

Explained | What are the legal consequences of piracy? How do studios fight it?

The leak of Tamil movie *Jana Nayagan* before it could get a theatrical release could attract harsh penalties for the leakers if they are caught and chargesheeted, especially due to new amendments to the Cinematograph Act, 1952

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AROON DEEP

The story so far:

In a blow to the movie's producers, Vijay-starrer *Jana Nayagan*, directed by H. Vinoth, was recently leaked online in its entirety in high quality while its theatrical release has been stuck in a limbo following issues with censor certificate.

The leak indicates that someone with legitimate access to the movie mishandled or intentionally spread it further. Six people have been held by authorities in connection with the leak. Film piracy through illegal downloads is rampant, but it is less common for content to become available in the first place in such high quality.

What are the laws on piracy? How well are they enforced?

The Copyright Act, 1957, deals extensively with infringement of intellectual property such as movies, TV shows, books, articles, and other creative work. Section 63 and Section 63A of the Copyright Act provide for fines of up to ₹2 lakh and three years of imprisonment. Repeat offenders can receive those same penalties again for each subsequent violation.

The Cinematograph Act, 1952, since its amendment in 2023, provides for a much larger fine: 5% of the audited gross budget of a film. While the minimum fine is decidedly smaller, judges may not look too kindly on the *Jana Nayagan* case in particular.

This is because unlike practically every other film, the Vijay starrer was leaked before it had a chance to release in theatres, denting both its theatrical value and home video rights valuation.

It is uncommon for film piracy cases to be investigated and pursued with vigour. India is consistently listed as a “notorious market” by U.S. authorities, for instance, for anemic responses to piracy.

However, considering the vast spectrum of voices within the film industry and political circles that has come out in support of KVN Productions, which bankrolled Jana Nayagan, this case may be the subject of a more serious investigation.

Judges have tended to focus more on distributors in piracy and intellectual rights cases than on individual infringers. But depending on an individual infringer’s behaviour, punishments can end up hitting not just the original leaker of the film, but anyone who shares a link forward.

To boot, Tamil Nadu Police’s State Cyber Crime Wing said in a press release that those among the six arrested were sharing cloud storage links to the film.

How did this film get leaked? How do studios protect against leaks?

Ordinarily, movies are only leaked to pirates in high quality when they appear on OTT streaming platforms. This is because once this happens, in spite of copy-resistant technologies employed by these platforms, pirates have found ways to defeat Digital Rights Management (DRM) protections on such content, and extract a video file that is close to the original stream in quality and fidelity.

As such, withholding content access from audiences at large altogether is the current gold standard. If only theatre projectionists have the movie — and that too only in an encrypted hard drive — it is much harder to copy. Invisible and barely visible watermarking enables studios to instantly identify the perpetrator if a copy is made from a legitimate theatrical print. That makes leaking an incredibly unattractive prospect to people with access to a film.

It is common for full videos in a film’s supply chain to be visibly watermarked for the intended recipient, or to indicate a versioning. There is such a watermark for Jana

Nayagan, but it is not yet clear if the version circulating online has enough forensic clues for investigators to zero in on a specific individual. If carelessness was involved, the harshest punishments may go to the first few people who received and distributed the film.

What happens if a film has already been leaked?

It is incredibly challenging for a leaked film to be completely wiped from the Internet. For one, there are several sites, constantly changing their domain names to evade judicial website blocking orders. For another, private groups on messaging apps like Telegram and protocols like torrents, make the distribution of pirated content harder to stem.

However, there still remains an industry of so-called “anti-piracy” firms like AiPlex who work with filmmakers, sports broadcasters, and so on, to quickly send copyright takedown notices to social media platforms (who generally act quickly on such alerts), and torrent sites (some of whom accept and act on it).

It is also common for filmmakers to approach courts for so-called “dynamic injunctions” that allow them to constantly provide High Courts with links to non-compliant sites’ URLs, after which they are blocked online. Some “John Doe” orders can be passed even before a film is leaked, in anticipation of a film becoming available on such platforms were a leak to happen.

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