

**ANIL KAPOOR V. SIMPLY LIFE INDIA & ORS.: PERSPECTIVE OF
INDIAN JUDICIARY ON PROTECTION OF CELEBRITY RIGHTS**

*Pallavi Tiwari**

ABSTRACT

An innovative comprehensive order protecting the rights of well-known actor Anil Kapoor was recently delivered by the Delhi High Court, marking a turning point in the fields of artificial intelligence (AI), privacy, and entertainment and protection of celebrity rights. Judge Prathiba M. Singh presided over this historic decision, which marks a critical turning point in the continuing conversation about how technology and individual rights—especially those of celebrities—intersect. The court’s ruling, which is outlined in the judgment, tackles important concerns about the possible abuse of AI technology and its significant effects on image rights, privacy, and the commercial interests of well-known individuals like Anil Kapoor. This paper begins a thorough investigation into the ramifications of this significant ruling, placed in the perspective of Indian law. The paper aims to disentangle the complex legal and ethical issues at hand by critically evaluating the court’s decision in the light of various other judgments like of Amitabh Bachchan, Rajnikanth, Sourav Ganguly etc. It explores the implications of the decision for the changing legal environment that governs intellectual property, privacy rights, and the usage of AI-generated content in the entertainment sector and its impact on the personality rights of celebrities. In addition, the paper discusses the court’s ruling’s wider ramifications for the judicial system and the entertainment sector. It looks at how this decision establishes a standard for dealing with the issues raised by developing technology and emphasizes how important it is to protect people’s rights in the digital era. The paper also looks at how industry practices might be affected, emphasizing the need for higher ethical standards and accountability when using AI technologies for entertainment and other purposes. The paper adds to the continuing conversation on the intricate interactions that modern society faces between technology, individual rights, and legal frameworks with this thorough analysis.

Keywords: Celebrity Rights, personality Rights, artificial intelligence, right to privacy,

* Ph.D. Scholar, MNLU Nagpur, Correspondence

INTRODUCTION

Celebrities have been more vigilant in preserving their personality rights, which include their name, voice, signature, photos, and identifying characteristics. The recent Delhi High Court order to protect Anil Kapoor's personality rights against misuse by third parties has brought the issue to the forefront.

In a landmark decision, the Delhi High Court issued an interim injunction protecting Bollywood star Anil Kapoor's personality rights. This injunction prevents numerous companies from economically exploiting his name, image, voice, and other aspects of his persona without his explicit permission. The case *Anil Kapoor v. Simply Life India & Ors*¹. focuses on emerging challenges caused by technological developments, such as the misapplication of personality traits using tools like artificial intelligence.

The court's recognition of the potential misuse of artificial intelligence and other technological technologies to recreate or manipulate celebrity likenesses for commercial reasons is especially significant. This emphasizes the ever-changing nature of legal concerns in the digital era, as well as the importance of strong legal frameworks to solve them. The decision establishes a precedent for future instances regarding the exploitation of personality rights and emphasizes the importance of getting individuals' explicit consent before using their identity for commercial purposes. It also emphasizes the responsibilities of businesses and individuals to respect and preserve the rights of public figures.

Overall, the Delhi High Court's ruling represents a critical step toward guaranteeing greater accountability and safety for celebrities and individuals in the face of evolving technologies. In India, no single legislation governs celebrity rights. Instead, courts use existing laws like as copyright and privacy (which are guaranteed by the Constitution) to protect celebrities. They also evaluate unfair competition (profit) and other legal issues. The primary areas of protection are privacy, personal aspects, and control over how a celebrity's image is exploited commercially. A recent court decision reinforced the privacy protection of celebrities. This technique has both advantages and disadvantages: it is versatile but can result in unpredictable rulings. There is debate about enacting a particular statute to provide clearer standards and India's stand regarding the development of the concept of Celebrity Rights vis-à-vis proper legislation.

¹ Anil Kapoor v. Simply Life India & Ors. on 20 September, 2023.

FACTS OF THE CASE AND CONTENTIONS OF THE PARTIES

In the case, the renowned celebrity Mr Anil Kapoor stated a violation of his personality rights covered under the ambit of Celebrity Rights. He contested that he has the right to protect his name, image, persona, voice and related attributes to his personality against any kind of misuse or misrepresentation. The actor claimed that he had national and international recognition covered under more than a hundred movies, TV Shows, advertisements, web series and other associated products and services. He has also received many awards for his performance in many movies and TV Shows and has already established recognition in society. The image and persona of such celebrities hold immense commercial value and it has to be protected against any kind of exploitation without the consent of the celebrity who has given years of hard work to establish the reputation. He contested the tarnishment of his image over the internet and sought protection of his personality rights, publicity rights, and protection of other related elements of his persona. These related elements of his persona include his name, voice, photograph, image, likeness, how he speaks, style of dialogue delivery, gestures, signatures and others. The term “others” here specifies the broad ambit of the subject matter of celebrity rights and that it can cover anything and everything related to the reputation and persona of the celebrity.

The actor claimed that has given his voice to the famous characters of Babloo Bear in Mowgli and Karna in Mahabharata and thus his voice is also of immense importance. The popular term “Jhakkas” and the way of delivery by the actor is also distinctive and it has been popularised by him in the movie “Yudh”.² He claims that his rights in all of the above mentioned things have been violated and also includes a violation of the copyright held in the word “Jhakkas” and other performances of the celebrity. The actor has also sought the protection of his common law rights involving the Right to be protected against passing off concerning passing off as his persona and image in the public, dilution of his image by creating AI characters dependent on the personality of the celebrity without his permission and then associating him with different actresses and also highlighting the ambit of unfair competition.

The Acts of the defendant included the following infringements:

² Malavika Prasad, “Delhi HC protects Anil Kapoor’s personality rights: What they are, how have courts ruled”, *The Indian Express*, <https://indianexpress.com/article/explained/explained-law/delhi-hc-anil-kapoor-personality-rights-8951569/>.

1. False endorsements of Anil Kapoor as a motivational speaker
2. A fee was charged by defendants being involved in dark pattern activities for its service by misusing the actor's name and image. The Court has recently become acquainted of the proposed guidelines titled 'Prevention and Regulation of Dark Patterns 2023'.³ The Ministry of Consumer Affairs, Government of India published these instructions under Section 18 of the Consumer Protection Act, 2019.⁴ The goal is to protect customers against "dark patterns," which are deceptive internet tactics intended to mislead and manipulate people, eroding their decision-making abilities and violating consumer rights.
3. Passing off being done by the defendant by using the name and image of the actor without his permission and for commercial purposes. Also, the defendants were using the voice, dialogue, and name of the actor.
4. The face of the celebrity was being morphed using Artificial Intelligence and it caused a dilution and tarnishment of the image of the celebrity. Similar instances have arisen in the cases of Actors Rashmika Mandanna and Sara Tendulkar. Thus, usage of AI to produce morphed and wrong images of celebrities is a very recent but frequently used way to violate the image rights of celebrities. Usage of the actor's image with some actresses being morphed like Katrina Kaif, Sri Devi, and Madhuri Dixit was also being done by some of the defendants.
5. The defendants were also using the images of the Actor on the wallpaper of mobile phones and this was also being done without the consent of the celebrity. His image was also being used on various magnets, t-shirts, cups, and stickers and also usage of his famous dialogue on these items was being misused by the defendant.
6. Some clothes were also being sold using his name in the market, thus causing commercial exploitation of his identity without his consent or any remuneration to him.
7. Running of some websites under the name of the actor like Anil Kapoor.net, Anil Kapoor.com, and Anil Kapoor.in and they were being run by unrecognised defendants (John Doe's). Insofar as these three domain names are concerned, Id. Counsel for the Plaintiff submits that Plaintiff wishes to take over these domain names.
8. Cartoon characters were being developed using the image of the celebrity and being commercialised as well.

³ Guidelines for Prevention and Regulation of Dark Patterns, 2023.

⁴ Consumer Protection Act, 2019 (Act 35 of 2019), s. 18.

9. The plaintiff, Anil Kapoor Films Company, owns registered trademarks in class 41 with the registration number '1811341' thus also holding intellectual property rights over his identity.
10. Creating, uploading, and distributing manufactured pornographic videos featuring the plaintiff and other actresses without permission.

The most important demand of the Actor against all the defendants was an Injunction Order under Order XXXIX Rule 1 and 2 of CPC 1908.⁵ The hearing of the matter was done in Delhi High Court under the bench of Justice Pratibha M Singh and the parties of the case were Mr Anil Kapoor against Simply Life India and a few other defendants. This was an application filed by the Plaintiff seeking exemption from instituting pre-litigation mediation proceedings. The Plaintiff has preferred an application under Order XXXIX Rules 1 and 2 of the CPC, 1908 and has also sought an ex-parte ad-interim injunction against the defendants. In due course of the case, a few defendants who had no involvement in the matter were removed from the list and further, the court had very meticulously analysed the facts under the three conditions to grant an injunction order which shall be discussed in the next part of the paper.

The advocate representing the Actor (Plaintiff) in this case relied upon many landmark judgements like *Bette Midler v. Ford Motor Company*⁶ and *Vanna White v. Samsung Electronics America*.⁷ These judgments have already highlighted the necessity of the protection of celebrity rights where the Californian Court in *Bette Midler v. Ford Motor Company* observed that the uniqueness and personal quality of a voice outweigh the protection granted to material items. A voice is as unique and intimate as a face, making it one of the most physical representations of individuality. Just a few words over the phone can instantly identify a friend. This sentiment is especially noticeable when sung by a well-known performer. The singer's soul is embodied in their song, and mimicking their voice constitutes stealing their identity (W. Keeton et al., *Prosser & Keeton on Torts*, 5th ed. 1984).⁸ The lawsuit clearly maintains that when a well-known singer's distinctive voice is deliberately duplicated to market a product, the advertisers are taking something that does not belong to them, which is a tort in California. Midler has produced adequate proof that the defendants in this case used a component of her identity for financial advantage.

⁵ Order XXXIX Rule 1 and 2 of CPC 1908.

⁶ *Bette Midler v. Ford Motor Company*, 849 F.2d 460 (1988).

⁷ *Vanna White v. Samsung Electronics America*, 971 F.2d 1395 (1992).

⁸ William Lloyd Prosser & W. Page Keeton et.al. (eds.), *Prosser and Keeton on Torts* (West Group; 5th edition 1984).

Further to this in *Vanna White v. Samsung Electronics America* where Vanna White sued Samsung and Deutsch, alleging illegal use of her identify in a commercial that violated California law. The court affirmed her suit, ruling that the ad violated her right of publicity, which protects persons from improper commercial exploitation even if their name or likeness is not explicitly used. The defendants claimed that their advertisement was a parody. However, the court made a distinction between commercial and non-commercial parodies, concluding that their reasons were more relevant to non-commercial parodies.

ANALYSIS OF THE JUDGMENT

The decision in this case marks a watershed point in the legal landscape, providing important insights into the subtle complications of protecting a celebrity's rights in the modern digital environment. To begin, the court accurately outlines the numerous drawbacks that fame may bring, explaining how reputation and recognition might unintentionally expose individuals to violations of their fundamental rights. The decision emphasizes that the consequences of celebrity status go beyond mere recognition, frequently infringing on fundamental components of personal autonomy such as the right to life, privacy, and dignity. This distinction demonstrates the court's concern for the complex influence of celebrity on a person's life.

Furthermore, the decision carefully distinguishes between legitimate forms of free expression and the unlawful exploitation of a celebrity's reputation for economic gain. While acknowledging the importance of free expression, such as the dissemination of authentic news, satire, and genuine criticism, the court categorically condemns activities that cross the line of legality, such as defamation, tarnishment, or the unauthorized commercialization of a celebrity's image. By making this critical distinction, the decision emphasizes the importance of balancing the right to free expression with the protection of individual rights and reputations.

The court's analysis centres on the recognition of a celebrity's right to endorse as an essential source of income. The decision stresses that unlawful use or transmission of items bearing a celebrity's likeness is not just an economic infringement, but also a violation of the individual's right to privacy and dignity. This recognition demonstrates the court's commitment to protecting celebrities' economic and personal rights in the face of improper exploitation and commercialization.

Furthermore, the ruling addresses the emerging issues brought by technology breakthroughs such as artificial intelligence and deep fakes and dark patterns, which have significantly increased the possibility of identity manipulation and exploitation. The court recognizes the harmful potential of these instruments to influence and distort a celebrity's image or identity, requiring strong legal measures to effectively offset such dangers. By addressing these unexpected problems, the decision illustrates the court's foresight in applying legal concepts to the changing features of the digital age.

In granting an ex parte injunction and determining the balance of convenience in favor of the plaintiff, i.e. the actor, the court appropriately prioritizes the protection of the plaintiff's personality rights and right to privacy, recognizing the imminent and irreparable harm that would result from allowing the defendants to continue their infringing activities unabated. This proactive attitude demonstrates the court's commitment to protecting individuals' rights and reputations against unwanted exploitation and misuse. Finally, the decision establishes a historic precedent by recognizing the delicate junction of intellectual property rights and constitutional protections in the context of celebrity protection. By painstakingly outlining the rights and duties inherent in fame, the decision offers vital advice for navigating the complex legal landscape of celebrity rights in the digital age.

To come to this analysis, the Delhi High Court involving the bench of Justice Pratibha M Singh relied upon the famous case of *R. Rajagopal v. State of T.N.*,⁹ famously called the 'Auto Shankar case' which prohibited any kind of misuse or commercial exploitation of a celebrity's name, voice, persona, likeness. The Delhi High Court cited the below-mentioned paragraph of the famous Supreme Court case;

"The right to privacy as an independent and distinctive concept originated in the field of Tort law, under which a new cause of action for damages resulting from unlawful invasion of privacy was recognised. This right has two aspects which are but two faces of the same coin -- (1) the general law of privacy which affords a tort action for damages resulting from an unlawful invasion of privacy and (2) the constitutional recognition given to the right to privacy which protects personal privacy against unlawful governmental invasion."

⁹ *R. Rajagopal v. State of T.N.*, (1994) 6 SCC 632.

The Court also observed and which has also been used in the Anil Kapoor verdict that the judgment emphasizes the constitutional right to privacy, rooted in Article 21¹⁰, which protects citizens' personal lives from unwarranted intrusion. It prohibits the publication of private matters without consent, except when derived from public records. However, the court carves out an exception for victims of sexual assault, kidnapping, or similar crimes, advocating for their names and incidents to be shielded from public dissemination. This nuanced approach balances privacy rights with freedom of expression, upholding constitutional values and societal decency.

CONCLUSION AND WAY FORWARD

The judgment in this case was a step forward in the direction of protection of celebrity rights in India. A clear recognition was given to the rights possessed by a celebrity and which includes their right to privacy, personality rights and publicity rights. The Delhi High Court was clear in giving the meaning and scope of the protection of celebrity rights and that no one can commercially exploit the identity created by a celebrity after years of hard work.

Although the judgment did not refer to the jurisprudential theories behind protection of celebrity rights, it is clear from various works of Warren and Brandeis¹¹ that this set of right emerge from the Labour Theory of John Locke¹², Theory of Personality Rights by Kant and Hegel¹³ and access to public via the utilitarianism theory of Jeremy Bentham.¹⁴

The judicial progress in this area suffered a setback by the case of *Digital Collectibles PTE Ltd. v. Galactus Funware Technology Pvt. Ltd. & Anr*¹⁵ in 2023. In *Digital Collectibles Pte Ltd v. Galactus Funware Technology Private Limited*, the court ruled that information that is already in the public domain cannot be protected by the right to privacy, including its extensions such as the right to personality and celebrity publicity. According to the decision, the right to privacy can only be claimed in circumstances of image tarnishment, and defendants who submit disclaimers can be relieved of guilt for infringement. The court relied significantly

¹⁰ The Constitution of India, art. 21.

¹¹ Warren & Brandeis, "The Right to Privacy", Vol. IV *Harvard Law Review* No. 5 (1890).

¹² Jeffery J. Brown, "Defending the Right of Publicity: A Natural Rights Perspective", 10 *Intell. Prop. L. Bull.* 131 (2005-2006).

¹³ Margaret Jane Radin, "Property and Personhood", 34 *Stan. L. Rev.* 957 (1982).

¹⁴ "An Introduction to the Principles of Morals and Legislation", <https://www.utilitarianism.com/jeremy-bentham/index.html>.

¹⁵ *Digital Collectibles Pte Ltd and Ors v. Galactus Funware Technology Private Limited and Anr.*, CS(COMM) 108/2023.

on US and UK judgments rather than Indian precedence. It underscored the Indian Constitution's protection of free speech and expression, stating that individuals cannot be banned from exploiting celebrity photographs for personal or commercial purposes. The court reasoned that the information used by the defendants, such as player identities and real-world match performance data, was publicly available in the public domain and could be obtained by anybody. The plaintiffs failed to show that the defendants used personal information that was not already in the public domain. As a result, the court determined that publicly available information cannot be solely licensed by players to third parties because it cannot be held by anybody, including the players themselves.¹⁶

But the Anil Kapoor verdict is a way forward to protect interests of celebrities in future. In her opinion, Justice Prathiba Singh highlighted that the court cannot ignore the misuse of a person's name and other characteristics. She emphasized that dilution and tarnishment are actionable torts from which Anil Kapoor should be protected. Furthermore, Justice Singh stated that generating ringtones and GIF images for commercial purposes is a violation of Kapoor's rights, emphasizing the need of protecting his interests. Similarly in the *Amitabh Bachchan case*¹⁷, after reliance upon the *Titan Industries Case*,¹⁸ the Delhi High Court recognized the actor's right to safeguard his personality rights from illegal use. Bachchan filed a complaint in response to fraudulent acts, including a false KBC lottery scheme in which his name, image, and voice were used without his permission. The court issued an ad-interim ex-parte order favoring Bachchan and prohibiting the defendants from infringing on his personality rights.

In another landmark and progressive judgment of *Sourav Ganguly v. Tata Tea Ltd.*¹⁹, the cricketer became concerned when he discovered that his employer, Tata Tea Ltd., was promoting its tea packets by allowing customers to congratulate him via postcards included in each package. The court decided in Ganguly's favour, acknowledging that his celebrity and popularity are his intellectual property. This case demonstrated the importance of protecting an individual's image and reputation against illegal commercial exploitation.

¹⁶ Pallavi Tiwari, "From R. Rajagopalan Case to Anil Kapoor Verdict: Evolution of Protection of Celebrity Rights in India", 2(7) *IJLRA*, (2024), <https://www.doi-ds.org/doi/10.2024-82779683/FROM%20R.%20RAJAGOPALAN%20CASE%20TO%20ANIL%20KAPOOR%20VERDICT:%20E>.

¹⁷ *Amitabh Bachchan v. Rajat Negi and Ors.*, CS(COMM) 819/2022.

¹⁸ *Titan Industries v. Ramkumar Jewellers*, 2012 (50) PTC 486 (Del).

¹⁹ *Sourav Ganguly v. Tata Tea Ltd.*, (Calcutta High Court CS.No 361 of 1997).

Indian courts have wrestled with preserving celebrity rights, resulting in ambiguity. Some cases, such as *R. Rajagopalan*, *Phoolan Devi*,²⁰ and *Rajnikanth*,²¹ demonstrate this range of perspectives. The lack of legislation, such as in the United States,²² complicates problems. While some decisions have focused on the right to privacy, cases involving Amitabh Bachchan and Anil Kapoor have shown a trend toward preserving the commercial side of celebrity rights, indicating a shifting legal landscape.

²⁰ *Phoolan Devi v. State Of M.P. & Ors.*, AIR ONLINE 1996 SC 1038.

²¹ *Mr. Shivaji Rao Gaikwad v. M/s. Varsha Productions*, 2015 SCC OnLine Mad 158.

²² Kateryna Moskalenko, “The right of publicity in the USA, the EU, and Ukraine”, 1(2) *International Comparative Jurisprudence*, 113,120 (2015).