

Article

The Business of Being You: Evolving Law of Personality Rights in India

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Abstract: This article critically examines the development of personality rights jurisprudence in India, charting its progression from incidental protection under existing legal frameworks-such as Article 21 of the Constitution, the Copyright Act, 1957, and the Trademarks Act, 1999-to its recognition as a distinct and autonomous branch of law. Anchored in the common law tort of passing off, the jurisprudence has evolved through a series of landmark judicial decisions involving public figures such as Barkha Dutt, Daler Mehndi, Amitabh Bachchan, Rajnikanth, Anil Kapoor, Jackie Shroff, Arijit Singh, and Karan Johar. The article analyses how Indian courts have gradually expanded the scope of these rights to include not only names and images, but also voice, likeness, gestures, and other unique identifiers-particularly in light of emerging technologies such as AI-generated content. It also explores the evolving legal tools deployed to enforce these rights, including John Doe orders and dynamic injunctions. Through a doctrinal and case law-based analysis, the article argues that the recognition of personality rights in India reflects a growing judicial commitment to preserving individual autonomy, reputation, and commercial identity. At the same time, it underscores the need for a calibrated approach that balances these rights against competing interests such as artistic freedom and public interest in a digitally mediated society.

Keywords: celebrity rights; personality rights; right to publicity; common law; trademarks; copyright

1. Introduction

The jurisprudence surrounding the existence, acknowledgment and enforcement of ‘Personality Rights’ in India, has meandered its way through the established four concerns of Article 21 that guarantees a right to Privacy; through rights enforceable under the Copyright Act, 1957 and the Trademarks Act, 1999; through being considered through the lens of ‘character merchandising’ and malafide usage of names for the purposes of domain name trafficking, but has eventually settled into the mold of being a tort, i.e. of passing off, i.e. of deceit and misrepresentation by a person as being associated with another with an obvious aim to benefit commercially and/or otherwise from such association. The enforcement of Personality Rights is somewhat a facet of the Right to Privacy as explained in the matter of *Justice K. S. Puttaswamy (Retd.) and anr. v/s Union of India and others*.¹ It could be argued that this judgment was really the starting point of “image rights” and/or celebrity rights, however, as the jurisprudence has developed over the years, Personality Rights jurisprudence has now comfortably broken off from it being a facet of “right to privacy” and developed into a separate, distinct branch of law (Suresh, 2018).

The very first articulation of Personality Rights can be traced back to a complaint made by Ms. Barkha Dutt, an acclaimed journalist complaining of the unauthorized and illegal usage of her name as a domain name by a third party, without her consent. The complaint was adjudicated by the WIPO Arbitration and Mediation Centre wherein the Complainant alleged that such acts by the Respondent were with an obvious aim to ride on her reputation and goodwill that she has cultivated in her field of profession over the many years. The WIPO Arbitration and Mediation Centre gave a judgment in Ms. Barkha Dutt’s favor, but the same was given on the limited aspect of her name having acquired common law rights, being unregistered as a trademark. The WIPO Arbitration and Mediation Centre, having acknowledged the common law rights in the name “Barkha Dutt” ordered for the domain name to be transferred by “Easyticket” in favour of Ms. Barkha Dutt.² Thus, the

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¹ Justice K. S. Puttaswamy (Retd.) v/s Union of India and others AIR 2018 SC(Supp)1841

² Ms. Barkha Dutt v. Easyticket, Kapavarapu, Vas – Case no. D2009-1247

common law entitlement of a person's entitlement to protect the mode and manner of commercial utilization of his/her name was recognized.

Whilst the *Barkha Dutt* was decided based on common law rights in her name and the goodwill and reputation ensuring to her for being one of the most successful journalists at the time, the year that followed saw another extremely important decision which has contributed to the development of jurisprudence regarding Personality Rights. Mr. Daler Mehendi, through a company that was incorporated to manage his booming career at the time, had executed several agreements with third parties which contained a specific prohibition *inter alia* preventing third parties from using Mr. Daler Mehendi's persona and/or aspects thereof without his consent. The cause for this legal action was that several toy shops in New Delhi were found to be selling dolls that were cheap imitations of and identical to the likeness of Mr. Daler Mehendi. The dolls also claimed to be able to sing few lines of popular and original compositions of Mr. Daler Mehendi, such as "*Bolo Tarara*". The suit before the Hon'ble High Court of Delhi alleged an infringement of Mr. Mehendi's Personality Rights (qua the physical appearance of the dolls) and copyright infringement (qua the illegal reproduction of Mr. Mehendi's musical compositions by the dolls).³

It was in this case, for the first time, that the 'Right to Publicity' was discussed, and the Court observed that "the right to publicity protects against the unauthorized appropriation of an individual's very persona which would result in unearned commercial gain to another." The Court also acknowledged the existence of such a right from the regime of law existing in the United States *inter alia* quoting the observations made in *All v. Playgirl Inc.*⁴ i.e. "The distinctive aspect of the common law right of publicity is that it recognizes the commercial value of the picture or representation of a prominent person or performer and protects his proprietary interest in the profitability of his public reputation or persona." The Court emphasized on the 'autonomy' of a person in deciding when, where and how of the exploitation of his personality. The Daler Mehendi case was the first time that Indian Courts recognized Personality Rights being a distinct and autonomous category of rights, operating independently of the existing statutory intellectual property regimes. Till date, the statutory gap of providing personality/publicity rights protection to individuals has largely remained a right developed through judicial precedent.⁵ A similar case [based on a celebrity having contracted out the right of exploitation of his personality to a third party for commercial gain] was filed before the Hon'ble High Court of Delhi by Titan Industries Limited ("*Titan*"), based on a contract executed between Titan and Mr. Amitabh Bachchan and Mrs. Jaya Bachchan for promoting Titan's brand Tanishq (Augustian 2023). Whilst the case had been filed as a copyright infringement action, the Hon'ble High Court of Delhi once again reiterated the existence of Personality Rights and protection thereof *de hors* a contractual entitlement and/or a statutory entitlement. In this context, the Court reiterated the autonomy of an individual to decide how his/her/their personality will be exploited. The Court also laid down that to succeed in a personality rights infringement action, the person enforcing the same must be identifiable from the unauthorized use that is being complained of. Therefore, with this case, the Courts furthered the 'Personality Rights Jurisprudence' by laying down tests to satisfy before such rights could be enforced legally.

Much like the unauthorized usage of name such as in the *Barkha Dutt* case, In 2015, the much loved actor, Shivaji Rao Gaikwad, known Rajnikanth filed a case before the Hon'ble High Court of Madras alleging infringement of his personality rights arising from the use of the word "Rajnikanth" in a cinematograph film titled "*I am Rajnikanth*", with which he otherwise he had no association with. The Defendant contested the claims on various grounds, being *inter alia* (a) the Defendant's film was not a biopic of Shivaji Rao Gaikwad; (b) the word 'Rajnikant' is a common word, not the Plaintiff's real name, and cannot be subject matter of copyright protection, is it is being used to describe the film protagonist in a bona fide manner - whose name is Rajnikanth Rao in the film. The Defendant also argued that "*Personality Right*" is not defined and/or recognized, and thus the complaint must be rejected. To this objection, the Hon'ble Court disagreed and noted several judicial decisions including but not limited to *Titan Industries* case; and *Barkha Dutt* case to conclude that there is sufficient judicial precedent to prevent the unauthorized usage of a celebrity's name without consent of the celebrity and thus decided in Rajnikant's favor.

However, till 2015, the ambit of personality rights infringement actions was limited to the unauthorized usage of the celebrity's names and/or photographs. A few years, i.e. from 2022 onwards, i.e. in the last 4 years, the scope of personality rights jurisprudence has significantly broadened to encompass a wide range of additional elements, which I set out as below. This also led to the aggressive actions being taken by celebrities to curb and thwart the widespread commercial exploitation of their personality rights without their consent or authorization.

The first of such actions was instituted by Mr. Amitabh Bachchan before the Hon'ble High Court of Delhi, and this action was against known and unknown Defendants. As such, now personality rights started to be enforced as and by way of John Doe actions as well. Mr. Bachchan, before the Hon'ble High Court of Delhi complained of the unauthorized use of his celebrity status by unknown Defendants, for which he received favorable orders⁶. Similarly, Mr. Anil Kapoor also approached the Hon'ble High Court of Delhi and complained of infringement of his personality rights, including but not limited to the peculiar way Mr. Anil Kapoor says "Jhakaas". It is in this case, that certain foreign decisions were cited in a bid to enlarge the scope of personality rights to include name, likeness, voice, and other attributes. The Court agreed with the submissions made and observed that when such unauthorized use "*crosses a line, and results in garnishment, blackening or jeopardizes the individual's personality, or attributes associated with the said individual, it would be illegal*". The Court further observed that "*Using a person's name, voice, dialogues, images in an illegal manner, that too for commercial purposes cannot be permitted*". Thus, with Mr. Anil Kapoor's case before the Delhi High Court, the scope of personality rights jurisprudence now stood definitively expanded.

³ D. M. Entertainment Pvt. Ltd. v/s Baby Gift House and others 2010 SCC Online Del 4790

⁴ 447 F Supp 723

⁵ Amitabh Bachchan v. Rajat Nagi and others CS (Comm) no. 819 of 2022

⁶ Arijit Singh v. Codible Ventures LLP and others. – 2024 SCC Online Bom 2445

Next came a suit filed in 2024 by Mr. Arijit Singh, a popular singer in India. This suit was filed before the Hon'ble High Court of Bombay in which Mr. Arijit Singh sought *inter alia* protection of his personality rights, viz, his name, voice, signatures, photographs, images, caricatures, likeness, persona and other attributes.⁷ His complaint was against AI models/ tools being used by the Defendants by which his voice was being synthesized into artificial sound recordings, for which he had not consented. The Court agreed with Mr. Arijit Singh's concerns and granted injunctive orders by way of issuing of a dynamic injunction, i.e. not only targeting the identified infringing accounts but also automatically extending to future instances of infringement. With the *Arijit Singh* case, The Courts in India had established Personality Rights enforcement as an independent branch of law; eligible to be enforced against known, unknown, and future infringers by way of John Doe and Dynamic Injunction orders.

Following the jurisprudence as established between 2009-2025, an action for infringement of personality rights by Jaikishan Kakubhai Saraf, popularly known as Jackie Shroff was filed before the Hon'ble High Court of Delhi alleging that the name "*Jackie Shroff*", "*Jackie*", "*Jaggu Dada*" and the word "*Bhidu*" are exclusively associated with the Plaintiff.⁸ The suit was brought against several known and unknown Defendants who were indulging in illegal character merchandising and/or exploiting the Plaintiff's image, likeness and/or name, or exploiting his personality rights in other modes and manners. However, the injunctive orders were given only qua the use of "*Jackie Shroff*" and other sobriquets thereof including "*Jackie*" and "*Jaggu Dada*"; the usage of the Plaintiff's voice; and images.

In early 2025, another suit alleging infringement of personality rights was also filed by Mr. Karan Johar against one India Pride Advisory Private Limited complaining of the unauthorized use of his name, i.e. Karan Johar and attributes of his personality in the title of the cinematograph film titled "*Shaadi ke Director Karan aur Johar*". This complaint was seriously contested by the producers of the film, whom amongst other defenses also took a defense that the Plaintiff's real name was not Karan Johar, but actually Rahul Johar and thus Plaintiff had no case of infringement of his personality rights. It was also argued by the Defendant that since the Central Board of Film Certification had already certified the film, including its title, the Plaintiff was now precluded from challenging the same. These novel arguments were struck down by the Hon'ble High Court of Delhi, which observed that CBFC certifications operated in a very different sphere and there was no obligation on the Central Board of Film Certification either under statute or otherwise, to examine whether a party's personality rights were being infringed in a particular film before it for certification. As such, it was affirmed that a party could challenge a film's release on grounds of infringement of personality rights even if the film had received certification. The Court also relied on the *Rajnikanth* case and struck down the Defendant's argument qua "*Karan Johar*" not being the Plaintiff's real name.

The afore-said narrative, that sets out the most important judgments that have contributed to the development of Personality Rights Jurisprudence sets out that awareness of the Indian Judicial system to protect an individuals' rights to exclusively gain commercially from the usage and/or exploitation of the attributes that are exclusive to the individual. The test that needs to be satisfied for the success of such an action before the Court is that the individual must be explicitly identified from the unauthorized usage complained of. Once this test is satisfied, the jurisprudence is absolute and injunctive orders will follow. In most cases, there are no justifiable defenses and thus, this branch of law is straightforward, direct and largely indefensible so far as the wrongdoer is concerned. Pertinently, the enforcement of personality rights has also been delicately balanced against Article 19 of the Constitution by Indian Courts inasmuch as only those activities, that amount to commercial benefit to the wrongdoer have been enjoined, whilst the right to free speech *inter alia* the right to report information and/or write a fair critique and/or other such activities about celebrities remains free (Mehta et al. 2024).

2. Conclusions

As the contours of personality rights continue to evolve within the Indian legal landscape, it is evident that the recognition of an individual's identity-encompassing name, image, likeness, and voice-is no longer confined to the margins of intellectual property law. With courts increasingly affirming these rights as distinct and enforceable, India stands at the cusp of a more robust jurisprudence that values personal autonomy and dignity in the digital age. As we move forward, the challenge will lie in striking a careful balance between freedom of expression and the protection of persona, ensuring that the law remains both progressive and just. The journey of personality rights in India reflects an adaptive and progressive legal response to the challenges posed by commercialization and technological innovation. What began as incidental protection under privacy and intellectual property regimes has evolved into a distinct jurisprudential framework that safeguards individual autonomy, dignity, and commercial interests. With courts increasingly recognizing names, likeness, voice, and other unique attributes as protectable rights, the law is moving toward greater clarity and robustness. However, the path ahead requires a delicate balance—ensuring these rights are enforced without unduly stifling artistic expression, public discourse, and innovation in the digital age. Ultimately, the business of being 'you' has become a matter of law, and its future will define the contours of identity, commerce, and creativity in a digitally driven world.

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⁷ Jaikishan Kakubhai Saraf v/s Peppy Store and others (2024)2HCC(Del)253