
CASE COMMENT ON THE INFAMOUS CASE OF T-SERIES: SUPER CASSETTES INDUSTRIES V. MYSPACE INC AND ANR”

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ABSTRACT

Laws penalizing cyber crimes are found in many laws and even regulations framed by various regulators. The Information Technology Act, 2000 ("IT Act") and the Indian Penal Code, 1860 ("IPC") penalize many cyber crimes and surprisingly, the IPC and the IT Act have several provisions that overlap with each other. . , All cyber offenses under IPC are for offences under section 420 (cheating and dishonestly abetting delivery of property), section 468 (forgery with intent to cheat), section 411 (dishonestly receiving stolen property), section 378 Apart from this, there are other sureties. (theft) and section 409 (criminal breach of trust by public servant, or banker, merchant or agent), which are non-bailable.

The term "cyber-crime" is not defined in any statute or rule book. The term "cyber" is slang for anything related to computers, information technology, the Internet, and virtual reality. Therefore, it stands to reason that "cyber-crimes" are crimes related to computers, information technology, the Internet, and virtual reality, with laws that govern cyber-crimes in many laws and even regulations enacted by various regulators. punish. The Information Technology Act, 2000 ("IT Act") and the Indian Penal Code, 1860 ("IPC") penalize many cyber crimes and surprisingly, the IPC and the IT Act have several provisions that overlap with each other.

Keywords: Cyberlaw, Internet, Cyber, Intermediaries, Information Technology.

INTRODUCTION

The above case is between T-series or super cassettes and Myspace(a social media platform).

MySpace Inc. (Appellant) is a user-generated content based website that provides a neutral platform for uploading, viewing, and sharing music, entertainment, videos, etc. Their main sources of revenue are advertisements that are generated based on a string of keyword input. Not by the user but by the user-discovered content. A user who wants to upload content must register and agree to abide by the Terms of Service which clearly specifies that no content that infringes another's intellectual property (IP) is uploaded.

Respondents, Super Cassettes Industries Limited, commonly known as T-Series, is India's largest music company with over 100,000 copyrighted songs. They trade through Internet service providers (ISPs) and streaming platforms through the sale and licensing of their copyrighted work in a physical location or virtual area.

FACTS OF THE CASE

Super Cassettes Industries is involved in the business of music distribution and film production. It claims to own several sound recordings, cinematograph films, songs, etc. They also claim to have 20,000 non-film Hindi songs and 50,000 songs in different regional languages. This is largely dependent on the exploitation of its copyright, as this exploitation enables the plaintiff financially to carry out its various business activities. The plaintiff claims that its copyright is exploited by granting a public performance license, for which they receive a certain amount of money in the form of royalties. There are two defendants in this case; Defendant 1 is MySpace Inc. based in the United States and is called a social networking and entertainment website.

Defendant 2 is the owner of MySpace Inc., Defendant 1, called News Corporation, a division of Fox Interactive Media that offers a border-free online network that caters to its customers by providing a variety of tools.. The plaintiff claims that a non-disclosure agreement was signed between the plaintiff and the defendants in the year 2007, after which the defendants were discussed obtaining a license from the plaintiff to display the plaintiff's copyrighted material.

However, negotiations between the two parties failed and the plaintiff's copyrighted material

was still available on the defendant's website without any of the plaintiff's licenses. In 2008, defendants suggested plaintiffs register via email for their risk management tool program. A legal notice in which the plaintiff stated that his rights were sent to the defendants on 20.02.2008, and the reply to that notice was sent by the defendants on 12.03.2008. In the reply notice, the defendants held that the plaintiff's copyrighted material had been removed and that the material would not be available again online. In December 2008, the plaintiff found that the defendants had not removed the plaintiff's copyrighted material from their website despite assurances that it would not be available on their website. The plaintiff, dissatisfied with the assurances of the defendants, filed the present suit before the Delhi High Court; The plaintiff also sought interim relief before the same court.

ISSUES INVOLVED IN THE CASE

Whether the appellants had actual knowledge of infringing material and thus involved section 51(a)(ii) of the Copyright Act, 1957

*Whether the proviso to Section 81 in the Information Technology Act, 2000 overrides the "safe harbor" granted to intermediaries under Section 79.

*Whether sections 79 and 81 of the IT Act and Section 51 of the Copyright Act can be read harmoniously.

ARGUMENTS ADVANCED

The hash block filter tool, the Take Down Stay Down tool and the Rights Management Tool (RMT) in MySpace were intended to protect the IP of the creators. Respondents were given the freedom to choose RMT through which they could create digital fingerprints for their content. However, this was rejected by the respondents, who primarily aimed to shift the entire burden of monitoring the website and sought to deny responsibility. As a result of previous orders SCIL gave a detailed list of songs owned by them and asked the appellants to take them down without mentioning the specific URL. Such a task was technically impossible due to the amount of data under concern.

The appellants also sought protection under Section 79 of the Information Technology Act, being a safe harbor security for middlemen, as they were an arbitrator in accordance with Section 2 (1)

(w) of the IT Act. It was also reiterated that the nature of the advertising revenue was such that the content had no relation to the advertisements on the website. It was eventually submitted that the previous order to remove the material was unclear and far-reaching, as it also sought to prohibit future content.

The respondents claimed that the appellant's business model was harmful because it would violate the other's IP. It was alleged that features such as identifiers and tags only made it more accessible to those who were able to view the defendant's actions for free. It was submitted that MySpace was not an ISP but a resource center. The appellants were also accused of failing the grounds under section 79 as they commenced transmission and failed to follow due diligence.

Division Bench Observation

The first issue raised was whether MySpace can be called real knowledge or Actual knowledge and not infringement under both the Copyright Act and the IT Act, 2000. Only apprehension is necessary to attract crime and prove the cause (intention or motive) of men. Also, there will be no provision of security devices like notice and take down provisions. Real knowledge means. The court found that MySpace had neither 'real knowledge' Nor was there a 'reason to believe' that the uploaded material violated SCIL's copyright Manner.

The second point of discussion was whether MySpace would be protected (secure.) Harbor) as an arbitrator under the IT Act, 2000, ie it should be exempted Liability for information, data or communication links of any third party provided or Hosted by The court found that MySpace qualified the definition of very well As an intermediary it acts as a portal for information. The IT Act, 2000 means In terms of globally accepted standards and in no way regulating the obligation of the arbitrator Reduces guaranteed rights under the Copyright Act. If the moderator definitely follows There are minimum standards and safeguards after the breach on its site, it will act as a Affirmative defense to claim such exemption under section 79 of the IT Act, 2000.

Further, two sections of the IT Act, 2000 - Sections 79 and 81 must be read. To give effect to both harmoniously. Section 79 has an overriding effect; It starts with The term "notwithstanding anything contained in any law in force for the time being" Subject to the provisions of sub- sections (2) and (3), which means irrespective of whatever Other laws, an

arbitrator is guaranteed a 'safe harbor' if only section 79. terms of Are doing. On the other hand, the provision of Section 81 states that "nothing shall happen in this Act". Restrict any person from exercising any right under the Copyright Act or Patent Act. " The meaning of section 79 governs the liability in relation to the arbitrator while The Copyright Act grants and regulates the rights of the copyright owner. Purpose of proviso Only copyright and patent holders attached to Section 41 are not barred from taking legal action. Remedies under the IT Act, 2000. Both Acts-Copyright Act and IT Act, 2000 should be read together to encourage Investment, research and development in the telecom sector. Middleman Engage with liability only if they post infringing material themselves or They fail quickly in actual knowledge or notification of the appropriate government. Removing or disabling access to any illegal content.

JUDGEMENT

Keeping in view the difficulties and harshness faced by the middlemen, the decision of the 2-Judge Bench was formed on a progressive basis with the court. It assumed that MySpace would later cease operations in India as a result of the imposition of a vague order which would further exacerbate the matter. The latter part of the previous order which provided injunctions against future works was held to be invalid as held under Section 51 of the Copyright Act to apply only to current and existing material and not to the creators.

With respect to Issue 1, it was established that the use of only safety equipment does not provide actual knowledge. Modification of the material under a limited license was automatic and did not involve manual intervention. Section 51 (a) (ii) also states that there will be no liability for the violation unless the person is aware or has reasonable grounds to believe so. The act of delivering a catalog that went to a volume but did not have a specific URL was considered inappropriate. The drawback with such an expectation lies in the fact that it will also result in the removal of material held by authorized persons such as distributors. A person's post can also be pulled down to a small fraction of copyrighted material and is a chilling effect on free speech.

The word knowledge should be read in light of the interpretation in *Shreya Singhal v. Union of India* (2015), whereby it refers to a court order. However, the lack of specificity and technical difficulties in executing the order were sufficient grounds to maintain that MySpace had no knowledge.

Section 79 of the Information Technology Act was considered to be subject to the restrictions prescribed under sections 79 (2) and 79 (3) only. The court held that this was an affirmative defense for those middlemen who met the conditions and were not completely free from liability. The learned judges were also of the opinion that Section 71 of the IT Act does not take away the defense of an arbitrator even in cases of copyright. MySpace satisfied the tests under sections 79

(2) and 79 (3) because it did not initiate broadcasting (only a facilitator) and did due diligence by providing the terms of service and a privacy policy. Thus the appellants were entitled to the safe harbor doctrine.

The judges ruled affirmative on the third issue because sections 79 and 81 of the IT Act as well as section 51 of the Copyright Act were to be read harmoniously in the interests of equal relief. SCIL was ordered to provide a specific list containing the URL of the infringing material to the appellants who were to remove it within 36 hours of the notice. MySpace was also ordered to influence the mechanism, if available, to track how much advertising money was made from infringing content to ascertain the amount of future losses.

ANALYSIS

While deciding this case, the court first discussed the law on the subject of copyright in India. It examined the wording of section 51 (a) (ii) which allows for "any place" for profits. By mere words it cannot be understood which type of place should be used so that it falls under the category of violation. However, the court considered that the words in the subdivisions would mean that any location would be a physical location or location on the Internet or web space. To get a clear view of the term, the court took note of the UK Copyright Act, 1956 and the 1988 Act. The court referred to a decision in Comdel Commodities Limited of the House of Lords, deciding on this aspect. *Siporex Trade, SA* in which it was held that when social conditions change and the law does not make provision for it, there will be no presumption that the law does not apply to it, when the terms in the law are broad enough to position it. apply the. The court also observed *Prafulla B. Desai, State of Maharashtra v.* In view of these decisions, the court considered that since the words in section 51 (a) (ii) are loosely worded, it can be inferred that "any place to cover the mistakes made in the web" "The term includes web space. Space. The defendants also had advertisements that appeared on their web pages with the plaintiff's copyrighted work either before or after the clip was shown. In this case,

defendants also have a limited license to add, modify, and delete certain actions uploaded by users, this would be equivalent to allowing space for profit.

The court then differentiated between the concepts of authorizing the violation and providing a place for profit. Its view was that authority involves more than mere knowledge. The court noted English rulings stating that the authority would require approval or approval. Even though the defendants exercise a certain level of control over the uploaded material, the court held that it would not amount to full acceptance or approval which is a standard of common law. The court considered that even if the defendant's acts had not received active approval or approval, the plaintiff's copyright infringement.

The Court established through its decision that Sections 79 and 81 of the IT Act were to be read along with Section 51 of the Copyright Act. Further, knowledge under section 51 meant actual knowledge and interim relief for middlemen was ordered to be specific. The 2-judge bench of the Delhi court had to balance various issues due to far-reaching impact. On the one hand, an owner's IP was being grossly violated, on the other hand, the arbitrator was made liable for difficult and cumbersome tasks. Holding middlemen accountable for acts not under their control will significantly hamper India's digital sector as companies migrate to countries that provide them with better protection. However, an arbitrator should try to implement more safeguards to prohibit violations and not take shelter under the defense of some investigative mechanism in place. The appellants' nature of revenue generation also added in their favor as monetization was not based on content and thus could not be directly benefited from the content infringed.

The decision goes ahead and suggests the use of a 4-step mechanism recommended by the OECD in 2010 to avoid further conflicts, namely: notice and takedown (ii) notice and notice (iii) notice and disconnection and (iv) filtering . Intermediaries are most susceptible to risk because the onus is automatically on them. The advantage of the safe harbor doctrine in India is designed in such a way as to ensure that there is no active participation or misbehavior on their part and this decision ensures clarity in that matter.

CONCLUSION

The internet is a virtual space of undefined boundaries. It is true that copyright owners have the right to modify, sale or distribute their work and protect their work from any infringement,

but in the wake of technology it is essential that the provisions of IT Act, 2000 and Copyright Act are read harmoniously. To put strict liability to intermediary industry would most likely lead to its shutdown, especially where the content is of this magnitude and size. For instance, if WhatsApp and other social media portals were held liable for each infringement given the magnitude of information broadcasted on them, this would mean closure of the website and the businesses.

Such strict liability attached to intermediaries would also mean restriction of free speech and expression to the content uploader. This judgment has clarified the position of claim of a copyright holder with respect to the intermediaries, while also giving some protection to the intermediaries to function smoothly.