

The Origin and Development of a Moral Rights Regime in India under the Copyright Act, 1957

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Abstract: *If any deviation, mutilation, alteration or other act is harmful to his dignity or prestige, the author of a work has the right to assert writer of the work and to restrain or claim liability in respect of any distortion, castration, change or other act in order to get the work. Even after the economic rights are given, moral rights are open to the writers. The article addresses the moral rights that are contained in the Copyright Act, 1957, Section 57. The section grants the producers of an artist's concept two rights, which have been explained in the document. Before concluding by talking about the value of these rights, the Manu Bhandari case, which is a landmark judgement in the field of rights, was also discussed.*

Keywords: *Author, Copyright, Economic Rights, Moral Rights, Ethics, Guidelines, Mutilation, Dignity.*

INTRODUCTION

The Copyright Act preserves the author's moral rights, too. Moral rights derive from the fact that only the identity of the writer is expressed in a literary or creative work, just as economic rights represent a need in the author to hold together body and soul. The Delhi Court ruled in *Amarnath Sehgal v. Union of India*. "Laws are aimed at protecting the right to equal reward in the material world. Yet life is really beyond material stuff. It is also temporary. There are those of us who believe in the spirit. The author's moral rights are the heart of his works. The author seems to have the right, by his moral rights, to preserve, protect and cultivate his creations. In French law, moral rights or 'moral law' arose. The Rome Act of 1928 applied moral rights to the 1886 Berne Convention. Moral rights are exceptions to the general rule that, once the author has transferred his rights to a publisher or other individual, the owner still has the right to prosecute in the case of a violation. Even after the copyright allocation, the author now has right to assert moral rights in the work [1].

KINDS OF MORAL RIGHTS

The writers' moral rights have been recognised in most countries. Mamlah has two moral rights:

- Right of paternity (Droit de paternite):

Paternity rights suggest that an author has the right to claim authorship with his work and may prohibit all those from claiming authorship of his work. The author also has the right to request that his name appear in the appropriate position in all copies of his book. In their works, he may also prohibit from being used his name.

- Right of integrity (Droit de respect de l'oeuvre):

Right of integrity means why an author is entitled to avoid the mutilation of a distortion or other altering of his work or any other activity which would also be damaging to his honour or reputation in relation to that project. This right is especially relevant if a licence or assignment was also given to adapt or change the work in any way, such as playing novels, playing films etc. The borderline between adaptation and distortion is up to the courts to determine.

According to section 57, there is no acknowledgment of that same right to withdrawal/retraction on view including its author's quasi. Rather, the clarification annexed to section 57 states that an infringement including its right conferred by section 57 does not constitute an infringement of the right based on section 57 if the work is not displayed or exhibited to the satisfaction of both the author. Thus, in this respect, the statutory intent behind section 57 is apparent. It is notable that the right of withdrawal is accepted globally only under the condition that the author indemnifies the reader and grants the client the right of first choice. In section 57, no such exception or requirement exists. In Berne Con, there is no such right of deletion or retraction [2].

Moral rights in India:

Section 57 of the Copyright Act, 1957 recognizes moral rights of the author. The provision is based on Article 6bis of the Berne Convention. It reads:

(1) Independently of the author's copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right:

(a) To claim the authorship of the work;

(b) To restrain, or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work if such distortion, mutilation, modification or other act would be prejudicial to his honor or reputation:

Provided also that author has no right to withhold or seek damages for any adaptation of a computer programme at what section 52 of sub-section (1) of clause (aa) applies. EXPLANATION: Failure to present or display a work to the satisfaction of the author can't be considered to constitute an abuse including its rights granted by this clause. (2) The right conferred upon an author of a work by sub-section (1) may be exercised by the legal representatives of the author. Section 57 specifies that, with regard to damage, remedies are accessible to the author. In respect of his profession, mutilation, alteration or other behaviors where such acts may be harmful to his dignity or image.

In the case of computer programmes, Section 57 also includes a clause where a development of a computer programme for the purpose commonly regarded as 'debugging' is allowable. In other words, making copies or adapting a computer programme is only permitted by a lawful holder of a copy of that computer system in two situations: Firstly, to allow use of the computer programme only for purposes by which it is supplied and, secondly, to take back-up copies solely as temporary protection against failure, degradation or harm, so that the computer programme can only be included in the purposes by which it is supplied. However, it is interesting that unlawful owners of computer programmes are still not permitted, for the aforementioned reasons, to adapt or make a copy of such a programme. For purposes other than those referred to in section 52(1)(aa), the creating of copies or adaptation of a computer programme even by legal owners of that computer

programme is not permitted [3]. Failure to show or view a work to the gratification of the narrator would not be treated as a breach of community law.

The author's moral rights are exclusive of the copyright of the author and even the recourse open to him for violation of his copyright. Section 57, in other sentences, confers extra rights on the narrator of a novel. The special protection of copyright is tasked to ensure that the remedies of the injunction and restitution may be invoked even after the assignment of the said copyright in full or in part. This view was retained in *Wiley Eastern Ltd. v. Indian Institute of Management and Amamath Sehgal v. Union of India* in *Mannu Bhandari v. Kala Vikas Pictures Ltd.* and then further upheld. Section 57's scope is of the largest amplitude. It involves not only works of literature and art, but also audio-visual manifestations.

The idea underlying section 57 is that damage to an author's reputation is a kind of job infringement itself. Section 57 allows for is the exception to the rule that after an individual has divided his rights in favour of a publisher or another individual, the publisher does have the right to sue in violation of a violation. The publisher and other such copyright assignee may bring litigation, but section 57 specifies that, even in cases where copyright is delegated, the author may approach to court to protect him from serious injury [4].

Mannu Bhandari Case

30 years after the passage of the Copyright Act, 1957, the first dispute with relation to the moral rights of author arose before even the court. The parties, however, resolved their quarrel out of court in *Mannu Bhandari v. Kala Vikas Pictures Ltd.*, but Justice S.B. Wad pronounced the verdict on the request of lawyers for the parties as there's no court opinion before this case on the application of section 57 of the Copyright Act, 1957. In the work and included, inter alia, has exclusive right to make a cinematographic film in favour of the work, Mannu Bhandari, being the author of the Hindi novel *Aap Ka Bunty*, had copyright. In April 1983, Kala Vikas Pictures Pvt assigned her film rights to the book. Ltd. for a Rs. 15000/-. Thought. It was decided that the author would encourage the script writer who directed the film to incorporate some improvements to the novel in conversation with her in way to produce it fitting for a good film representation of it.

From the very start, disagreements began to emerge between the parties. The first objection to the title of the film was settled by the parties. The change of title was also not viewed by the court as a distortion or a mutilation of the job. However, with regard to the other issues raised by the author, the court ordered that those sentences be omitted from the film on the ground that they skewed the character so that no changes were required [5]. The next objection about the end of the film was raised by the reviewer. The child was eventually admitted to the Travelodge by his natural father in the book, while the film revealed that the child died of hunger after he runs away from the home. The court justified the end of the film, but felt also that manner in which the death was portrayed to the two families and the whole scene in the film was 'too vulgar, brash and irritating' and directed that the part of the start of the night that depicted a large number of dead bodies spread also on table in the funeral home and the family's urgency to find the body of the child must be deleted

The court made significant remarks while addressing the intent and scope of section 57. The court acknowledged that section 57 was a statutory acknowledgment of its author's trade secrets and should thus be secured with particular care. Furthermore, the court noted that the author should

have the right to assert the work's original author as well as the right to limit infringement by seeking damages for the infringement [6]. Even after the transfer of the said copyright, either wholly or partially, similar rights continue to be available to the author. It is clear that section 57 overrides the provisions of the copyright distribution contract. The assignment contract must also be compatible or within context of section 57. The copyright assignor may not assert any rights or special rights which are subject to the provisions of section 57 based on the contract. It is clear that section 57 overrides the provisions of the copyright distribution contract. The assignment contract must also be compatible or within context of section 57. The copyright assignor may not assert any rights or special rights which are subject to the provisions of section 57 based on the contract [7]. The court's concern is to analyze how real and genuine the fresh 'avatar' is and what improvements are required because of a medium's constraints." The court upheld the jury instructions to reject an ad hoc restraint order and to allow the film to be performed after removing of all the appeals while directing marginal adjustments and deletions.

CONCLUSION

A very significant clause is morality right under its copyright law as it recognized the effort put in by the author in decided to conduct forward his production. Although the work was entrusted to a third party, the Act acknowledges that the person alone because no one else owns to the sole right in a work. This right allows the author to be able more to allocate his works to his invention without fear of losing control.

REFERENCES

- [1] MT Sundara Rajan, Moral Rights: Principles, Practice and New Technology (OUP 2011) 169.
- [2] Mannu Bhandari v Kala Vikas Pictures Pvt Ltd and Others (1987) AIR 1987 Delhi 13; Raghavender (n 1) 872
- [3] Braithwaite, Burn and Jessop Construction Co v Trustees of the Port of Madras (1956) 2 MLJ 486.
- [4] Sartaj Singh Pannu v Gurbani Media Pvt Ltd & Anr, MANU/DE/1629/2015.
- [5] PEE PEE Publishers and distributors (P) Ltd. V. Neena Khanna and another, 2010 (44) PTC 45 (Del) at pp. 63-64.
- [6] Gorapati Prasad v. Parmadi Saroja AIR 1992 AP 230
- [7] Arun Chadha v. ACA Productions Pvt. Ltd, 2013 (53) PTC 401 (Del) at pp. 409.