

**SUSHANT SINGH RAJPUT: JUDGEMENT OF THE HON'BLE DELHI  
HIGH COURT**

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**1. INTRODUCTION:**

In a recent judgment passed on July 11<sup>th</sup>, 2023 in the case of *Krishna Kishore Singh Vs Sarla A. Saraogi and Ors*<sup>1</sup>. (hereinafter referred to as the “**Case**”), the Hon’ble Delhi High Court (hereinafter referred to as the “**Court**”) has held that rights of personality, publicity and privacy which emerge as its consequence, are not heritable, and stand extinguished with the death of the person concerned.

Further, the Court also held that there does not exist any distinct concept of “celebrity rights” available only to celebrities. Therefore, being a celebrity does not come along with an extra bundle of rights and rights which emanate from one’s personality, and persona, would be available to one and all, and not only to celebrities.

However, the Court also noted that merely because rights of personality, publicity and privacy are extinguished with the death of the person, an heir of the person can file a suit for damages in case of any defamation or slander to the name of the person.

This Case forms a crucial part of the jurisprudence of Article 21, Article 19(1)(a) and Article 19(2) of the Constitution of India, 1949 (hereinafter the “**Constitution**”).

**2. FACTUAL BACKGROUND OF THE CASE:**

The plaintiff, in this matter, was the father of Sushant Singh Rajput (“**Plaintiff**”), a Bollywood actor, who passed away on 14<sup>th</sup> June, 2020. Around March, 2021, the Plaintiff, being the sole surviving legal heir in category 1 of class 2 legal heirs, filed a *quia timet* action based on certain information that the defendants, i.e. Sarla A. Saraogi and others (“**Defendant**”), were in the process of producing a movie based on the life of Sushant Singh Rajput (“**SSR**”), without taking the permission of any of his legal representatives.

The Plaintiff sought for permanent injunction against the Defendants from using SSR’s name, caricature or lifestyle in any projects or films without the prior permission of the Plaintiff, as the same would infringe the personality rights of SSR and cause deception in the minds of the public.

**3. SUBMISSIONS BY THE PLAINTIFF**

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<sup>1</sup> CS(COMM) 187/2021, I.A. 10551/2021 & I.A. 14436/2021

- a) It was submitted by the counsel for the Plaintiff that over a period of time, celebrity rights have emerged as a distinct intellectual property right and therefore they enjoy distinct bundle of personality rights, privacy rights and publicity rights.
- b) The counsel for the Plaintiff argued that the movie being produced by the Defendants relies on defamatory statements and news articles and have therefore violated the right to privacy of both of SSR and the Plaintiff. He further argues that events which led to the death of SSR and events post his death are personal to the Plaintiff and streaming of the same is impermissible
- c) The counsel for the Plaintiff also submitted that since the investigation into the death of SSR is still ongoing, release of any such movie could be prejudicial to a fair trial. Further, streaming of the movie would result in continuous diminishing and deterioration of the reputation and goodwill of SSR.
- d) It was further submitted that celebrity rights which vest in individual by virtue of him being a celebrity, continue to exist, posthumously, in his legal representatives.

#### **4. SUBMISSIONS OF THE DEFENDANT**

- a) It was submitted by the counsel for the Defendant that the rights of privacy and publicity do not survive a person's death. He submitted that right to privacy, publicity and protection against defamation are all personal rights, which do not survive the person concerned, and are not heritable.
- b) He further submitted that since the Plaintiff has never once objected to publications available in the public domain, he cannot now complain that the impugned movie violates his right to privacy, or the right of SSR to privacy. It is permissible for anybody to make a movie on events which have actually occurred. He submitted that the movie has merely drawn inspiration from true events which were widely reported in the media, form part of public record and are a part of the sanctified right to free speech which inheres in every citizen by Article 19(1)(a) of the Constitution.

#### **5. ANALYSIS BY COURT**

- a) The Court, while analysing the arguments put forth by the parties along with the judgments cited by the counsels, observed that '*writing of the life story of a person, whether laudatory or otherwise, and its publication without his consent, invaded the person's right to privacy, the remedy lay not in any injunction against the publication itself, but in a tortious action for damages*'.
- b) The Court also observed that that the reputation of a person, as well as personality rights and right to privacy are not heritable and stand extinguished with the death of the person concerned. The maker of such movie or web series is not required to take prior consent from the heir of the person for the purpose of producing a movie or web series basis their life and events. This right to privacy cannot be canvassed by one person, on behalf of another, without due authorization.

- c) The Court further went on to observe that when the article, or publication, or movie, is based on a prior published material that is available in the public domain and the Plaintiff chose not to impugn or challenge the same, no injunction could be sought by the Plaintiff against the subsequent publication or movie, which was based thereon.
- d) Lastly, the Court also pointed out that no concept such as “Celebrity Rights” can subsist in a celebrity and the same is not permissible under the Constitution. Rights which emanate from one’s personality, and persona, would be available to one and all, and not only to celebrities.

## CONCLUSION

In light of the aforementioned observations, the Court dismissed the application filed by the Plaintiffs thereby allowing the Defendant to exploit the film. However, the Court also noted that the right of the Plaintiff to maintain and prosecute the suit for damages from the Defendants, would stand preserved and be decided on merits.

Therefore, vide this judgment, it has been abundantly made clear that rights of reputation of a person, as personality rights as well as the right to privacy, are not heritable in nature, and would therefore be extinguished once the person dies. Further, a person, by virtue of being a celebrity is not enriched with any additional rights of privacy, personality or publication due to his stature.

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