

NEWSLETTER MARCH, 2023

NATIONAL

Zee Media Challenges Interrogatories Raised By MS Dhoni In A Defamation Suit In Madras HC

Zee Media has challenged an order of a single judge that allowed interrogatories raised by MS Dhoni in a defamation suit in the Madras High Court. The defamation case was filed against media companies and others for making defamatory comments about MS Dhoni surrounding the 2013 IPL Betting Scandal.

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Asianet News Channel Should Be Granted Police Protection In Case Protest Against Them Turns Violent: Kerala HC

Asianet News is facing protests with respect to an alleged staged broadcast of news piece regarding a minor girl who was made to say that she was a victim of drug abuse and sexual exploitation. The news channel approached the High Court alleging that a group of activists from the ruling party who forcefully entered their Kochi office and intimidated the staff. The channel is facing investigation under the POCSO Act for the same. The court observed, "Be that as it may, as the incident has attained political colours and there are protests against the petitioners unit, it is likely that there will be further protests against the petitioner which may turn violent. If that be the case, the respondents are bound to get effective protection".

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Need For Appropriate Laws And Guidelines To Regulate Content On Social Media And Ott Platforms: Delhi HC

Owing to the use of vulgar and obscene language on the social media platforms and its impact on the children of tender age, the Delhi High Court has said that the issue of enactment of appropriate laws and guidelines to monitor content on social media and OTT platforms needs urgent attention.

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Plea To Block Telegram In India Disposed

Kerala High Court disposed of a plea to block Telegram in India as a complaint was filed against the said platform that it was circulating obscene, vulgar sexual content which was featuring women and child pornography content. The Petitioner raised the issue that since there is neither a grievance officer nor any registered office in India for the messaging App therefore it was difficult to trace the perpetrators. But the court disposed the plea as the website of Telegram does have a URL available having the contact details of the grievance officer and said that the petitioner can approach the Grievance Officer of the messaging service directly.

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Petition Filed By Filmmakers Over Poster With Deity's Picture On A Sanitary Pad Disposed Of By SC

A writ petition filed by film makers of "Masoom Sawal" seeking clubbing of complaints over its poster with a deity on a sanitary pad was disposed of by the Supreme Court. The complaints were filed against the filmmakers alleging hurting of religious sentiments. As only one formal FIR was registered and no formal FIRs were registered on the other complaints, the Court held that the petitioner's relief was misconceived as "no direction for clubbing of non-existent FIRs can be issued".

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Anushka Sharma Directed To Approach Appellate Authority Under The Maharashtra Value Added Tax Act

Actress Anushka Sharma filed a petition challenging the orders of the Deputy Commissioner of Sales Tax, Mazgaon relating to dues from 2012-2016 for assessment under the Maharashtra Value Added Tax Act. She argued that the assessing officer wrongly held that by endorsing products and anchoring she acquired copyrights which are tangible goods, that are sold and transferred and that she is liable to pay only 5% tax. The department argued that "She is providing her services and earning income through contract for services and not through contract of services (Not employed with anybody). Therefore, under Section 17 of the Copyright Act 1957 she is first owner of Copyrights created in her artistic performances."

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Need To Regulate Hate Speech And Fake News On Social Media

Supreme Court Justices opined that there is a need for laws to regulate proliferation of fake news and hate speech on social media and in its absence, there should be judicial intervention. Justice S Ravindran Bhat while speaking at the Harvard India Conference said, "In today's age and day, which is characterized by easy and rapid proliferation of media via the Internet, a retreating State and an overwhelming level of privatization, the freedom of speech and expression faces far more insidious and indirect. The absence of more stringent regulation or a framework of law that regulate control and ownership of media houses has unfortunately meant that private interests are having a chilling effect and beginning to dictate what is reported on in the news in a newsroom".

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Service Tax Not Applicable To Service Of Advertisement In Print Media: CESTAT Delhi Bench

Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Delhi Bench has held that service tax is not applicable to services of advertisement in print media. The two-member bench held that such services are exempt in terms of the negative list of services under Section 66 D(g) of the Finance Act. The appellant in the instant matter was a pharmaceutical products manufacturer/exporter. The issue in this case was related to demand for service tax on a reverse charge basis with respect to expenses incurred in foreign currency on business promotion and other activities.

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Process to streamline A single window clearance for film shoots underway

The Ministry of Information and Broadcasting is working to simplify the approval process required for international filmmakers to shoot in India, in an effort to attract more film projects. The Film Facilitation Office (FFO) portal is being restructured to streamline the process and create a single window platform for obtaining various permissions. The revamp is being carried out in coordination with state governments and other agencies such as Indian Railways and the Archaeological Survey of India. The ministry aims to simplify the procedures and also wants to track the incentives being offered to filmmakers.

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Strong Disapproval To Zee News' Broadcast Against Shehla Rashid: NBDSA To Delhi HC

The News Broadcasters and Digital Standards Authority (NBDSA) said before the Delhi High Court that it objected and disapproved of a program aired by Zee News in 2020 against JNU scholar Shehla Rashid and it had also passed an order last year where it directed the channel to take down the broadcast from their website, YouTube and other platforms and issue an unequivocal apology to the scholar which was refused unreasonably by the channel. The court while hearing this plea held that such unreasoned refusal to issue an apology is wholly arbitrary and unsustainable in law and an apology from the news channel is essential to mitigate the damage caused to the reputation of the petitioner.

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Data Protection Bill Gets A Thumbs Up From IT Panel

The draft Personal Digital Data Protection Bill, 2022 has been given a big thumbs up from The Parliamentary Standing Committee on Communications and Information Technology (IT) and it will soon be tabled in parliament.

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Copyright Infringement Suit Filed By 'Kacha Badam' Singer

Bhuban Badyakar, the 'Kacha Badam' song's singer claimed that he is not able to sing his other song and share it online due to the alleged copyright infringement with respect to his song 'Kacha Badam'.

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Gujarat HC A Seeks TRAI's Response On Cable Operator's Plea Against Increased Channel Pricing

A notice was issued by the Gujarat High Court to the Telecom Regulatory Authority of India (TRAI) regarding a writ petition filed by the Cable Operator Association of Gujarat to challenge the new Tariff Orders which seek to increase channel prices from Rs. 12 to Rs. 19 and its inclusion in bouquets offered to cable subscribers. The petitioner challenged the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Fourth Amendment) Regulations, 2022 [Regulations Amendment, 2022]

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Exemption From Advisory On Mandatory National Interest Content: News Broadcasters To The Govt.

Now, Central Board of Film Certification (CBFC) will have to be convinced by filmmakers of the need for a smoking scene in accordance with the proposed changes to the movie making rules. Even after such approvals are obtained, filmmakers must include disclaimers and warnings pertaining to such scenes.

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Digital India Bill To Replace Information Technology Act, 2000

According to the reports, the Draft Digital India Bill will be ready by July 2023 and it will replace the Information Technology Act, 2000. The Bill contains provisions for regulating the complexities of the internet, rapid expansion of the intermediaries and address issues relating to emerging technologies. "There are as many as 850 million Indians on the internet today, the world's largest digitally connected democracy. There are multiple types of intermediaries - ecommerce, digital media, social media, AI, OTT, gaming etc. There is space for criminalities and illegalities, and new complex forms of user harms like catfishing, doxxing, cyber stalking, cyber trolling, gaslighting, phishing etc. There is also a proliferation of hate speech, disinformation and fake news. The Digital India Act (DIA) will not be prescriptive, it will be principle-based. There are aspects in the presentation in the openness section that are being dealt with by the Competition Commission of India in the competition law amendments.

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Targeted References To "Real Fruit Juice" To Be Removed From The Video: Calcutta HC To YouTuber Dhruv Rath

The Calcutta High Court while dealing with YouTuber Dhruv Rathee's video analysing the health effects of fruit juices which disparaged Dabur's packaged fruit product 'Real' juice granted interim relief to the company. The Court observed, "The impugned video shows an earlier advertisement which had been aired by the petitioner in respect of its product Real and also shows the petitioner's product Real in a blurred manner. The product of the petitioner Real has been repeatedly targeted both overtly and covertly in the impugned video. Any consumer would understand that the product shown in the impugned video is that of the petitioner's product Real.

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Notice To A Publishing Company Regarding A Plea On Sale Of A Book On Rana Kapoor Issued By Delhi HC

A notice was issued by the Delhi High Court on plea moved by Penguin Random House regarding trial court's restraining order on sale and distribution of a book on former YES Bank CEO Rana Kapoor titled "The Banker Who Crushed His Diamonds: The YES Bank Story" seeking Rana's response and ordered for requisition of the trial court's order. The plea states that "the Respondent No. 1 (Kapoor) impliedly acquiesced to the reporting of various stories around him, thereby waiving his right to subsequently object to the publication of the Book.

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It is not mandatory for an Intermediary to take action against alleged infringers on user's complaint under Rule 03 of the IT Rules, 2021: Delhi High Court

The Delhi High Court while hearing a suit filed by a manufacturer and seller of car covers against Flipkart and eight entities who were allegedly selling similar products by copying the design, look and feel of the car covers sold by it on the e-commerce platforms observed that an intermediary is not required to take action against alleged infringers on receiving a complaint of the user regarding the infringing acts on the portal under Rule 3 of the IT Rules, 2021. The Plaintiff alleged that by failing to remove the allegedly infringing lists from its website despite an intimation by the Plaintiff, Flipkart infringed the statutory provisions under the IT Rules, 2021.

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Failure To Issue Notice To An Account Holder Does Not Vitate The Blocking Order: Karnataka HC To Centre

Failure To Issue Notice To An Account Holder Does Not Vitate The Blocking Order: Karnataka HC To Centre Accounts on Twitter continued to post inciting content even after notices were issued to Twitter by the Centre and consequently blocking orders were passed for such miscreant accounts.

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Makers Of Hera Pheri 3 Land Into Legal Trouble

A public notice has been issued to the makers of 'Hera Pheri 3' by T-Series claiming all copyright in the music and audio-visual rights of all the songs in the entire film franchise. As per T-Series's claim, the said rights were assigned by Base Industries Group to them.

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Stay On Imtiaz Ali's Biopic Film Chamkila

A civil court in Punjab stayed the broadcast, release, upload, or stream of Producer Imtiaz Ali's film starring Diljit Dosanjh, Parineeti Chopra, and Gurmail Kaur. The film is a biopic on Chamkila and singer Bibi Amarjot Kaur. The stay was in response of a petition filed by Ishjeet Randhawa and Sanjot Randhawa, sons of deceased producer Gurdev Singh Randhawa claiming that the rights to make a biopic on Chamkila were assigned by the late producer's wife via an agreement to them.

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Display Of Health Warning During Smoking Scenes Mandatory For OTT Platforms

Government (Union Health Ministry) has proposed to amend the Cigarettes and Other Tobacco Products Act (COTPA) to make display of health warnings during smoking scenes in movies and Web series over the OTT platforms mandatory.

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Spotify Removes Zee Music Song Repertoire From Its Platform

After the failure of negotiations for renewal of license, Spotify removed Zee Music's songs from its streaming service platform. The platform said in this regard, "Throughout these negotiations, Spotify has tried to find creative ways to strike a deal with Zee Music and will continue our good faith negotiations in hopes of finding a mutually agreeable solution soon."

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Legal Notice Issued To Netflix over Derogatory Remarks on Madhuri Dixit In The 'Big Bang Theory'

A lawsuit was filed against Netflix over a remark in an episode of the 'Big Bang Theory' on Indian Actress Madhuri Dixit. In one of the episodes one of the characters in the sitcom compared Aishwarya Rai and Madhuri Dixit and made a derogatory comment on Dixit.

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INTERNATIONAL

CCB Ruled In Favor Of A Photographer Who Claimed Copyright Infringement By A Lawyer In His Photographs

The Copyright Claims Board has issued its decision regarding a copyright infringement case filed by a photographer contending that a lawyer infringed the copyright in his photographs by displaying one of his photographs on his law firm website. The defendant in the case admitted that he copied and displayed the photographer's work on his website without his permission but he argued that his daughter found and placed the photograph in question also argued fair use and unclean hands in his defence for using the photograph in question.

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Tiktok Did Not Infringe Stitch Editing Trademark: Jury In California

A Jury in California ruled in favour of Tiktok in a lawsuit against it brought about by a UK company, Stitch Editing Inc. Stitch claimed that the social media platform's video editing tool, Stitch, infringed upon its trademark. Tiktok argued that the Stitch's trademark in its name does not give it a "global monopoly on use of the word 'Stitch' to refer to the process of combining video clips together."

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Post Malone and Former Down with Webster Member Head to Trial in "Circles" Copyright Case

In a lawsuit filed by a member of a Canadian rock band Down with Webster, Tyler Armes ("Plaintiff") against Austin Post, popularly known as "Post Malone" ("Defendant") alleging copyright infringement against the Defendant for his 2019 song "Circles", the New York Federal Court was informed of a settlement between the parties during the jury selection round. The Plaintiff had submitted before the court that he co-wrote the keyboard chords and the guitar melody with the Defendant and has "significant inputs" on the bassline for which no compensation and credits were given to him.

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Sentence of 5 And A Half Years To A Local YouTube Star In A Large-Scale Cable Piracy Case

Bill Omar Carrasquillo, a local YouTube star was sentenced to a five-and-a-half-year prison for conducting an illegal business of selling access to cable TV content by hijacking it from the set-up boxes at a price of \$15 a month. More than \$30 Million dollars' worth of his assets were ordered to be forfeited. During the hearing in the federal court U.S. District Judge Harvey Bartle III said, "Thirty million dollars is a lot of money [but] tangible objects aren't everything.

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US Copyright Office Issues Policy On Ai Authorship

The US Copyright Office has issued a new statement policy on "Works Containing Material Generated by Artificial Intelligence" to be published in the Federal Register. The move comes after a recent case involving the graphic novel "Zarya of the Dawn" where copyright registration was limited to the text of the novel which was developed by human intellect and not the AI generated images and other such cases where either protection of AI generated works are in question or the question of authorship of AI is put forth.

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Versace – Fashion Nova Lawsuit J' Lo's Iconic Dress Settles

Versace and Fashion Nova have ultimately settled their copyright and trademark infringement lawsuit. Back in November 2019, Versace claimed that Fashion Nova was selling imitations of their famous designs, marks, symbols and other protected elements including the tropical green chiffon dress that Jennifer Lopez wore at the Grammys, 2000. Versace asserted that such unabashed copying of their iconic designs is an act of exploiting the luxury brand's reputation by misleading the consumers to believe that the knock offs of the fast fashion brand were "manufactured or authorized by, or in some manner associated with, Versace".

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