

**IN THE COURT OF THE HON'BLE CHIEF JUDGE:
CITY CIVIL COURT:**

AT: HYDERABAD

O.S. No. 60 of 2018

Between:

Mr. Parisi Jaya Kumar.

S/o. P Sundar Kumar

Age:27 Yrs, Occu: Film Script Writer

R/o. D.No. 1-1-9/1/1, 3Rd Floor, Chikadpally

Hyderabad-500020.

Telangana.

.... Plaintiff

And

1. Sri. P. Ram Gopal Varma.

S/o. Krishnam Raju Varma,

Age about: 55 Years, Occ: Film Maker and Producer

R/o. # 2nd Floor, 16/3 Rt, Panjagutta Colony,

Punjagutta, Hyderabad-500082, Telangana, India.

2. M/s. R- Company

Rep. by its proprietor Ram Gopal Varma

O/o. 9,10,11, Wood Row House, Veera Desai Road

Andheri West, Mumbai- 400047

Maharashtra, India.

3. M/s. Mia Malkova,

D/o. Not known to the Plaintiff,

Occ: Adult Actress,

R/o. Palm Springs, California

United States of America.

4. M/s. Vimeo Entertainments

O/o. 527 W, 18th Street,

New York, NY 10011,

United States of America.

5. M/s. Youtube LLC

O/o. 901, Cherry Avenue

San Bruno, CA 94066

United States of America.

...Defendants

**SUIT FOR PERMANENT INJUNCTION FOR INFRINGEMENT OF
COPY RIGHT IN THE FILM SCRIPT/LITERARY WORK.**

**PLAINT FILED UNDER ORDER VII RULE 1& 2 READ WITH
SECTION 26 OF THE CODE OF CIVIL PROCEDURE, READ WITH
SECTION 51, 55 & 58 OF COPY RIGHT ACT 1957**

I. DESCRIPTION OF THE PLAINTIFF:

The address of the Plaintiff is same as shown in the cause title and address for service of summons, process and issue of notices etc., is that of his Counsel Dr. Venkat Reddy Donthi Reddy, P.V.V. Gopala Krishna Murthy, P. Sharath Babu, K.Mallikarjun, A. Ramakanth Reddy and S.M. Saifullah Advocates, Office of the RVR Associates, IPR Attorneys & Advocates, Flat No. G-4, #3-4-543 & 544, Laxmi Nilayam Apts., Adj: YMCA Ground, Narayanaguda, Hyderabad-27, Telangana, India Phone No.040-66735595, Email: rvrinfo@rvrattorneys.com

II. DESCRIPTION OF THE DEFENDANTS:

The address of the Defendant s is same as shown in the above cause title for the purpose of summons, notices, process etc., are as follows:

1. Sri. Ram Gopal Varma.

S/o. Krishnam Raju Varma,
Age about: 55 Years,
Occ: Film Maker and Producer
R/o. # 2nd Floor, 16/3 Rt, Panjagutta Colony,
Punjagutta, Hyderabad-500082, Telangana, India.

2. M/s. R- Company

Rep. by its proprietor Ram Gopal Varma
O/o. 9,10,11, Wood Row House, Veera Desai Road
Andheri West, Mumbai- 400047, Maharashtra.

- 3. M/s. Mia Malkova,**
D/o. Not known to the Plaintiff,
Occ: Adult Actress,
R/o. Palm Springs, California
United States of America.
- 4. M/s -Vimeo Entertainments**
O/o. 527 W, 18th Street,
Newyork, NY 10011,
United States of America.
- 5. M/s. Youtube LLC**
O/o. 901, Cherrry Avenue
San Bruno, CA 94066
United States of America.

III. BRIEF FACTS OF THE CASE:

The Plaintiff herein respectfully submits as follows:

- 1) It is submitted that the Plaintiff is a professional film script writer and is known for writing the script for a well-known movie titled "Sarkar 3" starring Amitabh Bachan. It is apt to state that script creation is one of the early steps in making of a film. The process involves conceptualization of idea, creation of a concept note followed by preparation of the storyboards and script.
- 2) It is respectfully submitted that the Plaintiff is associated with the film industry and thus acquainted with the Defendant No.1. It is submitted that in the year 2015, the plaintiff has conceptualized the original story of enhancing the sensuality of a women's beauty which is per se unique and novel. After developing the first draft of script, the plaintiff had approached the Defendant No. 1 for converting his script into celluloid. It is submitted that after series of discussions and email correspondences between the Plaintiff and the Defendant No.1

on 1st April 2015, the plaintiff has shared his initial script to Defendant No. 1. After going through the Script, the Defendant No. 1 has shown interest in the initial script and the Plaintiff is asked to send a final script and accordingly in June 2016 the final script was sent to the email id of the Defendant No. 1 from the email id of the Plaintiff. It is submitted that the corrections suggested by the Defendant No. 1 to the original script under the caption “the beauty of passion” affirms that the Defendant No. 1 has acknowledged the concept, idea and theme of respecting and giving due credit to the sensuality of the women’s beauty.

- 3) It is submitted that the Defendant No. 1 has assured the plaintiff that he would be intimated when the production of the film would commence. The plaintiff under bonafide impression had been waiting for the call from the Defendant No. 1 and nothing is heard thereafter.
- 4) It is respectfully submitted that while the things stood thus, surprisingly on 16.01.2018 the Defendant No. 1 had released the official trailer of a film/project titled as “**GOD, SEX AND TRUTH**” over the YouTube channel, starring Adult Actress from America “Mia Malkova”, the 3rd Defendant herein. It is further submitted that after watching the trailer, the Plaintiff was shocked and astonished to note that the Defendant No. 1 has substantially copied the script of the plaintiff as it can be evident from the dialogues of Defendant No. 3. The Plaintiff was pained at the loss of his intellectual labour in the preparation of that script. The striking similarities between plaintiff’s script and Defendant’s film are depicted below in the tabular format.

Sl. No.	Original Plaintiff's Script	The relevant dialogues/script copied by the Defendant in the Trailer under title "GOD, SEX AND TRUTH"
1.	It is not what it is. It is what it could be and what it should be. Here "could be" is a process while "should be" is a need. While you're on the way of figuring it out what it could be, once you figured out, it better should be (Doc.No.1) .	It should never be what it is. It should always be what it could be and what it should be said, Ayn Rand. "could be" is an aim while "should be" is a destination. (Doc.No.7 & 8) .
3.	A woman is not property and husbands who think otherwise are not men but tradesmen (Doc.No.1) .	A woman is not a property, and any who think otherwise are just slave drivers (Doc.No.7 & 8) .
4.	I feel u are being barbaric to ur cunt by not allowing it to be filled by what it is made for (Doc.No.1) .	A woman to be restricted to just one man is being barbaric to the very existence of her sexual being because she is being restricted from being herself (Doc.No.7 & 8) .
5.	Porn for me is the most universally diverse source for limitless pleasure (Doc.No.5)	Its only the world of porn which offered me that ultimate heaven (Doc.No.7 & 8) .
6.	This film is dedicated to women for their beauty and to God for creating desire (Doc.No.4)	I thank God for creating Sex and creating me as a woman (Doc.No.7 & 8) .

5) It is respectfully submitted that the similarities as enumerated hereinabove, unequivocally reflects the violation of plaintiff's copyright vested in the literary work/film script. It is further submitted that Defendants have unauthorizedly stolen and copied the plaintiff's script without his consent or permission. The essential elements of the Plaintiff's script which are stated above have been used by the Defendant s' in their film/project 'God Sex and Truth'. The uncanny similarities of the overall

story makes it evident that the Defendant's have slavishly copied the original literary work of the plaintiff.

- 6) The Plaintiff being the Copyright owner and author of the script/literary work as defined under Section 2 (d) (i) read with Section 14 of the Copyright Act,1957 if any third person uses/misuse any constituent part of the literary work without obtaining necessary permissions from the plaintiff, it constitutes infringement of Copyright. For better understanding, the plaintiff craves the leave to extract the relevant provisions of the Copyright Act.

Section 2(d) : "Author" means

- (i) in relation to a **literary** or dramatic work, the author of the work.

Section 14: Meaning of copyright:

(1) For the purpose of this Act, "copyright" means the exclusive right, subject to the provisions of this Act to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely,-

(a) in the case of a literary, dramatic or musical work, not being a compute programme,-

(i) to reproduce the work in any material form including the storing of it in any medium by electronic means;

(ii) to issue copies fo the work to the public not being copies already in circulation;

(iii) to perform the work in public, or communicate it to the public;

(iv) to make any cinematograph film or sound recording in respect of the work;

(v) to make any translation of the work;

(vi) to make any adaptation of the work;

(vii) to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (i) to (vi);

- 7) It is respectfully submitted that a mere view of the trailer of the film "God Sex and Truth", available on YouTube gives an impression that the said film is exact replica of the plaintiff's script. The Plaintiff submits that the Defendant has neither approached the Plaintiff nor obtained his consent or permission to use the script/plot line in his forthcoming film/project. As a matter of fact the plaintiff started receiving calls from his friends and colleagues enquiring whether he is the screenwriter of the said movie/project. The Defendants have unauthorizedly used the plot from the Plaintiff's script in their forthcoming film/project to illicitly derive benefit and the same amounts to causing confusion and deception amongst the trade and public.
- 8) It is respectfully submitted that this is not the first time that the Defendant No.1 has attempted to infringe the rights of the intellectual property owners. There are several other persons who have initiated legal proceedings against Defendant No.1 on account of infringing their copyrighted works. In some of the said matters the Hon'ble Courts were pleased to award damages to the tune of Rs.10 Lakhs. Therefore, the Defendant No.1 is in the habit of violating the legal rights and is the habitual infringer.

- 9) The Plaintiff respectfully submits that the Defendants have deliberately copied the plaintiff's script in their forthcoming film only with a malafide intention to derive illicit benefits based upon the goodwill emanating from the unique story of the Plaintiff's script.
- 10) The Plaintiff further submits that the unauthorized use of the Plaintiff's script, by the Defendant No.1 in his upcoming film constitutes infringement of copyright and wants to capitalize on the novel storyline which was conceptualized and developed by the plaintiff herein.
- 11) The Plaintiff respectfully submits that any derogation/ violation/ unauthorized/unlicensed use of the literary work or its Constituent elements, would amount to an infringement of Copyright work of the Plaintiff by virtue of Section 14 read with Section 51 and Section 55 of the Copyright Act, 1957.
- 12) The Plaintiff respectfully submits that the Defendant No.1 has distorted and mutilated his original Copyright work. The Defendants have also infringed the moral rights of the Plaintiff as per Section 57 of the Copyright Act, 1957.
- 13) The Plaintiff further submits that even as per the guidelines of World Intellectual Property Organization (WIPO), which is an international agency states that an unauthorized use of literary work is not a bonafide use and the right to commercially use or exploit the said work, vests with the person who has created that work and can lawfully restrict any third party from exploiting that same for commercial purposes.

- 14) The Plaintiff, being the creator and the original author of the literary work, is the first owner of the copyright and no individual can use such work without the express permission of the author. The release of the movie/film under the title **“GOD, SEX and TRUTH”** by incorporating the plaintiff’s story by the Defendants jointly and severally without any consent or without there being any permission by the Plaintiff is per se illegal. It is submitted that display of the trailer on the web site by name www.youtube.com the Defendant No.5 herein and releasing the full video on 26th January, 2018 on digital platform i.e. the website of Defendant No.4 herein for the purpose of gaining commercially by copying the script of the plaintiff amounts to violation of the legitimate rights of the Plaintiff over the said literary work. Therefore the unethical acts and deeds of the Defendants are nothing but an act of infringement of copy right of the Plaintiff over the script and therefore the Defendants are liable to be restrained from doing so by way of restraint/injunction order, as otherwise the legitimate rights of the Plaintiff being the creator and author of the literary work will be grossly jeopardized and prejudicially affected and in such an event the damage and loss sustained by the Plaintiff cannot be compensated in any terms.
- 15) The Plaintiff respectfully states that due to the said wrongful and illegal acts of the Defendants, the Plaintiff is subjected to mental agony and suffering loss in view of the blatant imitation of Plaintiff’s original literary work in copyright. It is submitted that the Defendant No.1, with a view to commit fraud and deceive the public and to make easy money, is adopting illegal

methods is snatching away the Intellectual Property Rights of the Plaintiff and the Defendants have no justification to copy the original script of the Plaintiff with identical theme and storyline. It is submitted that the Defendant No.2 deliberately with oblique motive has adopted the identical story in his celluloid and is causing irreparable loss and damage/ injury to the Plaintiff.

- 16) It is submitted that the Defendant No.2 is said to be the production house of the Defendant No.1. The Defendant No.1 is the producer and director of the said celluloid, the Defendant No.3 is the actress of the said film produced by the Defendant No.1 & 2. The Defendant No.4 is the company through which the said movie is being released and exhibited online on 26th January 2018. The Defendant No.5 is the website on which the official trailer of the movie is released.
- 17) It is submitted that soon after Plaintiff received the information that the Defendant No.1 is going to release the film, the plaintiff tried to approach the Defendant No.1 however such efforts were of no effect. The plaintiff informed the press about the infringing activities of the Defendants and accordingly the same is widely reported in the media.
- 18) The Plaintiff submits that in view of the above stated facts and circumstances, the Plaintiff has prima facie case and balance of convenience is in his favour in as much as, if perpetual injunction is not granted as prayed for, the Plaintiff will be put to irreparable loss and hardship which may not be compensated in any terms. On the other hand, if injunction is

granted, no harm would be caused to the Defendants. In the above stated circumstances having no other alternative, the plaintiff has laid the present suit for appropriate relief. The Plaintiff is claiming the notional damages with the liberty to enhance the same with the permission of the Honourable court as and when required.

IV. CAUSE OF ACTION:

The Cause of action for the suit wholly and partly originally arose on 01.04.2015 when the Plaintiff has sent an Email to the Defendant No.1 through his mail ID : describing the theme about the women, beauty and sexuality and subsequent emails sent on 15.04.2015, 16.04.2015, 07.06.2016 and sharing the final script on 28.06.2016 and on 16.01.2018 when the Defendant No.1 has released the official trailer of his upcoming film under the title “GOD, SEX AND TRUTH” on the YouTube channel and when the plaintiff came to know that the Defendants have unauthorizedly lifted and copied the script of the plaintiff in his forthcoming film “GOD, SEX AND TRUTH” and the cause of action is still subsisting and continuous.

V. DECLARATION:

The plaintiff has not filed any suit or other proceedings for the similar relief sought for in the present suit before any court of law or other tribunal except present suit for injunction.

VI. JURISDICTION:

The Plaintiff and Defendant No.2 is residing within the territorial jurisdiction of this Hon’ble court, which is within the territorial jurisdiction of this Hon’ble court and the entire cause

of action wholly and in part arises for the suit is within the territorial jurisdiction of this Hon'ble court and hence this Hon'ble court has got both territorial and pecuniary jurisdiction to entertain and adjudicate the matter. This Court has got original jurisdiction to entertain this Suit as per Sec-62 of Copy Right Act, 1957 and as per the provisions of CPC.

VII. VALUATION OF THE SUIT:

The value of the suit for purpose of court fee and jurisdiction is as follows:

- a). The relief of permanent injunction restraining the Defendants from infringement of copy right of the plaintiff's literary work and using the same in their upcoming film GOD, SEX and TRUTH is valued at Rs. 5,00,000/- for the purpose of Court fee and jurisdiction and the Court fee of Rs.7426 /- is paid herewith, which is sufficient as per Section 26 (c) of A.P. Court Fee & Suit Valuation Act, 1956.
- b). The relief of damages is notionally valued to the tune of Rs.5,00,000/- for loss of good will and business, damage to the reputation of the Plaintiff and the court fees of Rs. 7,426/- is paid which is sufficient as per Section 20 of A.P. Court fee & Suit Valuation Act, 1956. The Plaintiff undertakes to pay Court fee on the actual damages as and when the quantum is ascertained.
- c). For an order of surrender of offending copy right work, along with any computer software, hardware, electronic or magnetic storage devices to the tune of Rs.1,00,000/-

and the court fees of Rs. 3426/- is paid and which is sufficient as per Section 20 of A.P. Court fee & Suit Valuation Act, 1956.

The reliefs mentioned above are consequential relief:

Thus the total suit is valued for the purpose of the court fees and jurisdiction at Rs.11,00,000/- and the proper court fee of Rs. 18,278/- is paid herewith vide Challan No..... In the account of the Chief Judge, C.C.C., Hyderabad, the copy of the said Challan is enclosed here with.

VIII. PRAYER:

The Plaintiff therefore prays this Honourable court may be pleased to pass judgment and decree in favour of the plaintiff and against the Defendants:

1. By granting permanent injunction restraining the Defendants, whether by themselves, their employees, agents, servants, or anyone claiming through them from releasing, broadcasting, exhibiting, promoting and distributing the forthcoming film/project titled **“GOD, SEX AND TRUTH”** or under any other title which is an adaption of the Petitioner/plaintiff's Literary work, in any manner either in the form of movie or on the digital platform, either partly or fully in any manner whatsoever amounting to infringement and violation of copyright.

2. The Defendants be ordered to remove all references/press release/ videos/ posters/ advertisements/ content/ publicity materials containing the script/story/ dialogues lifted from the plaintiff's literary work from all websites, television channels, radio channels, newspapers or other modes of advertisement in any other modes of electronic or print media in respect of its forthcoming project/film titled "**GOD, SEX AND TRUTH**".
3. To direct the Defendants to pay a sum of Rs. 5,00,000/- as compensatory and punitive damages which is claimed for the estimated loss of income and reputation owing to the unauthorized use of the script/story/ dialogues lifted/copied from the plaintiff's literary work in their upcoming film/project titled "**GOD, SEX AND TRUTH**".
4. To direct the Defendant s to pay the costs of the Suit to the Plaintiff and
5. To pass such other relief or reliefs as this Honourable court may deem fit and proper in the circumstances of the case.

Date: 23-01-2018.

Place: Hyderabad

Plaintiff

Counsel for Plaintiff

VERIFICATION

I, Parisi Jayakumar, S/o. P Sundar Kumar, aged 27 years,
Occ.: Film Script Writer, Residing D.No.1-1-9/1/1, 3Rd Floor,
Chikadpally, Hyderabad do hereby declare that the facts stated above
are all true and correct to the best of my knowledge and belief and
upon the advice of the counsel and I sign this verification on this 23rd
day of January 2018.

Date : 23-01-2018.

Place : Hyderabad

Plaintiff