v. The Government of Tamil Nadu (W.P. No. 1215 of 2015)**, the Madras High Court upheld Perumal Murugan's right to free speech and that his voice could not be silenced by religious or moral objections. It dismissed the petition that was filed for the ban of his book 'Madhorubhagan', stating that "A book cannot be dismissed merely as sensational, reactionary or mean-spirited. A publisher evaluates the work of an author on the quality of its sourcing and writing". The court stated that the State has the responsibility to protect literary freedom from extrajudicial pressures. In **Sandipan Khan vs. The Chairman, Central Board of Indirect Taxes and Customs & Ors., (W.P. (C) 4676/2019)**, the import of the book "**The Satanic Verses**" by Salman Rushdie, which was listed in Customs Notification for containing blasphemous material, was banned in India and challenged. The respondents could not produce any notification of the alleged ban, and therefore, the court presumed its non-existence. The petitioner could now import the book.

A banned book represents a lost conversation, a silenced argument, a thought that could have sparked change. Legal instruments do exist to control publications when real danger arises. But history suggests that many book bans have been driven by political considerations rather than genuine concerns about public order. It has been repeatedly pointed out by the courts that the freedom of speech has to withstand any threat within direct proximity and immediacy to society. Hence, the question remains whether society should confront challenging ideas or seek to suppress them. The law, if applied justly, should always favor the latter.





Legal aspects of remarriage: Rights, risks, and responsibilities

-Seethala B

In India, remarriage after divorce is legally permissible once the divorce is finalized. Under the **Hindu Marriage Act, 1955**, **Special Marriage Act, 1954**, and **Indian Divorce (Amendment) Act of 2001**, individuals can remarry after obtaining a valid divorce decree. For Muslims, the **Dissolution of Muslim Marriage Act, 1939** allows remarriage after the completion of the **Iddat** period.

However, remarriage during the pendency of an appeal against the divorce decree can make the second marriage voidable. In **Lila Gupta v. Laxmi Narain (1978 AIR 1351)**, the Supreme Court held that such marriages are voidable, not void. In **Mr. Anurag Mittal vs. Mrs. Shaily Mishra Mittal (AIR ONLINE 2018 SC 215)**, the Supreme Court clarified that a person can remarry once the divorce decree becomes final, even if the appeal period has not expired, unless there is a stay on the decree. The court further held that if the parties settle their dispute and decide not to pursue the appeal, the restriction under **Section 15 of the Hindu Marriage Act, 1955** does not apply. Therefore, remarriage under such circumstances is lawful without waiting for a formal dismissal of the appeal.

Remarriage also affects rights to alimony and maintenance. Under Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, a wife's right to maintenance ceases upon remarriage, as established in **Vanamala v. H.M. Ranganatha Bhatta (1995 SCC (5) 299)**. While remarriage does not affect child custody, it can impact inheritance rights. In **Gaurav Nagpal v. Sumedha Nagpal (AIR 2009 SUPREME COURT 557)**, the Supreme Court emphasized that child custody decisions should prioritize the child's welfare, irrespective of the parents' remarriage. The **Karnataka High Court**, in the case of **Bashirahmed v. Surayya (2024:KHC-D:10677-DB)**, ruled that a divorced wife can seek a declaration of her share in her ex-husband's property within the family court. In this case, the ex-husband challenged the family court's jurisdiction, but Justices Krishna S. Dixit and Vijaykumar A. Patil upheld the family court's authority under **Section 7 of the Family Courts Act, 1984** emphasizing the court's broad jurisdiction in matrimonial matters. The court dismissed the appeal, highlighting India's commitment to gender equality under international conventions and reinforcing the importance of honouring divorce settlements.

A key consideration in remarriage is ensuring the previous marriage is legally dissolved to avoid complications related to bigamy. In **M. Saravana Porselvi v. A.R. Chandrashekar (AIR 2008 SUPREME COURT 2462)**, the appellant filed a petition for bigamy after learning that her husband had remarried while divorce proceedings were still ongoing. The court ruled that criminal proceedings for bigamy could be initiated anytime after the second marriage.

To ensure a legally valid remarriage, individuals must obtain the final divorce decree, confirm there is no pending appeal or stay, and register the remarriage under the relevant law. While remarriage is legally permissible, understanding these implications is essential to protect one's rights and avoid future legal complications.





CASE CHRONICLE

PVR Cinemas to pay punitive damages for wasting moviegoers' time

-Nithyaparvathy R G

Case title: A v. PVR Cinemas

Citation: CC No. 14/2024

The District Consumer Disputes Redressal Commission (DCDRC) in Bangalore ordered PVR Inox Ltd. to **stop playing commercials after the showtime specified on movie tickets**. Additionally, the commission mandated PVR to compensate the complainant for time wasted.

The case began when a moviegoer purchased tickets for the film “Sam Bahadur” with a scheduled start time of 4:05 p.m. The complainant discovered that PVR Cinema began playing movie trailers and ads from 4:05 to 4:28 p.m., with the actual film only commencing at 4:30 pm. The complainant argued that they missed other appointments due to the 30-minute advertisements and faced losses that could not be calculated in terms of money. They argued that this practice was an unfair trade practice that wrongly communicated the show timings on the tickets.

PVR Cinemas defended its actions by stating that they are legally obligated to screen Public Service Announcements (PSAs) provided by the government during prime time before the movie. They further stated that the complainant illegally recorded inside the theatre.

The DCDRC found that PVR played mostly commercial advertisements, with only two being PSAs. The commission emphasized that it is mandatory to display PSAs for 10 minutes before the film's start. The DCDRC stated that while PVR is free to show commercial advertisements as they see fit, it is unjust to break the rules to the detriment of viewers.

The DCDRC emphasised that time is precious and that no one should gain from wasting the time and money of others. Additionally, it said that since the movie itself was not recorded, the complainant did not violate any laws by recording the commercials. **The commission determined that PVR was accountable under Section 39(1)(g) of the Consumer Protection Act, 2019.**

PVR Inox Ltd. was ordered to pay **Rs. 8,000 as legal fees, Rs. 20,000 for mental suffering, and Rs. 1 lakh as punitive damages**. Additionally, the DCDRC ordered PVR to include the real movie times on the tickets that were given to customers.





BEYOND THE OBVIOUS

Can you get a refund if your gym restricts your time on treadmill?

-Saraswathy Thogainathan

Many people join gyms in the hopes of finding top-notch facilities, but what if they are let down? Dissatisfaction with gym services is widespread and can range from unhygienic gyms, overcrowded facilities to malfunctioning equipment and untrained coaches. However, if the gym declines, is it permissible for you to legally request a refund?

According to the **Consumer Protection Act, 2019**, customers have the legal right to seek redressal if a business fails to provide the service which was promised by them. For example, if a gym advertises personal training, proper crowd management, air-conditioned facilities or quality equipment but does not deliver these amenities, it falls under the ambit of misleading advertisement and deficiency in service. **Section 89** of the Act deals with the punishment for false or misleading advertisement and **Section 2(11)** of the Act defines deficiency in service as “any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance”, making a refund legally valid. Compensation may also be claimed for unsanitary conditions, broken equipment, or contract violations (such as limiting access to facilities).

Fitness First India Pvt. Ltd. vs. Mihira Sood & Praveen Swami (First Appeal No. 1045/2012) is a notable case that highlights this issue where gym members expressed their dissatisfaction with the poor services, such as treadmill time limited to 25 minutes, frequent machine breakdowns, and inadequate maintenance of the space. The gym abruptly terminated their subscriptions without providing an explanation after they sent legal notices. The Delhi Consumer Forum ruled that restriction on usage of treadmills comes under the purview of “deficiency of service”, making it a violation of consumer rights. As a reminder that gyms cannot repress unhappy users or impose unjust restrictions, the gym was directed to pay ₹2 lakh in punitive damages.

If the complaint is entirely subjective, such as not liking the workout atmosphere or wanting a different trainer, the gym may, however, deny a refund. Obtaining a refund may be difficult if the gym contract expressly specifies, "No Refunds for Dissatisfaction."

Consumers can do the following if a gym denies a refund despite service issues:

- Ask the gym for a membership transfer or a partial refund.
- A legal notice explaining their grievance can be sent.
- Visit consumerhelpline.gov.in to register a complaint with the Consumer Forum.

While poor maintenance, deceptive advertising, and contract violations may ensure a refund, dissatisfaction alone may not. Before signing up, always read the gym's refund policies.



LAWBY WRITES

Have Suggestions or Questions?

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MEET THE TEAM



Nithyaparvathy R G

Legal Consultant



Seethala B

Legal Consultant



Saraswathy Thogainathan

Law Student



Murshida Banu T

Legal Consultant
