

## CRITICAL ANALYSIS OF RAJNEESH JAISWAL V. DIL RAJU: A CASE OF INCORRECT APPLICATION OF THE PRINCIPLES OF EQUITY

Nandini Arya\*  
&  
Varsha Agarwal\*\*

### Abstract

*Bollywood industry is beaming with remakes from Hollywood as well as Tollywood industry. The recent movie 'Jersey' is an example of such a movie which is a remake of Telegu film 'Jersey'. However, before gaining success at box-office, it had to face a legal obstacle – the writer of the movie claimed injunction over copyright infringement. However, the High Court of Bombay denied the relief of injunction to the writer on account of application of the equitable doctrine of gross delay & laches. In the present case comment, the authors critically analyse the case of Ranjeesh Jaiswal v. Dil Raju in the light of the doctrine of gross delay and laches. The authors discuss the doctrine, questioning whether the court's decision to apply this equitable doctrine was appropriate in this instance or not. Furthermore, the authors examine the recent Indian jurisprudence on this doctrine in the context of Intellectual Property (IP) disputes and tries to examine whether the doctrine was correctly applied in this case or not. The authors also highlight the court's error in non-application of the Limitations Act and instead applying an equitable doctrine which should apply in cases of last resort. The authors further present other substantial arguments against the reasoning of the honourable Bombay High Court. The case of Rajneesh Jaiswal v. Dil Raju underscores the complexities of copyright infringement disputes in the Indian film industry. The author's analysis accentuates concerns about the protection of IPR and the potential implications of the court's decision for the industry.*

**Keywords:** Bollywood Remakes, Copyright Infringement, Gross Delay and Laches, Indian Film Industry, Intellectual Property Rights.

---

\* B.A. LL.B. Student, National Law University, Jodhpur.

\*\* B.A. LL.B. Student, National Law University, Jodhpur.

## 1. Introduction

Copyright infringement suits in Bollywood is a well-known issue, with many instances of songs, characters, and at times even entire films being inspired by several foreign and regional movies. From ‘Sholay’ (1975), which drew inspiration from multiple western movies specifically ‘Seven Samurai’, to *Partner* (2007), inspired by ‘Hitch’ to ‘Raabta’ (2017), which faced a lawsuit from the producers of ‘Magadheera’; thus, there have been many such cases. Typically, these disputes are settled out of court by Bollywood in order to continue their release and distribution.<sup>1</sup> Another movie that should be added to this list is the 2022 Indian sports drama film ‘Jersey’, starring Shahid Kapoor. At its heart, ‘Jersey’ is a touching story about a father and son, despite being set in the cricket world. The movie follows the journey of Arjun Talwar, a talented Ranji player who gives up cricket at the age of 26 but returns to the sport ten years later. Arjun’s motivation is to fulfill his son Kitu’s desire of having a cricket jersey and of seeing him play cricket. However, Arjun faces emotional challenges with his wife Vidya Talwar, who is responsible for all the family finances. In this case comment, the authors aim to delve deeper into the case of *Rajneesh Jaiswal v. Dil Raju & Ors.* where the movie ‘Jersey’, has been alleged to be plagiarised from Rupesh Jaiswal’s script ‘The Wall’ (2007). The paper explores the legal and ethical implications of the alleged infringement of copyright, and its impact on the film industry. The authors examine the role of courts in protecting Intellectual Property and aims to contribute to a better understanding of the importance of protecting copyrighted works and the challenges faced by creators in the digital era.

## 2. Analysing the Facts of the Case

In the case<sup>2</sup> under study, the plaintiff is a renowned scriptwriter in the film and television industry. He has been working in the industry for more than a decade. The Plaintiff, on November 26, 2007, registered a script that he had written titled ‘The Wall’. The Plaintiff came to know about ‘Jersey’ in a story published in the Bombay Times on

---

<sup>1</sup> Sumeysh Srivastava, “Raabta, Partner, Kaante: How Bollywood has dealt with Plagiarism Cases”, available at: <https://scroll.in/reel/873364/raabta-partner-kaante-how-bollywood-has-dealt-with-plagiarism-cases> (last visited on August 25, 2023).

<sup>2</sup> *Rajneesh Jaiswal v. Dil Raju & Ors.* Interim Application (L) No.10431 of 2022 In Comip Suit (L) No.10429 of 2022, available at: [https://www.livelaw.in/pdf\\_upload/bombay-high-court-jersey-movie-415046.pdf](https://www.livelaw.in/pdf_upload/bombay-high-court-jersey-movie-415046.pdf).

December 27, 2021 and then discovered that ‘Jersey’ and ‘The Wall’ shared a lot of similarities. He also learned that the movie is a remake of a 2019 Telugu movie.

Thus, on January 29, 2022, the Plaintiff served a ‘cease-and-desist’ notice, requesting payment for what is claimed to be a “*theft of story, concept and ideas which are original and registered literary works of the Plaintiffs*”.<sup>3</sup> The defendants denied the compensation and refused to stay the release of the film. Therefore, the plaintiff filed an interim application before the High Court of Bombay praying for an urgent ad-interim relief for a stay on the launch of ‘Jersey’ movie in any form, be it theatres, e-platform, or any other media.<sup>4</sup> The plaintiff has likewise sought for immediate refrain from the publicity of the film in any form in any media.

The defendant relied upon the defence of gross delay and laches in seeking ad-interim relief on the part of the plaintiff. He contended that it is “inconceivable” that the plaintiff came to know about the film so late after the original Telugu film had garnered so much appreciation and attention from the public. Therefore, the defendant seeks to not provide any relief to the Plaintiff.

## **2.1. The Bombay High Court Order**

### *2.1.1. Submissions by the Plaintiff*

The plaintiff contended that from the brief description of the film mentioned in the Bombay Times article, he found an uncanny resemblance of the movie with his script ‘The Wall’, which is registered with the Screenwriters Association in 2007. On January 29, 2022, the Plaintiff issued a ‘cease-and-desist’ notice in which information was sought regarding the revenue generated by Telugu Film ‘Jersey’. The Plaintiff demanded and compensation of Rs.5,00,00,000/- or 50% of total revenue generated form Telugu film ‘Jersey’ whichever is higher. Furthermore, it stipulated that the defendants cease all advertising, publishing, and other publicity-related actions for the Hindi movie on any platform including print or electronic media, immediately.<sup>5</sup>

---

<sup>3</sup> *Ibid*

<sup>4</sup> Akriti, “Rajneesh Jaiswal files Copyright Case against the Movie Jersey”, *available at*: <https://blog.mikelegal.com/uncategorized/rajneesh-jaiswal-files-a-copyright-case-against-the-movie-jersey/> (last visited on August 30, 2023).

<sup>5</sup> *Ibid*.

There is no mention of how the defendants acquired the script for the film 'Jersey' in the Hindi Remake Rights Agreement of August 7, 2019, through which the rights for the Hindi remake of the Telugu film 'Jersey' that have been given to the defendants were acquired.<sup>6</sup> The counsel relied on the case of *Kapil Chopra v. Kunal Deshmukh*,<sup>7</sup> where the defendants (Defendant No. 3 and 4) argued that they were bonafide buyers of the movie and were unaware regarding the alleged plagiarism by the other defendants (Defendant Nos.1 and 2). Therefore, any injunction granted would cause them great loss. The Hon'ble Bombay High Court had found no merits in this argument and rather held that the Plaintiff cannot be presented with *fait accompli*<sup>8</sup> because the concerned defendants (Defendant Nos. 3 and 4) could always get compensation for the loss from Defendant Nos. 1 and 2 (from whom they purchased the right), so giving the injunction would not cause loss to them. Furthermore, he contended that in the *Kapil Chopra* case, Defendant No. 1 had previously shared the story with another actor at some point in the year 2009 and that the information had also been posted on a blog in November of the same year. However, in 2012, the plaintiff obtained the remedy that was sought. According to him, there has been a substantial adoption of his script in the defendants' film 'Jersey'. Thus, the relief of injunction on the release of the film 'Jersey' should be granted to the plaintiff.<sup>9</sup>

### 2.1.2. Submissions by the Defendants

The defendants invoked the 'Hindi Remake Rights Agreement' through which, in good faith, the rights for the Hindi remake of the Telugu film 'Jersey' were transferred to Defendant No.3 by Defendant No.2, with Defendant No.1 as a party to the agreement. Defendant No. 3 issued a notice on August 9, 2019, publicly announcing the application for remake rights for the Telugu movie and inviting objections from third parties. No objections were raised by the plaintiff. The film, starring Shahid Kapoor, was officially announced on November 1st, 2019, through a publication in Bombay Times. Originally slated for release on August 28, 2020, the release was postponed to April 22, 2022, due to Covid-19. Meanwhile, promotional campaigns were underway and A cinematic trailer

---

<sup>6</sup> Judgement of *Rajneesh Jaiswal v. Dil Raju & Ors.* 4-5, available at: [https://www.livelaw.in/pdf\\_upload/bombay-high-court-jersey-movie-415046.pdf](https://www.livelaw.in/pdf_upload/bombay-high-court-jersey-movie-415046.pdf) (last visited on September 02, 2023).

<sup>7</sup> 2013 (1) Mh.L.J. 343.

<sup>8</sup> An accomplished fact.

<sup>9</sup> *Supra* note 6 at 6-7.

for the movie, released on YouTube on November 23, 2021, garnered nearly 653,305,02 views.<sup>10</sup>

On top of that, it was claimed that Telugu film “Jersey” had already been theatrically launched on April 19, 2019, both domestically and internationally, and had been exploited on numerous channels and OTT platforms before the public notice. The Telugu movie’s Hindi dub was uploaded on YouTube by M/s. Goldmines Telefilms on October 13, 2019 and has received roughly 10,25,59,841 views since then. The Plaintiff delayed more than 1.5 months, to affirm the Complaint and file the Interim Application, on March 29, 2022, even after the Defendants had answered and refused to stop the production and of the film on February 7, 2022.<sup>11</sup>

Considering all these timelines and events, it was argued that it is improbable that the plaintiff learned about the relevant Hindi film ‘Jersey’ until reading an item in the Bombay Times on December 27, 2021, and that there has been a glaring delay in claiming for relief. It was further argued that scenes in a cricket movie frequently resemble one another, especially when they feature a character who ultimately fulfils his aspiration of playing cricket, whether for the Indian Cricket Team or the Ranji Trophy Cricket Team.<sup>12</sup>

The case of *Sameer Wadekar v. Netflix Entertainment Services Pvt. Ltd.*<sup>13</sup> was relied on, wherein the Bombay High Court found it implausible to accept that the defendants could copy a purportedly original story authored by the plaintiff, considering that there was no link between the Defendant and third party who exchanged emails with Plaintiff regarding the film. *Sai Paranjpaye v. PLA Entertainment Pvt. Ltd.*<sup>14</sup> was referred to, in relation to the argument of public notice. The Bombay High Court ruled in this case that the plaintiff therein, who is well acquainted with the film industry and how it operates, cannot credibly claim that she was unaware of the said public notice or that no one specifically called her attention to the said public notice of the subject film in that case. Similar to this, the plaintiff in the current case cannot claim to be unaware of the

---

<sup>10</sup> *Supra* note 2 at 4-5, 7.

<sup>11</sup> *Supra* note 2 at 7-8.

<sup>12</sup> *Id.* at 13.

<sup>13</sup> In I.A. No.1 of 2020, 2 of 2020 and 3 of 2020 (Decided on 22<sup>nd</sup> May, 2020).

<sup>14</sup> Notice of Motion (L) No.764 of 2013 in Suit (L) No.280 of 2013.

‘Jersey’ public notice that was released. Ad-interim relief is not given if the defendant is prejudiced by the delay, according to several decisions of the Bombay High Court, which were referred.<sup>15</sup>

### 2.1.3. Reasoning of the Bombay High Court

The Court stated that the Telegu movie was already exploited in theatres and OTT platforms alongside being released on YouTube with such large viewership. Furthermore, a public notice was issued for the objections regarding the assignment of the rights to make a Hindi remake of the Telegu movie ‘Jersey’ in 2019 to which the plaintiff filed no objections to. Thus, the Court applied the doctrine of delay and laches. Furthermore, the plaintiff only requested a permanent injunction against the release of the Hindi version of the movie ‘Jersey’ in the final prayer and not the Telegu movie, despite both being identical.<sup>16</sup>

The Court skipped over comparing the Plaintiff’s script with the suit movie ‘Jersey’, on concluding that there had been a significant delay in the request for ad-interim relief. The Court concluded that it is abundantly clear from the established case laws that courts will not entertain such an application for ad-interim relief if doing so would prejudice the Defendant.<sup>17</sup>

The Court did not apply the reasoning of the *Kapil Chopra case*<sup>18</sup> in the present case because of the differences in their facts. According to the High Court, the main fact in *Kapil Chopra*, that led the Court to grant relief was Defendant No. 1’s friendly demeanour which convinced the plaintiff to give him his script, which he then used in flagrant breach of the trust the plaintiff had placed in him. This was not the case in the present circumstance.<sup>19</sup>

### 2.1.4. The Order

The Bombay High Court held that due to the reasons above, the interim relief sought – a stay on the release of ‘Jersey’ cannot be granted. Thus, the ad-interim relief sought is denied.<sup>20</sup>

---

<sup>15</sup> *Supra* note 2 at 9-10.

<sup>16</sup> *Supra* note 2 at 11.

<sup>17</sup> *Id.* at 12.

<sup>18</sup> *Supra* note 7.

<sup>19</sup> *Supra* note 2 at 12-13.

<sup>20</sup> *Id.* at 13.

Thus, in *Rajneesh Jaiswal v. Dil Raju*, the Bombay High Court has not provided the remedy of permanent injunction against the release of ‘Jersey’ since there was gross delay and laches in seeking out the ad-interim relief.<sup>21</sup> The Court also considered the aspect that granting an injunction at this point of time would be prejudicial to the interest of the defendant. Moreover, the Court reasoned that it cannot be fathomed that the plaintiff did not know about ‘Jersey’ given its popularity and the plaintiff himself being a part of the film and television industry. Therefore, the court also imported negligence on the part of the plaintiff to deny the remedy of injunction to him. However, it remains to be seen whether the Court applied the doctrine based on sound reasoning and logic.

### 3. Jurisprudence on Gross Delay and Laches Doctrine

#### 3.1. The Gross Delay and Laches Doctrine

The doctrine of Gross Delay and Laches is a civil legal defence that is claimed in civil matters where there has been an unreasonable and inordinate delay in seeking remedy and making claim by the plaintiff. It is considered as an equitable defence which prevents the parties from a claim in a delayed manner. The rationale behind the doctrine is that inordinate delay on the part of a party effects the other party from putting a fair defence and provide adequate evidence for the same. The Civil Courts offer legal remedies by way of damages or by an order of specific performance against which the defence of gross delay and laches can be claimed.<sup>22</sup>

#### 3.2. Elements of the Doctrine

There are mainly three elements to this doctrine which is to be fulfilled to claim this defence:

- The delay made by the party must be unreasonable.
- There should be knowledge of a claim by the plaintiff before.
- There should be negligence on the part of the plaintiff to assert its claim.

#### 3.3. Source of the Doctrine

This doctrine was first propounded by Lord Chancellor. Stating it to be an equitable doctrine, Lord Chancellor observed that a person can claim relief under this

---

<sup>21</sup> *Ibid.*

<sup>22</sup> Mauli Dogra, “Doctrine of Laches: Why Wait?”, available at: <https://www.legalserviceindia.com/legal/article-6767-doctrine-of-laches-why-wait-.html> (last visited on December 04, 2023).

doctrine when there has been an ‘undue’ delay in filing the claim by Plaintiff. In *Gunton v. Carroll*,<sup>23</sup> it was observed that “*laches can be used only in such situation where the delay from the appellant side cause prejudice to the respondent*”.<sup>24</sup>

However, subsequently in *Bassett v. Company*,<sup>25</sup> it was held that it is the discretion of the court to grant the defence of delay and laches irrespective of whether the delay causes prejudice to the other party or not. This was later clarified that “*if the petition is filed after the lapsed of the time then in such a case there the doctrine will not apply when the petitioner has a legitimate and sufficient cause to prove such a delay because there are various situation when the petitioner with a mala fide intention bring the case late*”.<sup>26</sup>

### 3.4. Doctrine of Gross Delay and Laches in IPR

The defence of gross delay and laches is taken mainly for injunction against using the allegedly infringed Intellectual Property. Delay in requesting an injunction as a remedy often indicates that there is no irreparable harm and little urgency created by the infringement. Nonetheless, if a good enough explanation is shown, the courts have the power to excuse the delay.<sup>27</sup>

In a number of cases, the Indian Courts have acknowledged the defence of gross delay and laches in IPR. In *D.R. Cosmetics Pvt. Ltd. v. J.R. Industries*,<sup>28</sup> the Bombay High Court observed that delay by itself cannot be a sole ground for refusing injunction in case of an IPR. It was further observed that grounds such as dishonest conduct must also be taken into account for considering the application of this doctrine.<sup>29</sup>

Furthermore, in the case of *Indian Network of people living with HIV AIDS and TNN v. Union Of India*,<sup>30</sup> the Court observed that “*its discretion was governed by the objective of promoting public interest and good administration and on that basis, it*

<sup>23</sup> (1879) 101 U.S. 426 (USA).

<sup>24</sup> Aayushi Gupta, “Doctrine of Laches: Blessing or Prejudice”, available at: <https://lawwallet.in/doctrine-of-laches-blessing-or-prejudice/#> (last visited on December 06, 2023).

<sup>25</sup> (1867) 47 N. H. 426.

<sup>26</sup> *Supra* note 24.

<sup>27</sup> Manisha Singh, “India: Court Elaborates on Doctrine of Delay and Laches”, available at: <https://www.mondaq.com/india/trademark/59856/court-elaborates-on-doctrine-of-delay-and-laches#> (last visited on December 06, 2023).

<sup>28</sup> 2008(110) Bom.L.R.307.

<sup>29</sup> *Supra* note 27.

<sup>30</sup> 2008 SCC OnLine Mad 892, available at: <https://indiankanoon.org/doc/1910836/> (last visited on December 06, 2023).



*cannot be said that discretion would not be exercised in favour of interference where it is necessary to prevent continuance of usurpation of office or perpetuation of an illegality”.*

The defence of gross laches and delay was not accepted in the present case considering the fact that the delay did not cause an irreparable harm to the defendants.<sup>31</sup>

Moreover, in *Pernod Ricard France and Anr. v. Rhizome Distilleries and Ors.*, it was held that “*inordinate delay does not defeat an action for the grant of a temporary injunction where the use of the mark by the defendant is fraudulent*”.<sup>32</sup> Thus, the Court granted an injunction to the plaintiff keeping in mind that the conduct of the defendant was fraudulent in nature.

The most prominent case in recent times wherein the Court allowed the defence of gross delay and laches is *Khoday Distilleries v. The Scotch Whisky Association*.<sup>33</sup> The Court dealt with a case of acquiescence along with delay and it was observed by the court that, “*in order to put forth the plea of acquiescence by a party, the owner of a legal right ought to have done something beyond mere delay to encourage the party to believe that they do not intend to rely on their strict legal rights and the party must have acted to its prejudice in that belief.*”<sup>34</sup>

The Delhi High Court in *Cable News Network v. Cam News Network Limited*,<sup>35</sup> considered the fraudulent and dishonest behaviour on the part of defendant and whether the delay has prejudiced the defendant’s case apart from considering delay from the plaintiff’s side. Taking these factors into consideration, the Court declined to allow the defence of gross delay and laches. Thus, Indian Courts does not allow refusal of relief for IPR infringement solely on the ground of delay. It considers other aspect such as fraudulent and dishonest behaviour, prejudice to the defendant etc. as has been noted in the above-mentioned cases.<sup>36</sup>

---

<sup>31</sup> *Supra* note 30.

<sup>32</sup> 2009 SCC OnLine Del 3346.

<sup>33</sup> (2008) 10 SCC 723.

<sup>34</sup> *Khoday Distilleries v. The Scotch Whisky Association*.

<sup>35</sup> C.S. (O.S.) No. 1815/2006.

<sup>36</sup> *Cable News Network v. Cam News Network Limited*.

## 4. Criticism of the Judgement

### 4.1. Within the Scope of Limitation Act, 1963

Even if we consider that the plaintiff should have come to know of the infringement from the time the Telegu film, ‘Jersey’ had been released (19<sup>th</sup> April, 2019), but the time period from 19<sup>th</sup> April, 2019 to the date when the plaintiff filed the complaint, i.e., 29<sup>th</sup> March, 2022 is 2 years, 11 months, 10 days which is within the limitation period of 3 years from the date of the infringement.<sup>37</sup> Therefore, the Court should have allowed the ad-interim relief demanded by the plaintiff.

It is also important to note that during the first Covid-19 crisis, the Supreme Court, had given an order<sup>38</sup> to exclude the time-period from 15<sup>th</sup> March, 2020 till 14<sup>th</sup> March, 2021 in computing the limitation period for instituting proceedings and then in the second wave, the Supreme Court, further extended the exclusion period till 28<sup>th</sup> February, 2022 in the calculation.<sup>39</sup> So, the period of 2 years, 11 months, 10 days should be rather deemed around 1 year.

### 4.2. Law versus Equity

The doctrine of delay and laches is an equitable doctrine. It is often said that *“Equity assists the law, where it is defective and weak in the constitution (which is the life of the law), and defends the law from crafty evasions, delusions and mere subtleties, invented and contrived to evade and elude the common law, whereby such as have undoubted right are made remediless. And thus is the office of equity to protect and support the common law from shifts and contrivances against the justice of the law. Equity, therefore, does not destroy the law, nor create it, but assists it.”*<sup>40</sup>

<sup>37</sup> The Limitation Act, 1963 (Act No. 36 of 1963), Schedule First Division - Suits.

<sup>38</sup> *In Re: Cognizance for Extension of Limitation*, Miscellaneous Application No. 665 of 2021 In SMW(C) No. 3 of 2020, available at: [https://main.sci.gov.in/supremecourt/2021/10651/10651\\_2021\\_31\\_301\\_30354\\_Order\\_23-Sep-2021.pdf](https://main.sci.gov.in/supremecourt/2021/10651/10651_2021_31_301_30354_Order_23-Sep-2021.pdf).

<sup>39</sup> *In Re: Cognizance for Extension of Limitation*, Miscellaneous Application No. 21 OF 2022 in Miscellaneous Application No. 665 OF 2021 in Suo Motu Writ Petition (C) No. 3 of 2020, available at: [https://main.sci.gov.in/supremecourt/2022/871/871\\_2022\\_31\\_301\\_32501\\_Order\\_10-Jan-2022.pdf](https://main.sci.gov.in/supremecourt/2022/871/871_2022_31_301_32501_Order_10-Jan-2022.pdf).

<sup>40</sup> *Lord Dudley v. Lady Dudley*, (1705) Prec Ch 241.

The Supreme Court has in numerous cases like *Laxminarayan R. Bhattad v. State of Maharashtra*,<sup>41</sup> *Raghunath Rai Bareja v. PNB*,<sup>42</sup> *B. Premanand v. Mohan Koikal*,<sup>43</sup> and many others, held that it is law and not equity that shall prevail where there is a conflict between equity and law.

A US Supreme Court case also has persuasive value in this regard. It was the case of *Petrella v. Metro-Goldwyn-Mayer*,<sup>44</sup> where also there was a limitation period of three years. The Copyright Act stated that a claim for copyright infringement must be commenced within three years after it accrues. The Supreme Court's opinion outlines three main principles regarding the concept of laches in a copyright case. Firstly, the doctrine of laches cannot completely prevent a copyright infringement lawsuit if it is brought within the three-year statute of limitations. This is because laches is intended to be used only when there is no statute of limitations, and cannot override such legislation. Secondly, in exceptional cases, a delay in initiating legal proceedings may limit the possibility of receiving equitable relief. Thirdly, while it may not prevent a lawsuit altogether, a delay in bringing a case may be considered when determining the extent of damages awarded.

Thus, the approach of the Bombay High Court to give the judgement based on the equitable doctrine of delay and laches rather than the law is irksome.

#### **4.3. Mere Delay Not Sufficient to Reject Reliefs**

As indicated in the jurisprudence above and cases like *Midas Hygiene Industries P. Ltd. v. Sudhir Bhatia*,<sup>45</sup> the Supreme Court has stated that “*in cases of infringement either of Trade Mark or of Copyright normally an injunction must follow. Mere delay in bringing action is not sufficient to defeat grant of injunction in such cases.*” The same was reiterated in *Renaissance Hotel Holdings Inc. v. B. Vijaya Sai*.<sup>46</sup>

However, in the present case the Bombay High Court, though the Court considered certain other unsatisfactory grounds as discussed below, a major aspect considered by the Court was the doctrine of laches and delay combined with the

---

<sup>41</sup> 2003(5) SCC 413.

<sup>42</sup> 2007 2 SCC 230.

<sup>43</sup> 2011 4 SCC 266.

<sup>44</sup> 572 U.S. 663 (2014).

<sup>45</sup> 2004 (3) SCC 90.

<sup>46</sup> 2022 (5) SCC 1.

presumption that since the plaintiff is part of the industry, he should have known about it, so much so that it decided to not even go for checking the similarity between the movie and the script written by the plaintiff.

The Plaintiff's final prayer only requested a permanent injunction on the release of the Hindi film 'Jersey', not the Telugu version, which was another factor in the denial of the ad-interim relief. This reason is not satisfactory either, firstly, for the fact that the Court in the name of equity could still have put a restrain on the Telegu film as well, because though the relief was not asked in the prayer, it was part of the pleadings, it is not like the Court on its own is going for a completely altered remedy.

#### 4.4. Issues in the Cases Relied on by the Defendant and the Court

In the case, the defendant and the Court relied on following cases:

- *Sameer Wadekar v. Netflix Entertainment Services Pvt. Ltd.*<sup>47</sup> - this case was relied on to state that the defendant could not have copied the story of the original story due to lack of communication between the two. However, the Court failed to distinguish that in the case Sameer Wadekar, the subject-matter was the story of Vetala from Hindu mythology, which is known by many people and thereby rejected the ad-interim relief, apart from the reason of delay. However, in the present case, the script is not such a piece of art that it is well-known.
- *Sai Paranjpaye v. PLA Entertainment*<sup>48</sup> - this case was relied to state that due to the delay on the part of the plaintiff, ad-interim relief should not be granted. But the counsel for defendant and the Court ignored the fact that the reason for denial of the ad-interim relief was not just gross delay but also on the ground that the Plaintiff has not talked about vulgarity/obscenity in her complaint for moral right violation, and other factors that tilted the balance of convenience in favour of the defendant.

There was no case cited that had held that doctrine of laches alone is sufficient for the court to reject relief.

Rather, the Court rejected the case of *Kapil Chopra v. Kunal Deshmukh*,<sup>49</sup> which was rightly cited by the plaintiff to argue that the relief must be given because permitting

---

<sup>47</sup> I.A. No.1 of 2020, 2 of 2020 and 3 of 2020 Decided on 22nd May, 2020.

<sup>48</sup> Notice of Motion (L) No.764 of 2013 in Suit (L) No.280 of 2013.

<sup>49</sup> 2013 (1) Mh.L.J. 343.

the defense would create a systematic engine of deceit. The case of Kapil Chopra held that the ‘bonafide’ defendants who would not have known of the alleged infringement by exercising due diligence could get compensation from other defendants who knew or would have known of the existence of plaintiff’s copyright, thereby balancing the right of writers and bonafides and holding that the grant of the injunction will not make them (‘bonafide’ defendants) sufferers (prejudice to defendant is the primary reason behind application of this doctrine as explained above). Thus, the plaintiff should appeal against the denial of the relief.

### 5. Conclusion

In the case of *Rajneesh Jaiswal v. Dil Raju* and others where the movie ‘Jersey’, has been alleged to be plagiarised from Rupesh Jaiswal’s script ‘The Wall’ (2007), the Court had denied the ad-interim relief of an injunction primarily due to application of the doctrine of gross delay and laches.

The Court had considered several aspects of this doctrine such as negligence on the part of the plaintiff, fraudulent and dishonest behavior on the part of the defendant and others. Given the emerging jurisprudence on this doctrine in the context of IPR in India, the Court had denied relief to the plaintiff based on the presumption that the plaintiff already knew about ‘Jersey’ and its storyline. Therefore, negligence was imported to the plaintiff in seeking delayed ad-interim relief in the form of injunction.

The case comment finds several issues with the application of the doctrine and other aspects of the order as well. The Bombay High Court had failed to consider that the plaintiff filed the complaint within the limitation period of three years. The Supreme Court has held that just delay itself is not a sufficient ground to deny an injunction demanded in copyright infringement cases. Furthermore, the case comment questions the Court’s reliance on the precedents cited, arguing that they were inapplicable to the case at the hand.

In conclusion, the case comment has tried to delve deeper into the doctrine of gross delay & laches and critically analysed the reasoning of the Bombay High Court. Though the matter is disposed in the Bombay High Court, the authors hope that in future such travesty of justice does not happen and the orders are passed in favour of the writers owing to the reasoning as enumerated by the authors.