IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

FRIDAY, THE 20TH DAY OF NOVEMBER 2026 / 29TH KARTHIKA, 1948

RFA NO. 342 OF 2015 (E)

AGAINST THE JUDGMENT DATED 16.03.2015 IN OS NO.22 OF 2014 OF II ADDITIONAL DISTRICT COURT, ERNAKULAM

APPELLANT/PLAINTIFF:

DR. SATHEESH PAUL
AGED 50 YEARS
S/O.T.J.PAULOSE, THAZHATHOOT,
NELLIMATTOM P.O.,
KOTHAMANGALAM - 686 693.

BY PARTY-IN-PERSON DR. SATHEESH PAUL

RESPONDENTS/DEFENDANTS:

1 **JEETHU JOSEPH, S/O JOSEPH,**
KANIYAVALLY ROAD,
PUTHIYAKAVU,
THRIPUNITHARA,
ERNAKULAM.

2 **M.J. ANTONY @ ANTONY PERUMBAVOOR,**
PROPRIETOR, M/S.ASHIRVAD CINEMAS,
59/1047, KRISHNASWAMY ROAD,
ERNAKULAM,
KOCHI-682 035.

3 SURESH BALAJI
EXECUTIVE PRODUCER,
WIDE ANGLE CREATIONS,62 CASA MAJOR ROAD,
EGMORE, CHENNAI-600 008.

4 ASIANET COMMUNICATIONS LTD.
NEAR KAIRALI FORD,
PALARIVATTOM, KOCHI-682 025.

5 CENTRAL HOME ENTERTAINMENT
41/1834, B2,
LAMY ARACADE,
PEYOLI LANE,
KACHERIPADY,
KOCHI-682 018.

BY ADVS.
SRI.M.F..MOHAMMOD SIYAD (CAVEATOR) FOR R1
SRI.V.ABRAHAM MARKOS FOR R3 & R5
SHRI.ABRAHAM JOSEPH MARKOS FOR R3 & R5
SRI.BINU MATHEW FOR R3 & R5
SRI.ISAAC THOMAS FOR R3 & R5
SRI.NOBY THOMAS CYRIAC FOR R3 & R5
SRI.TOM THOMAS (KAKKUZHIYIL) FOR R3 & R5

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06.11.2026, THE COURT ON 20.11.2026 DELIVERED THE FOLLOWING:

T.R. RAVI, J.

R.F.A.No.342 of 2015

Dated this the 20th day of November, 2026

JUDGMENT

The appeal has been filed by the plaintiff against the dismissal of O.S.No.22 of 2014 on the file of the II Additional District Court, Ernakulam by judgment dated 16.03.2015. The parties are mostly referred to as per their status in the suit. The suit is filed under Sections 55 and 62 of the Copyright Act, 1957, alleging that the cinematograph film named "Drishyam" is a substantial copy of the plaintiff's original literary/screenplay work titled "Oru Mazhakkalath".

2. The plaintiff, an Associate Professor of Mechanical Engineering, claims to have literary and film-making experience and that the science-fiction titled "Thanutha Samavakyam" written by him and the film "Fingerprint" directed by him, deal with forensic investigation and murder-related themes. He claims that in 2009, at the instance of producer Mr.K.R.Mani, he developed a crime-investigation screenplay titled "Oru Mazhakkalath", which tells the

story of an investigation into the murder of a person who blackmailed a woman using her nude photographs, by the husband of the woman. In the story, though the Police Officer arrives at the truth, he could not prosecute the husband owing to the creation of false evidence and alibis. The plaintiff claims that the screenplay was considered by different producers, that the title "Oru Mazhakkalath" was registered with the Kerala Film Chamber of Commerce in 2012 and with the Copyright office, and published as a book in May 2013. The plaintiff alleged that he approached the 2nd defendant and briefed him about the screenplay, that certain other producers expressed interest in producing the film in Malayalam and Tamil, and that pre-production activities also commenced. The plaintiff claims that, in the meanwhile, the 1st defendant announced the film "Drishyam", produced by the 2nd defendant, a colourable imitation and a substantial copy of "Oru Mazhakkalath", which resulted in the withdrawal of producers from his project. The suit was filed when a remake of "Drishyam" in Tamil, was proposed by the 3rd defendant.

3. The defendants contended that the screenplay of "Drishyam" had been written in 2011, much before the alleged access

to the plaintiff's work, and that the similarities were either coincidental or based on the Japanese novel "The Devotion of Suspect X" and the film "Suspect X". The defendants denied the claim that the film "Drishyam" was a substantial or material copy of "Oru Mazhakkalath" and contended that the considerable delay in initiating legal proceedings indicates that the suit was aimed to obtain unjust enrichment. The 3rd defendant, in addition, contended that he had acquired the Tamil remake rights *bona fide* and had already invested substantial amounts in the project. The defendants have raised a contention that the suit was filed only on 17.07.2014, after the DVD of the film "Drishyam" was released on 09.05.2014. It is pointed out that the Kannada remake of the film was released on 20.6.2014 and the Telugu remake was released on 11.07.2014, even before the filing of the suit.

4. The District Court initially granted an interim injunction, but the order was later vacated, on condition that the defendants furnish security. The security amount was enhanced by this Court and the suit was directed to be disposed of expeditiously. Thereafter, the Court framed issues regarding valuation of the suit, the plaintiff's

ownership of copyright, the alleged similarity of "Oru Mazhakkalath" with "The Devotion of Suspect X", infringement by "Drishyam", entitlement to declaration, injunction, accounts of profits and royalty. The District Court decided the issue of valuation in favour of the plaintiff but decided the issues relating to ownership of copyright and infringement against him and dismissed the suit. Hence this appeal.

5. Heard the appellant/plaintiff in person and the counsel for the respondents/defendants. The plaintiff has also submitted an argument note detailing his arguments.

6. The plaintiff claimed that he had written the screenplay originally with the title "My Family", which was later developed as "Oru Mazhakkalath", in November 2009, at the request of Mr. K.R. Mani. The District Court considered the evidence regarding the writing of the screenplay, attempts to produce the film, registration of the title, publication of the screenplay, registration with the Copyright Office and the plaintiff's earlier experience in writing and directing films, and accepted the contention of the plaintiff that he had written the screenplay. The court held that the screenplay constituted a literary work under Section 2(o) of the Copyright Act,

1957, and that the right included the exclusive right to make a cinematograph film based upon it under Section 14. Relief was however denied finding that copyright protection is available only in respect of an original work and that no copyright can be claimed over essential elements copied from an earlier work. The contention of the plaintiff before this Court is that the trial court went wrong in concluding that his work had substantial similarities with the novel "The Devotion of Suspect X" and the film "Suspect X". It is contended that on facts, the District Court having found that the central thread of "Oru Mazhakkalath" — the trauma caused by blackmail, murder following the blackmail, concealment of the body, creation of an alibi and protection of the accused from prosecution — was substantially reflected in "Drishyam", and that there was substantial similarity between the two works, and having observed that "Drishyam" appeared to be a colourable imitation of "Oru Mazhakkalath", it was not proper on the part of the court to have denied the relief. It is also pointed out that the court had found that the 1st defendant was aware of the story of "Oru Mazhakkalath" before the shooting of "Drishyam" commenced.

7. Exts.A1 to A21 were marked in evidence on the side of the plaintiff and the plaintiff gave evidence as PW1. DW1 and DW2 were examined on the side of the defendants and Exts.B1 to B5 were marked. Exts.A1 to A7 are documents to prove the academic and other qualifications of the plaintiff and his claim that he is a writer and a filmmaker. The said documents are of no help to decide the question whether the defendants have committed any copyright violation. Exts.A11 to A13 relate to another story claimed to have been written by the plaintiff and named "Oru Chennai Crime Story" and it has nothing to do with either "Oru Mazhakkalath" or "Drishyam". Exts.A15 to A19 are relating to the movies "My Boss", "Proposal", and "Kiss the Girls" and a book titled "Cut Like Wound" written by Anita Nair, which again have no relevance in deciding the issue at hand.

8. Ext.A8 extract from the Register of Copyrights, relied on by the plaintiff to prove registration of his Copyright for the literary work "Oru Mazhakkalath", shows that the application, though dated 16.04.2013, was received in the Copyright office only on 29.10.2013, much after the shooting of "Drishyam" started. Ext.A9 is the

screenplay of "Oru Mazhakkalath" published by M/s. Saikatham Books in May 2013. Ext.A10 is the copy of a magazine Sunday Cinema dated 01.09.2013 which states about the proposed movies "Drishyam" and "Oru Mazhakkalath". The magazine states that "Drishyam" is a family drama in the comedy category and "Oru Mazhakkalath" is a suspense thriller involving an intelligent doctor and a smart Police Officer. Apart from the above three documents, there are no other materials produced which are relevant for deciding the question whether the film "Drishyam" is a colourable imitation of the plaintiff's work "Oru Mazhakkalath". The trial court has considered the above three documents. The court held that, when Ext.A8 denotes the date of receipt as 29.10.2013, the date of application which has no authenticity, cannot be accepted. The court also held that Ext.A8 is not sufficient to prove that the plaintiff wrote the screenplay before October 2013. Regarding the date of publication of Ext.A9, in the absence of any supporting document, the court held that the same cannot be said to be proved. The court held that, since the defendants contend that Ext.A9 was created for the purpose of the case, the date of publication ought to have been

proved with some supporting evidence or at least by examining the publisher. Ext.A10, though not disputed by the defendants, does not take the case of the plaintiff any further, except to possibly show that the screenplay of "Oru Mazhakkalath" was over by 01.09.2013.

9. Ext.B1 copy of the film magazine "Vellinakshathram" dated 23.02.2014 goes to show that the suit was filed 5 months after the magazine reported that the film "Drishyam" had completed 56 days in the theatre with record collections. The counsel for the defendants argued that PW1 alone was examined on the side of the plaintiff and since Mr.K.R.Mani and Mr.B.Satheesh were not examined, there is no proof for the contentions that the plaintiff had prepared the script on the request of Mr.K.R.Mani, owner of Crescent Films and that the plaintiff had handed over the script to Mr. Satheesh B. of Ordinary Films. It is also argued that no witness was examined to prove the script or the publication of the script. Another contention raised is that the shooting of "Drishyam" began on 04.10.2013 and Ext.A8 extract from the Register of Copyrights shows that even the application for copyright registration was received in the Copyright office, much later, on 29.10.2013. The counsel also points out that

there is no reason to disbelieve the version of the defendants regarding the preparation of the script in 2011, since the same stood probabilised by the contemporary document Ext.B5 which is an e-mail sent on 03.11.2011. So also, Ext.B3 is the English transcript prepared on 01.04.2013 for the purpose of preparing the Tamil version of "Drishyam". It is hence argued that the claim of copyright violation cannot be upheld since all the above incidents had happened much before the application of the plaintiff for copyright registration reached the Copyright office. The District Court had considered the above documents but in the absence of reliable evidence from the service provider, refused to accept the same.

10. A Division Bench of this Court in **Kumari Kanaka v. Sundararajan [1972 KLR 536]**, held that registration of the work under the Copyright Act, 1957 is neither compulsory nor a condition precedent to maintain a suit for damages for infringement of copyright. [See also the judgment of another Division Bench in **Madhavan v. S.K. Nayar [1987 (2) KLT 47]**. The above issue does not require any consideration at my hands. In view of the law laid down in the above judgments, all that is required to be seen is

whether there is a colourable imitation of the work of the plaintiff by the defendants.

11. In **R.G. Anand v. Delux Films [(1978) 4 SCC 118]**, the Hon'ble Supreme Court has explained the law on the subject in the following words:

> "**45.** Thus, the position appears to be that an idea, principle, theme, or subject-matter or historical or legendary facts being common property cannot be the subject-matter of copyright of a particular person. It is always open to any person to choose an idea as a subject-matter and develop it in his own manner and give expression to the idea by treating it differently from others. Where two writers write on the same subject similarities are bound to occur because the central idea of both are the same but the similarities or coincidences by themselves cannot lead to an irresistible inference of plagiarism or piracy. Take for instance the great poet and dramatist Shakespeare most of whose plays are based on Greek-Roman and British mythology or legendary stories like Merchant of Venice, Hamlet, Romeo and Juliet, Julius Caesar etc. But the treatment of the subject by Shakespeare in each of his dramas is so fresh, so different, so full of poetic exuberance elegance and erudition and so novel in character as a result of which the end product becomes an original in itself. In fact, the power and passion of his expression, the uniqueness, eloquence and excellence of his

style and pathos and bathos of the dramas become peculiar to Shakespeare and leaves precious little of the original theme adopted by him. It will thus be preposterous to level a charge of plagiarism against the great playwright. In fact, throughout his original thinking, ability and incessant labour Shakespeare has converted an old idea into a new one, so that each of his dramas constitute a masterpiece of English literature. It has been rightly said that "every drama of Shakespeare is an extended metaphor". Thus, the fundamental fact which has to be determined where a charge of violation of the copyright is made by the plaintiff against the defendant is to determine whether or not the defendant not only adopted the idea of the copyrighted work but has also adopted the manner, arrangement, situation to situation, scene to scene with minor changes or super additions or embellishment here and there. Indeed, if on a perusal of the copyrighted work the defendant's work appears to be a transparent rephrasing or a copy of a substantial and material part of the original, the charge of plagiarism must stand proved. Care however must be taken to see whether the defendant has merely disguised piracy or has actually reproduced the original in different form, different tone, different tenor so as to infuse a new life into the idea of the copyrighted work adapted by him. In the latter case there is no violation of the copyright.

46. Thus, on a careful consideration and elucidation of the various authorities and the case law on the subject discussed

above, the following propositions emerge:

1. There can be no copyright in an idea, subject-matter, themes, plots or historical or legendary facts and violation of the copyright in such cases is confined to the form, manner and arrangement and expression of the idea by the author of the copyrighted work.

2. Where the same idea is being developed in a different manner, it is manifest that the source being common, similarities are bound to occur. In such a case the courts should determine whether or not the similarities are on fundamental or substantial aspects of the mode of expression adopted in the copyrighted work. If the defendant's work is nothing but a literal imitation of the copyrighted work with some variations here and there it would amount to violation of the copyright. In other words, in order to be actionable the copy must be a substantial and material one which at once leads to the conclusion that the defendant is guilty of an act of piracy.

3. One of the surest and the safest test to determine whether or not there has been a violation of copyright is to see if the reader, spectator or the viewer after having read or seen both the works is clearly of the opinion and gets an unmistakable impression that the subsequent

work appears to be a copy of the original.

4. Where the theme is the same but is presented and treated differently so that the subsequent work becomes a completely new work, no question of violation of copyright arises.

5. Where however apart from the similarities appearing in the two works there are also material and broad dissimilarities which negative the intention to copy the original and the coincidences appearing in the two works are clearly incidental no infringement of the copyright comes into existence.

6. As a violation of copyright amounts to an act of piracy it must be proved by clear and cogent evidence after applying the various tests laid down by the case-law discussed above.

7. Where however the question is of the violation of the copyright of stage play by a film producer or a director the task of the plaintiff becomes more difficult to prove piracy. It is manifest that unlike a stage play a film has a much broader prospective, wider field and a bigger background where the defendants can by introducing a variety of incidents give a colour and complexion different from the manner in which the copyrighted work has expressed the idea. Even so, if the viewer after seeing the film gets a totality of impression

> that the film is by and large a copy of the original play, violation of the copyright may be said to be proved."

12. In the light of the law laid down by the Hon'ble Supreme Court, I shall examine the facts of the case at hand. A reading of the judgment of the trial court would show that arguments advanced before the court were mainly regarding the similarity of the work of the plaintiff with an earlier movie "Suspect X" based on a Japanese novel "Yogisha X no Kenshin". Elaborate arguments were advanced before the trial court on the above issue and the court finally found that the work "Oru Mazhakkalath" is a colourable imitation of the Japanese film "The Devotion of Suspect X". The court held that an action for violation of copyright will not lie when the claim of the plaintiff is based on a work which itself is not an original work. The plaintiff has contended that the court should not have arrived at such a conclusion without viewing "Suspect X" and "Drishyam". However, that alone is not the reason why the trial court has denied relief.

13. As laid down by the Hon'ble Supreme Court, there cannot be any copyright regarding any idea or a plot. Briefly stated, the story of "Oru Mazhakkalath" is as follows:

"The Heroine attempts to commit suicide following failure of her love affair. The Hero, a socially conscientious medical doctor, saves her and brings back to life, giving proper counseling and advise. Eventually, they get engaged and married with the consent of the girl's parents. The previous Lover of the heroine, who is a body builder, with the help of his friend, Shanmughan blackmails the heroine using photographs of the heroine and the lover in compromising situations, and attempts to extract money. Though the heroine does not disclose that fact to her husband, he infers the same from her behaviour and gathers information regarding the black mail and blackmailers. The Hero, who is passionate in mechatronics and had a licensed gun, created a pen-gun. When the lover refused to accept the ransom offered by the hero to stop the blackmailing, and ridicules the hero, the hero gets infuriated and shoots the lover causing his death. The hero destroys evidence by removing all traces regarding his presence there and also the dead body. Following the report that the lover is missing, an investigation is initiated through an intelligent police officer, assisted by a trainee lady officer. Later, Shanmughan was also murdered by the hero without leaving any trace of evidence. The hero also manipulates the evidence to mislead the investigation. The police officers, although they conclude about the murder and the murderer, could not recover the body of the deceased and could not book the hero for want of evidence. The story concludes portraying the mutual respect of the hero and the police officer".

14. The story of the movie "Drishyam" as available from Ext.B2 and extracted in paragraph 29 of the judgment, is as follows:

> "The Hero, Georgekutty is a rustic villager. He along with his wife and two daughters lead a peaceful life. A boy who is the son of a woman IG of Police attempts to blackmail the elder daughter using her nude photograph and demands sexual favours. She along with her mother pleads with him and tries to salvage the situation, but the boy is adamant and even makes sexual advances to the mother. The frenzied daughter kills him. Mother and daughter together bury the dead body in a compost pit that was dug by Georgekutty earlier. Georgekutty, who is extremely passionate about cinema, makes use of the plots in various movies to brilliantly and meticulously create alibi evidence to save his daughter from any accusation. The IG of Police with the help of a posse of her subordinates investigate into the crime but the alibi evidence created by the protagonist was too good to be overcome and the police become helpless. Police could not conclude even that the boy was murdered. Totally devastated, the IG of Police leaves the job and before her and husband, Georgekutty confides of their son's ill fate, without disclosing anything about the corpse."

15. As found by the trial court, in both the above works, a common content is the creation of alibi evidence to mislead the Investigating Officer, which can only be treated as an idea or a plot.

Apart from that, the entire story is different. The way the above idea/plot has been dealt with in the movie "Drishyam" and in the story "Oru Mazhakkalath" are also not comparable. The trial court has compared the two stories and arrived at a finding that in the two screenplays, the plots have been narrated in a different manner. The differences have also been put in a tabular form as follows:

Plot	Oru Mazhakkalath	Drishyam
Blackmail	By ex-lover for extracting money using photograph of sexual overtures of the wife of the hero with the help of another person.	For sexual favors by a person having just personal acquaintance
Murder	By husband. Murders not only the ex-lover, but also his friend who participated in the blackmailing. Planned murders.	Murder by victim herself. It is quite accidental.
Disposal of body to screen evidence	By throwing in a stream. No attempt to conceal the other body. No attempt to mislead the police.	Dead body is disposed of in such a way as to avoid any possibility for exhumation. There is well devised attempt to mislead the police.
Alibi	By creating evidence as defence or explanation to the theory of incrimination of the murderer.	Re-creation of evidence of clear alibi by manipulating facts and minds of the persons/witnesses.

The court, however, found that there is material similarity in the

screenplay. I do not agree with the said conclusion. The dissimilarities in the screenplay are so striking that it cannot be said that there is a colourable imitation of the screenplay. The similarity, if any, is only in the idea and the plot, which cannot be a deciding factor to decide on violation of copyright, as held by the Hon'ble Supreme Court. I am hence of the opinion that even without going into the question whether the plaintiff's work "Oru Mazhakkalath" is, or is not an imitation of "Suspect X", the plaintiff is not entitled to relief since he has failed to prove that the movie "Drishyam" is a colourable imitation of his work, applying the dictum of the Hon'ble Supreme Court in **R.G. Anand** (supra). Moreover, in **Emirates Productions, Represented by Managing Partner Vijayan Pallikkara & Ors. v. Akhil Dev S. & Ors. [2025 SCC OnLIne Ker. 372],** a learned Single Judge of this Court was held as follows:

> **"13.** The above-mentioned mandates which are the prerequisites for granting an injunction were further extended by the addition of one more element by the Supreme Court in *Mandali Ranganna* v. *T. Ramachandra* ((2008) 11 SCC 1 : AIR 2008 SC 2291). It was held therein that while considering an application for grant of injunction, the Court will not only consider the basic elements in relation thereto, viz., the

existence of a *prima facie* case, balance of convenience and irreparable injury, but it must also consider the conduct of the parties. Thus grant of injunction is an equitable relief. It can thus be summarised that before granting a temporary injunction, the following considerations are generally required to be satisfied:

(i) There is a *prima facie* case in favour of the plaintiff and against the defendant.

(ii) That irreparable injury is likely to be caused to the plaintiff which cannot be compensated for in terms of money.

(iii) That the balance of convenience lies in favour of the plaintiff and against the defendant.

(iv) Conduct of the plaintiff as well as equity, justify the grant of an injunction."

16. While considering the above said additional conditions as to whether the conduct of the plaintiff and whether equity, would justify the grant of an injunction, the Court must bear in mind the following facts.

(a) The film "Drishyam" had completed more than 6 months after it started screening by the time the suit was filed on 17.7.2014. (See the report in Ext.B1 copy of the film Magazine Vellinakshathram dated 23.2.2014)

(b) The DVD of the film Drishyam was released on

09.05.2014. The Kannada remake of the film was released on 20.6.2014 and the Telugu remake was released on 11.7.2014, all before the suit was filed.

(c) The plaintiff alone was examined on his side and no independent witnesses like Mr.K.R.Mani or Mr.Satheesh B. were examined to prove the contention that the plaintiff had prepared the script on the request of Mr.K.R. Mani, owner of Crescent Films and that the plaintiff had handed over the script to Mr. Satheesh B. of Ordinary Films.

(d) No witness was examined to prove the publication of the script.

(e) The application for registration of Copyright was received in the Copyright office only on 29.10.2013, much after the shooting of Drishyam started on 04.10.2013. (See Ext.A8).

(f) The version of the defendants regarding the preparation of the script in 2011, stands probabilised by the contemporary document Ext.B5 which is an e-mail sent on 03.11.2011, though not proved strictly in accordance with law.

(g) The English transcript for the purpose of preparing the Tamil version of "Drishyam" was prepared on 01.04.2013, much before the shooting of "Drishyam" started on 04.10.2013.

17. In the light of the above noted facts, the additional

conditions laid down in **Emirates Productions** (supra), also do not justify the grant of relief to the appellant.

In the result, the appeal fails and is dismissed. The respondents are entitled to release of the amounts deposited before the court as security. There will no order as to costs.

Sd/-

T.R.RAVI
JUDGE

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