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## IMPACT OF SOCIAL MEDIA ON CELEBRITY PERSONAL RIGHTS IN RELATION WITH INTELLECTUAL PROPERTY RIGHTS

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### Abstract:

Personality Rights are intended to protect the person's economic status, personal liberty, and freedom from the unauthorized use of their photos, videos, voice, style, etc., depicting their characteristics and individuality. The individuality is being ruined due to the advent of the social media platforms. Social media has greatly affected the personal rights of celebrities which has become a major issue today. To sell the products/goods, the salesmen use the image or the resemblance of a celebrity without getting consent and gaining out of it as people tend to buy the products by being attracted to the resemblance of the celebrity. This paper looks into the history of personality rights, which allow people to control how their identity, including their name, image, voice, and persona is used commercially. It shows how these rights have developed through common laws and specific legal protections. In India, personality rights are protected by a mix of constitutional rules and particular laws, like the Indian Copyright Act, of 1957 and the Trademarks Act, of 1999. Important cases such as Rajagopal vs State of Tamil Nadu have shaped these protections, highlighting the need for consent and privacy. The paper also explores how personality rights overlap with Intellectual Property Rights (IPR), especially in areas like character, personality, and Image Merchandising. These practices involve using a celebrity's identity or a fictional character's image for commercial purposes, which raises complex legal and ethical questions about consent and payment. Social media has made it harder to protect celebrities' personal rights. Platforms like Facebook, Twitter, and Instagram can help promote celebrities but also often allow the unauthorized use of their personas. This paper looks at key cases like Titan Industries Ltd vs Ramkumar Jewelers, etc., to show the need for strong legal protection against the misuse of celebrity rights.

**Keywords:** Personality Rights, Character Merchandising, Personality Merchandising, Image Merchandising, Article 21 of the Indian Constitution.

### Introduction:

Imagine a story of 2 people (A and B) who are doing business. Person 'A' is doing business and spreading it to all the countries in the world and his brand has become popular all over the world. He is considered to be the famous Business Magnet. Another Person 'B' is doing a business not similar to the business of 'A'. B is doing his business in the place where he usually carries his work. He is known only to the people who are residing in that area. B is not spreading his business all over the world. As 'A' is doing his business across the world he became popular. Common people were curious to know information about A which is inclusive of his private life. Many take pictures, and videos, and spread information about his activity along with spreading information about his brand. Though it increases the brand of his business, on the other hand, it affects his personal life as personal news of him is being spread. This affects the concept of "Personality Rights".

Personality Rights are the rights that will be arisen from the concept of the "Right to Privacy". "***No Person should be deprived of his life or personal liberty except according to the procedure established by law<sup>1</sup>***". This elaborately means that the right to Privacy includes that every individual has the right to live with dignity, the right to live in a healthy and peaceful environment, and a right to livelihood. Article 21 also states the concept of Personal Liberty which includes freedom to move anywhere in the world without any hindrance, freedom to choose the place of residing, and freedom to carry any lawful business. It means that no one has the right to hinder other people's livelihood or to comment on or look into the lifestyle of other people who are generally known to the common people. Generally, personality rights will vest with the people who are famous/ well-known (I.E.) Celebrities. They are the people who are famous in some specific fields like Sports, Literary Works, Entertainment Industry, Science, Education, etc. As these people are already famous and know their day-to-day activities, lifestyles, and other such information, common people are curious to follow them either on social media or any other platforms. This act sometimes results in the spreading of unwanted information about them which affects their reputation and privacy. The right to privacy will apply to all people but the personality rights will vest with the people who are famous or well-known. Unwanted stalking, taking pictures of them, and spreading the information about them will affect their private life which is not subject to be known to all the common people. But in India, there is no sui generis statute for protecting the personality rights, the courts have to look into each precedent case based on the facts and circumstances of each case and to provide the verdict.

### **Historical Background of Personality Rights:**

In simple words, personality rights are the rights which is used to recognize the spiritual, and physical appearance, and attitude of a person. The term personality right is not new. It has its roots in the ancient times. It can be traced to the ancient European History. During those times, when an artist does an art it resembles his personality which was also enumerated in Intellectual Property Rights.

In the United Kingdom, the earliest privacy law defined the concept of privacy as the physical appearance of the person and whatever is related to the man in the physical form such as property, cattle, etc., but later the definition was modified and expanded to include the concept of spiritual feelings, the man's intelligence, and his emotions, etc., As print media developed in 19<sup>th</sup> century, the ambit of privacy law expanded to include the concept of "Right to be left alone" and such other basic rights of a man.

In the jurisprudential perspective, under the classical natural law theory, personality rights are the rights that are inalienable human rights. Famous jurists such as "*Gareis, Gierke, and Kohler*" defined the concept of personality rights. They state that personality rights are the one that relates to the rights of physical integrity, freedom, and dignity. Gierke states that Private Rights are the personality rights that will be seized at the time of the demise of the individual who holds such rights. Kohler states that a creation made by the individual from his intellect does not depend on the personality rights and it will be termed as the Rights conferred under the Intellectual Property Rights. Because Gareis and Gierke point out that any creation made out of the human mind and intellect is inclusive of Personality Rights<sup>2</sup>.

In India, the concept of Personality rights arose in 1994 in the case of "***R. Rajagopal vs State of Tamil Nadu<sup>3</sup>***" which is famously known as the Auto Shankar Case. The Supreme Court ruled that the publication of information about Auto Shankar in a Tamil magazine did not require his consent if the information was already in the public domain. However, the distribution of information beyond the scope of public knowledge constituted a breach of privacy, punishable under tort law. This case underscored the difference between personal and professional information to safeguard individuals' right to privacy, enshrined under Article 21 of the Indian Constitution.

The concept of the "Right to Publicity" was established with the right to privacy, granting celebrities protection against unauthorized commercial exploitation of their reputation or likeness. To establish a case of infringement of publicity rights, individuals must demonstrate damage to reputation, misrepresentation, and irreparable loss. In 2003, the concept of publicity rights occurred when actor Rajnikanth issued a legal notice concerning the portrayal of his character in the film "Baba," emphasizing the prohibition of commercial use of his likeness without consent. This incident recognizes the concept of publicity rights in India.

<sup>1</sup> The Constitution of India, art. 21.

<sup>2</sup> Johann Neethling, "Personality Rights: A Comparative Overview", 38 *COMP. & INT'L J. S. AFR* 210 (2005).

<sup>3</sup> *R. Rajagopal vs State of Tamil Nadu* 1995 AIR 264.

The Delhi High Court further clarified that the right to publicity emerges from the right to privacy and applies specifically to individuals or registered organizations that have attained the status of celebrity/recognition. This legal precedent underscores the nature of personality and publicity rights, acknowledging the need to balance an individual's personality rights with the public interest<sup>4</sup>. It is inferred that publicity rights will be available to people who are famous/well-known and to any organization that is governed by a group of people provided the organization has to be registered.

### What is Personality Rights:

The term "personality rights" also refers to the "right to publicity," which is the individual's capacity to restrict the commercial use of their name, image, and other distinguishing characteristics of their persona. Personality rights refer to the right of a person to protect his/her personality under the right to privacy or property. These rights are intended to safeguard a person's financial and personal interests, guaranteeing them complete control over the use of their identity and guarding against unapproved usage. These rights are especially important for famous personalities, like celebrities and athletes, whose character might have vast commercial worth. There are two primary groups into which these rights fall—first, the right to privacy; and second, the right to publicity. The term "right to privacy" refers to the protection against unauthorized disclosure of personal information. Additionally, the right to publicity grants people the ability to generate revenue from their reputation. Although the legal frameworks about personality rights differ throughout jurisdictions, they usually seek to strike the balance between the defense of human identities and other conflicting interests, such as freedom of speech.

Personality Rights are not only applicable to celebrities but also applicable to the association or any organization. The media is responsible for providing a piece of valid information about the working of all the organizations which is in regard with the public interest. Freedom of speech and expression conferred under Article 19(1)(a) of the Constitution is not only applicable to the citizens but also to the media. It has to provide valid information that is not contrary to any organization, Citizen, or Law of the country. In the case of **"Secretary, Ministry of Information and Broadcasting vs Cricket Association, Bengal<sup>5</sup>"** The Hon'ble Supreme Court held that Broadcasting is a means of communication and a medium of speech and expression within the framework of Article 19(1)(a). It was held that the right to be entertained through the broadcasting media is a vital part of the freedom under Article 19(1)(a) of the Constitution.

Sometimes, the photos and videos taken, and the sharing of information via the internet affect the reputation of the celebrities. Media people must know the time to click a photo that is not vulgar and while interviewing famous people the questions are in such a manner that it should not be about private life. Celebrities have the right to tell the media people not to click photos and also they can avoid questions when it relates to their private life. Celebrities can demand that journals, magazines, or any media platform not to use their photos, voices, or videos. They have the right to sue the party who acts contrary to the statement.

In the case of **"Anil Kapoor vs Simply Life India & Ors<sup>6</sup>"** where the name, images, voice, and speaking style of the celebrity Mr. Anil Kapoor, has been used by the defendant without consent. The plaintiff sued the company and the Delhi High Court held that, when the images and other sorts relating to the plaintiff are used without getting consent from the person will lead to damaging their reputation and fame which indirectly affects his livelihood.

The Madras High Court held that personality rights will apply to people who have attained the category of celebrity status. And also held that in case when the act of the defendant shows false information, defames the person, and if the celebrity is identifiable by all the common people, there is no need for proving the case by the plaintiff as the celebrity is known by all. It is considered to be a prime facie case.<sup>7</sup>

<sup>4</sup> ICC Development (International) Ltd vs Arvee Enterprises 2003 (26) PTC 245.

<sup>5</sup> Secretary, Ministry of Information and Broadcasting vs Cricket Association Bengal 1995 AIR 1236.

<sup>6</sup> Anil Kapoor vs Simply Life India CS (COMM) 652/2023 I.A. 18327/2013.

<sup>7</sup> Shivaji Rao Gaikwad vs Varsha Productions 2015 (62) PTC 351 (Madras).

Further in the case of *“Titan Industries Ltd vs Ramkumar Jewelers”*<sup>8</sup> The Delhi court held that celebrities have the right to control the people who are using their physical appearance inclusive of their voice, speaking style, etc., for commercial gain as those things are used to identify the human being. Also, the court states that those who affect their personal space without obeying the rulings of the court will be penalized.

### **Laws Protecting Personality Rights in India:**

In India, there is no express statute that protects personality rights. The concept of Personality Rights arose from the Auto Shankar Case in 1994. Before it, there was no concept called Personality Rights. The courts will look into Article 19(1)(a) and Article 21 of the Indian Constitution. Freedom of Speech and Expression as stated under Article 19(1)(a) states that everyone in the country has the right to express his view and speak and publish whatever he/she thinks. This applies even to media. But those viewpoints should not be contrary to the state, cause any defamation, or violate any law of the country. As Media is a tool of communication, it has the right to publish the views of any celebrity's information. But it should not defame that person or cause any reputational harm to his/her livelihood. It is well stated in the case of *“Amitabh Bachchan vs Rajat Negi & Ors”*<sup>9</sup>, where Mr. Bachchan successfully obtained an injunction against a jeweler for unauthorized use of his image to promote goods, highlighting the infringement of his personality rights. Article 21, on the other hand, protects the right to life and personal liberty, emphasizing the right to live with dignity and without undue interference. This extends to safeguarding individuals from information dissemination that could adversely impact their reputation or livelihood, including intrusion into their personal lives by the media. While personality rights primarily benefit celebrities due to the frequent circulation of their lifestyle-related information, they apply to all individuals and are extinguished upon death.

Article 21 of the Indian Constitution states the Protection of Life and Personal Liberty. Where no person has the right to deprive the life of another person and everyone has the right to live with dignity. It also means that No Individual has the right to spread any information that will ruin the livelihood and reputation of another human being. It is also applicable to the media industry. The Journalists have no right to intrude on the lives of the celebrities as it will affect their personal space. There is a limit to intruding. These personality rights will be available only to celebrities as most frequently their lifestyle will be circulated. It will benefit them in some manner but if the same news is going beyond the limit of their professional lifestyle they have the right to control the spreading of their photos, usage of their voices, etc., by filing a suit in the court of law. Further, these rights will be coming to an end at the time of their demise.

In the case of *“Krishna Kishore Singh vs Sarla A. Saraogi & Ors”*<sup>10</sup>, the case involved a film depicting Rajput's life story, prompting his father to allege privacy rights violations. However, the court ruled in favor of the defendant, reasoning that since the information was already in the public domain, the film did not constitute defamation. These rulings underscore the nuanced application of personality rights, particularly concerning posthumous situations and the balance between individual privacy and public interest. While personality rights serve to protect individuals' dignity and autonomy during their lifetime, their scope and limitations are subject to judicial interpretation, ensuring a delicate balance between individual rights and societal interests. In the case of *“Deepa Jayakumar vs A.L. Vijay”*<sup>11</sup>, The Madras High Court clarified that these rights cease to exist upon the individual's demise, as seen in the context of the late actor Sushant Singh Rajput's privacy rights being deemed non-heritable.

### **Protection of Personality Rights under IPR:**

As stated earlier, if anyone uses the image, likeness, or voice of a well-known celebrity without their consent for commercial use, it will ruin their reputation. The person has the right over his/her reputation. Like how these personality rights will be protected under the fundamental rights enshrined under the Indian Constitution, similarly, these rights will also be protected under the Intellectual Property Rights. IPR is a legal right that will protect the creativity, logos, and inventions that are novel and useful through copyright, trademark, patents, Industrial Designs, etc., Personality Rights will also be protected under the IPR but not under the concepts of Copyright, Trademark, Patents, etc., It will be termed as Character Merchandising, Personality Merchandising, or Image Merchandising. Thus, if any tradesman uses the Image, Voice, or Style of a well-known Celebrity without their consent, the person has the right to sue the vendor.

<sup>8</sup> Titan Industries Ltd vs Ramkumar Jewellers (2012) 50 PTC 486.

<sup>9</sup> Amitabh Bachchan vs Rajat Negi CS (COMM) 819/2022.

<sup>10</sup> Krishna Kishore Singh vs Sarla A. Saraogi CS (COMM) 187/2021 & I.A. 14438/2021.

<sup>11</sup> Deepa Vijaykumar vs A.L. Vijay O.S.A. No. 75 of 2020.

### **Character, Personality, and Image Merchandising:**

Merchandising is a marketing strategy that involves leveraging the popularity and recognition of famous personalities, fictional characters, or even real-life individuals to promote and sell products. This tactic capitalizes on the appeal and association consumers have with these figures, encouraging them to purchase goods featuring their image, likeness, or voice. Merchandising can take various forms, but it generally revolves around incorporating the persona of a well-known individual into the branding or promotion of a product.

Character Merchandising focuses on the commercial exploitation of recognizable characters, whether they are fictional entities from literature, film, or television, or iconic figures from popular culture. Products featuring these characters, such as toys, apparel, or accessories, capitalize on the emotional connection consumers have with the character, driving sales through nostalgia or fandom.

Personality Merchandising involves using the image, likeness, or reputation of real-life individuals, such as celebrities, athletes, or public figures, to endorse or promote products. This form of merchandising relies on the appeal and influence of the individual to sway consumer behavior and drive sales. Endorsement deals, branded merchandise, and product placements are common examples of personality merchandising.

Image Merchandising encompasses the use of visual imagery, branding elements, or distinctive attributes associated with a particular individual or brand to promote products. This can include logos, symbols, or visual motifs that are instantly recognizable and serve to reinforce brand identity and consumer loyalty.

While merchandising can be a lucrative marketing strategy, it is essential to obtain consent from the individual or entity being used for commercial purposes to avoid potential legal issues. Unauthorized use of someone's image, likeness, or persona for merchandising purposes can tarnish their reputation and may lead to legal action for infringement of personality rights or other intellectual property rights.

### **Protection under the Copyright Act, of 1957:**

The expression "literary and artistic works" encompasses a wide range of creative expressions across various domains, including literature, science, and the arts. This definition, as outlined in copyright law, encompasses works such as books, pamphlets, lectures, dramatic works, musical compositions, cinematographic works, drawings, paintings, sculptures, photographs, and more. Copyright protection extends to these expressions, irrespective of the mode or form of their presentation, covering both 2D and 3D manifestations.<sup>12</sup>

However, it's essential to note that copyright protects the expression of ideas rather than the ideas themselves. This means that while the specific artistic or literary expression is protected, the underlying ideas or concepts are not subject to copyright.

When it comes to fictional characters represented in various forms such as cartoons, anime, or films, copyright protection may apply if the character meets the criteria for originality and creativity. In cases where fictional characters are depicted in a tangible form, whether 2D or 3D, copyright protection may extend to those representations. However, the name of the fictional character itself may not be protected by copyright law.

Personality merchandising involves the use of a real person's identity, including their name, likeness, voice, etc., for commercial purposes. While copyright typically does not subsist in real persons, there are certain instances where copyright protection may apply:

1. **Films and Series:** Copyright may extend to the creators and directors of the work, and in some jurisdictions, performers may also have rights under performer's rights legislation or international conventions like the Rome Convention. However, India is not a signatory to the Rome Convention, impacting the scope of performer's rights.
2. **Biographies:** The author of a biography may hold copyright in the written work, which covers the expression of the subject's life story.
3. **Visual Art:** Copyright in sculptures, drawings, or paintings of real persons typically belongs to the artist who created the work, rather than the subject themselves.

Copyright subsists in the real person only when the act done by his/her is unique which can be distinctively shown from the other sequence. The Bombay High Court granted copyright to the character named "Chulbul Pandey" in the movie titled Dabangg as it is unique and can be distinct from other characters in the movie<sup>13</sup>.

<sup>12</sup> Berne Convention for the Protection of Literary and Artistic Works, art.2(1).

<sup>13</sup> Arbaaz Khan vs North Star Entertainment Pvt. Ltd Suit (L) No. 301 of 2016.

### Protection under the Trade Mark Act, 1999:

Once a mark is registered under the Trademarks Act of 1999, the owner gains legal protection for their trademarked products. This protection extends to various elements such as logos, words, symbols, and combinations of colors. Unauthorized use of a registered trademark constitutes infringement under Section 29 of the Trademarks Act. This legal framework allows trademark owners to safeguard their intellectual property and prevent others from exploiting it for commercial gain without consent. Celebrities also have the right to register their name, likeness, voice, and image as trademarks to protect their reputation and prevent unauthorized commercial use.

For instance, celebrities like Shah Rukh Khan and Amitabh Bachchan have registered their names as trademarks, while Anil Kapoor took legal action against a company for unauthorized use of his identity. Similarly, Akshay Kumar registered the trademark "Khiladi" for his movies. Trademarks not only protect characters and personalities but also facilitate image merchandising, where real actors portray fictional characters in movies. Once registered, trademarks associated with these characters are legally protected.

In the case of *"D.M. Entertainment Pvt. Ltd vs Baby Gift House and Ors<sup>14</sup>"*, The Delhi High Court validated the transfer of trademark on Daler Mehndi's name by the singer to his company. In this case, the defendant was selling dolls that looked like Daler Mehndi and danced to his famous songs, the court held that this was an act of passing off. The court observed that the right of publicity is the prerogative of an individual and only he has the autonomy to authorize or not authorize the commercial exploitation of his likeness or some attributes of his personality.

Image merchandising involves using the likeness of real actors who portray fictional characters in movies. Trademarks can be registered for these characters, providing legal protection. An example is Daniel Radcliffe, who portrayed Harry Potter in the film series, with the character's trademark registered accordingly.

In the case of *"Amar Nath Sehgal vs Union of India<sup>15</sup>"*, the court recognized the Doctrine of Transformation as a defense in personality and character merchandising disputes. This doctrine allows for the limited use of celebrity likenesses for purposes such as parody or commentary.

The reason for having IPR protection for personality Rights is that the person will be playing the role in a movie and using it for a commercial purpose by the vendor without getting consent which will ruin the reputation of the celebrity who played the role in a movie. It will affect the personal rights of the person concerned.

### What does not amount to affecting the personality rights:

Under the Copyright Act, of 1957, Section 52 dealt with the "Acts Not to be Infringement of Copyright". Where parody is one of the exceptions to the infringement clause. The section elaborately states that The Fair Dealing with any work, not being a computer program, for;

1. Private or Personal use, including research
2. Criticism or Review, whether of that work or of any other work
3. The reporting of current events and current affairs, including the reporting of a lecture delivered in public
4. Parody, Satire
5. Using the Copyrighted Material for Cultural Events or Educational Purposes, Etc.,

These acts do not constitute an act of infringement. These exceptions allow individuals to engage with copyrighted works in specific contexts without violating copyright laws. Parody, in particular, is recognized as a form of commentary or criticism that involves humorously imitating or reinterpreting an original work for comedic effect.

Moreover, in the case of *"Civic Chandran vs Ammini Amma<sup>16</sup>"*, the Kerala High Court established tests to determine the validity of parody. These tests focus on the purpose for which the content was taken and the quantity and significance of the material used for commentary or criticism. By assessing these factors, courts can determine whether a particular use of copyrighted material qualifies as legitimate parody and falls within the scope of fair dealing under copyright law.

<sup>14</sup> D.M. Entertainment Pvt. Ltd vs Baby Gift House CS (OS) 893/2002.

<sup>15</sup> Amar Nath Sehgal vs Union of India 117 (2005) DLT 717.

<sup>16</sup> Civic Chandran vs Ammini Amma (1996) 16 PTC 670.

The inclusion of parody as an exception to copyright infringement reflects the recognition of the importance of freedom of expression and artistic creativity, allowing individuals to engage with copyrighted works in ways that contribute to public discourse and cultural commentary.

### **The intersection of Personality Rights and Social Media:**

As the world is witnessing technological advancement, people started to choose their jobs in the media platform by way of content creation, spoofing, parody, stand-up comedy, and alike. Some people will create content by narrating information about the celebrity by posting their photos, creating memes, etc., As a result, this provokes them to click photos of them when they are in their leisure time and also use their name, etc., for commercial use. This sometimes, is considered as not an infringement on the reputation of the person but if exceeds a certain limit, it affects the reputation. The celebrities themselves will inform the media about the place where they are going including the timings as the media people will click and record their arrival and post it on the social media platform it will increase their fame. But, at certain times, the media people will go beyond the extent and collect the information that affects their personal lives. In the case of "*Jackie Shroff vs The Peppy Store & Ors*<sup>17</sup>", Mr. Shroff sought an interim injunction against certain parties for using his name, voice, image, and style for commercial gain. While the court's final judgment is pending, it recognized the complexities of social media platforms, where revenue generation often involves forms of parody, satire, and meme creation. However, the court emphasized that such activities should be conducted within certain limits to avoid infringing on personality rights. In Mr. Shroff's case, a video tribute to him on YouTube was deemed acceptable, as it was not derogatory or defamatory.

The interference of media coverage over the lifestyle of the celebrities and the usage of their style, name, and many other things will ruin their reputation. If the image, or voice of the celebrity is being utilized for selling a product, and people think that, it is the business of that celebrity or might think that, the product is a good to purchase as it has been endorsed by that celebrity. It might be harmful if the celebrity has not been provided consent.

### **Role of Regulatory Bodies:**

The foundation for preserving personality rights in India rests primarily on the country's constitution. One landmark ruling that solidified this foundation was the case of "*Justice K.S. Puttaswamy vs. Union of India*," where the Indian Supreme Court affirmed the right to privacy as an integral aspect of personality rights. This decision, rooted in Article 21 of the Indian Constitution, underscores the state's responsibility to safeguard personal information and individual liberty, providing a fundamental legal barrier against intrusions by private entities.

Regulatory bodies like the Data Protection Authority, established under the Digital Personal Data Protection Act of 2023, play a crucial role in enforcing these regulations. This authority is empowered to impose penalties for non-compliance, monitor adherence to data protection laws, and investigate breaches, thereby preventing potential abuses of individuals' rights. Additionally, the Telecom Regulatory Authority of India (TRAI) oversees the telecom industry, ensuring that personal data handled by telecom providers is shielded from misuse.

In the realm of intellectual property laws, the Trademarks Act of 1999 provides safeguards against the unauthorized commercial exploitation of a person's name, likeness, or other unique personal attributes. This legislation is particularly significant for celebrities whose identities are often exploited for profit. Individuals have the opportunity to register their name or likeness as a trademark, granting them legal protection against unlawful use.

India's legal framework has played a pivotal role in defending personality rights, recognizing the right to publicity and the right to privacy as essential components of these rights. Regulatory bodies such as the Broadcasting Content Complaints Council (BCCC) and the Press Council of India (PCI) further contribute to safeguarding these rights. The PCI, established under the Press Council Act of 1978, upholds journalistic standards and ensures that the media respects individuals' privacy. Similarly, the BCCC serves as an independent self-regulatory body for non-news broadcasters, addressing complaints related to privacy violations and misappropriation of individuals' images.

<sup>17</sup> Jackie Shroff vs The Peppy Store CS (COMM) 384 of 2024.

## Case Laws:

**“Cohen vs Herbal Concepts Inc<sup>18</sup>”**; In this case, the plaintiff and her daughter found themselves in a legal battle over the unauthorized usage of their photograph on the label of a cosmetic product. The plaintiff argued that this unauthorized usage infringed upon their privacy rights, while the defendant countered that any identifiable features in the image were blurred, thus negating any breach of personality rights.

After carefully considering the arguments presented by both parties, the court ruled in favor of the plaintiff. Despite the defendant's assertion that the faces in the photograph were blurred and therefore not identifiable, the court determined that there was indeed a breach of the plaintiffs' privacy rights. Even with blurring, the image still depicted the plaintiff and her daughter, which could lead to their identification by those familiar with them.

The court's decision to award damages to the plaintiff underscores the significance of protecting individuals' privacy rights. Regardless of whether identifiable features are obscured, the unauthorized usage of personal photographs can still have a detrimental impact on individuals' privacy and reputation. By holding the defendant accountable for their actions, the court reaffirmed the importance of respecting individuals' privacy and the consequences of violating these rights.

**“Dorothy Barber vs Times Inc.<sup>19</sup>”**; In this case, Ms. Dorothy Barber took legal action against Times Incorporation (the Defendant) as a photographer entered her labor room without consent and took photographs while she was in the process of delivering her child. Ms. Barber argued that this intrusion into her private space and the unauthorized taking of her photographs constituted a breach of her rights.

After reviewing, the Supreme Court of Missouri, Division One, determined that the actions of the defendant indeed violated Ms. Barber's rights. The court recognized the sensitive nature of the labor room, where individuals expect privacy during a deeply personal and vulnerable experience such as childbirth. The unauthorized entry and photography disrupted this expectation of privacy and infringed upon Ms. Barber's right to control access to her personal space and image.

In light of these findings, the court ruled in favor of Ms. Dorothy Barber and ordered the Defendant to compensate her for the infringement of her personal rights. The awarded amount of US \$300 reflects the court's acknowledgment of the harm caused to Ms. Barber by the violation of her privacy during such a significant and intimate moment in her life.

This case highlights the importance of respecting individuals' privacy rights, especially in sensitive and private settings like a labor room. It underscores the legal consequences that can arise from unauthorized intrusion and photography in such contexts, serving as a reminder of the need to uphold and protect personal rights even amid newsgathering or other activities.

**“Bala Krishnan vs R Kanagavel Kamaraj and Ors<sup>20</sup>”**; In this case, the dispute revolved around the issue of copyright about the life history of Mr. Kamaraj, a prominent national leader. The grandson and legal heir of Mr. Kamaraj objected to the production of a TV serial based on his life history. However, the producers argued that no individual could claim copyright over the life history of a national leader, asserting that such information was already part of the public domain. They further contended that obtaining consent from legal heirs was unnecessary.

The matter was brought before the Madras High Court for resolution. After considering the arguments presented by both parties, the court declined to grant any restraint or injunction to halt the release of the film or serial. The court's decision was grounded in the rationale that the reputation of the national leader, Mr. Kamaraj, was not at risk due to the production and airing of the TV serial.

This ruling suggests that the court viewed the portrayal of Mr. Kamaraj's life history in the TV serial as falling within the realm of public interest and discourse, rather than constituting an infringement of personal rights or copyright. Additionally, it underscores the principle that certain historical or biographical information may be considered part of the public domain, thereby limiting claims of exclusive ownership or control over such material.

<sup>18</sup> Cohen vs Herbal Concepts Inc. 63 NY. 2d 379.

<sup>19</sup> Dorothy Barber vs Times Inc. 348 Mo. 1199 (Mo. 1942).

<sup>20</sup> Bala Krishnan vs R. Kanagavel Kamaraj 1999 (3) CTC 247.

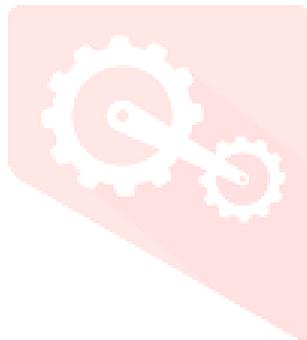
*“Phoolan Devi vs State of M.P. & Ors<sup>21</sup>”*; In this case involving Phoolan Devi, she voiced her objection to a film that she believed distorted facts about her life. Phoolan Devi emphasized that she had moved past her previous involvement in criminal activities, had embarked on a new chapter as a married woman, and had dedicated herself to serving the public as a political figure. Seeking to prevent the release of the film, she sought an injunction to safeguard her privacy and reputation.

Upon deliberation, the Supreme Court recognized the significance of the matter and the potential implications of allowing such films to be exhibited without proper scrutiny. The court emphasized the need for a thorough examination of the situation, particularly regarding its impact on the private life of an individual. This decision underscores the fundamental principle that individuals, including celebrities like Phoolan Devi, have the right to protect their name, image, and reputation as guaranteed by the Constitution.

By acknowledging the importance of privacy and reputation, the Supreme Court reaffirmed the constitutional rights of individuals, including celebrities, to safeguard their personal and professional identities. This ruling underscores the court's commitment to upholding the dignity and integrity of individuals, particularly in cases where their public portrayal may have significant ramifications for their private lives and reputations.

### Conclusion:

As the world is witnessing the rapid transmission of information and news instantly in social media and other platforms, the personal information of celebrities is also being transferred immediately. Though it creates fame for them, it affects their private life at certain times. In short, the advent of digital media, has both positives and negatives. Celebrities have the right to warn the media people not to click the photos or record the videos at their leisure time and it is the responsibility of the journalists not to create rumor which affects their reputation or fame or spread any defamatory statement about the celebrities. When conclusion, it is understandable that, in India, personality rights are being protected under Article 21 of the Indian Constitution, and certain rights under the IPR laws. From the cases discussed, it is known that personality rights will prevail during the lifetime of the person concerned and not beyond their lifetime. Certain acts of the journalists relating to the information of the celebrities being used as content do not amount to a breach of personality rights as it will be considered as Parody. Hence, in India, the concept of Personality Rights is protected to a certain limit.



<sup>21</sup> Phoolan Devi vs State of M.P. AIR 1996 SC 1038.