

## An Aesthetic for Film Sound in India?

### **Ashish Rajadhyaksha**

There is an apocryphal story involving B.R. Deodhar, musician at the Gandharva Mahavidyalaya, student of Vishnu Digambar Paluskar and teacher of Kumar Gandharva, speaking on film music. Indian music, he is supposed to have said, could never be used in the cinema because it could not approximate to *sound*. As long as we could not produce, say, the rumble of thunder *through* our music, we could never really produce useful sound. This problem would, for him, be especially a problem for India's sound cinema.

Satyajit Ray would make an allied argument in 1965, in his contention that the main difficulty Indian cinema's storytelling ambitions faced was the absence of a 'dramatic narrative tradition in Indian music'. Ray's point is to do with music's contribution to the unfolding of a *narrative*, Deodhar's to do with music's capacity to become *sound* proper. While these were two different ambitions for the entry of music into the cinema, the question was, would these collectively prove fatal roadblocks to the Indian cinema to become cinema proper?

Both arguments have had their adherents; in fact, each could be effectively seen as providing a standpoint for sound theory for cinema in India. One way of reading Deodhar is to point to the inability of music to become sound, thus providing one context, and even a key explanation, for the peculiar inability of Indian cinema to produce a persuasive relationship with live location sound, the only proper sound resource actually available to the cinema. Deodhar's position on this in fact echoes the lament of all location recordists at the Indian cinema's curious resistance to live sound: both in the end questioning the dubious antecedents of the content of a film's soundtrack. Neither would favour the emphasis on mixing, post-dubbing and recording machines that one music commentator described as Indian cinema's "well-

oiled music machine to provide whatever was required, quickly and at a good price”, consisting of “consummate and expert panel-beaters, or blenders, and the various musicians who made up the top session pools” who were “able to fashion everything out of anything musical... to do whatever sounds right, as long as you just bang the music out, next, next, next” (Dave Hucker, ‘Hey, Mr. Music’, *The Beat*, v. 19, n. 6, 2000). In the end, theirs would be the lament of Indian cinema’s failure to become properly realist: a lament most directly evidenced in India’s inexplicable predilection for dubbed sound, and reflected by Amitabh Bachchan as follows:

I’ve rarely worked on a project which had synchronous sound, though there have been some scenes in some of my films which I have refused to dub purely because I have felt unable to recreate the original and haven’t even wanted to attempt dubbing it. Invariably, those moments have been the ones that I have found to be powerful, good, and appreciated. In films like *Deewar*, *Sharaabi*, *Satte pe Satta* and *Amar Akbar Anthony*... One of the problems that we actors in India face is that there’s far too much noise on the sets, and we aren’t able to control that sound. We do not have the more sophisticated cameras which run silently, nor do we have soundproof studios. The remark that you often hear on set is, ‘We’ll fix this in the dubbing’. But when we’re dubbing, it’s an altogether different atmosphere, and it’s a difficult job to recreate that moment. Emotional scenes in particular are very difficult – it’s tough bringing out emotion and then having to repeat it as though it was a xerox copy. It’s unfair to the artist, I feel, but it’s a technical requirement and I often feel myself wanting to make an art out of it, to dub in a manner which sounds like the real thing. So we’re giving two performances in one film, one in front of the camera and the other when we dub it. (Amitabh Bachchan, ‘The Hero’ in Nasreen Munni Kabir, *Bollywood: The Indian Cinema Story*, London: Channel 4 Books/Macmillan, 2001, pp 28-29).

The second, Ray's, is a more familiar modernist lament, conventionally interpreted as a part of several other such deliberations on Indian modernism's *structural* inability to define its own aesthetic, and challenged for this very reason over half a century by practitioners dedicated to the exploration of Hindustani and Carnatic music's narrative propensities, their effort tinged with the vital necessity of proving – *demonstrating* – that this was achievable, that it could be done, and further, done on modernist ground. Alongside such modernist experiments in theatre, literature and music were of course the ones that took place on film, including compositions by Keshavrao Bhole for the Natyamanwantar group and the Prabhat studio, the entire body of work by the composers that came in with the arrival of the technology of sound recording and mixing (Naushad and Madan Mohan), and finally, in a more avant garde context, structuring of entire films along the elaborations of the *khayal* (Ritwik Ghatak's *Meghe Dhaka Tara*, 1960). In fact, in 2005, we encountered the news that Ilaiyaraja, renowned Tamil composer, has given a symphonic structure to the 'Thiruvvasagam', Tamil saint poet Manikavasagar's text. Information & Broadcasting Minister Jaipal Reddy, releasing the score, said that it is "not easy to fuse Carnatic music with Western classical music, to combine Thyagaraja with Beethoven, but credit must go to Ilaiyaraja for achieving this" ("Thiruvvasagam in Symphony", A Trailblazer', *The Hindu*, 2005). Clearly, the worth of this composition within Ilaiyaraja's extraordinary body of work is doubtful, and can only be seen as making a theoretical point, a refutation of Ray's critique within a nationalist polemic, on what Indian compositions were capable of in and out of the cinema.

On the other hand, filmmakers and, more important, film composers have been proposing from at least the late 1930s that the Indian cinema has distinct characteristics in this area, and even more, that the problems that artists and technicians face in their practice with sound are in themselves of sufficient significance to propose something of an aesthetic practice for Indian film sound. My own access to this troubled area of Indian cinema

aesthetics was the making of Kumar Shahani's *Khayal Gatha* (1989), perhaps the one Indian film most dedicated to the exploration of a narrative for Hindustani *khayal*, and for that reason perhaps the one film that could never have been made had either Deodhar or Ray been right. I happened to have been a participant in the making of this film, and was therefore privileged to witness several debates during the shooting and, even more important, the recording and mixing, that first persuaded me that the technology of sound reproduction in India may itself have an aesthetic definition. It appeared clearly enough that the problem that was obsessing Ray was not a feature of these debates: it was surprising to see the issues being discussed as primarily to do with *sound*, rather than with *music*: even more specifically, to do with sound *mixing*. One of the problems that obsessed both principal recordist Vikram Joglekar as well as P.C. Padmanabhan was, I recall, how do you fade Hindustani music in and out? Do you cut it off, midstream, leaving it to the hanging overtones to deal with the sound decay? Another was to do with the 'curtain of sound' that the *tanpura* was supposed to produce, and which it simply couldn't do unless the two tanpura players performed to some kind of musical beat. Joglekar, later recounting the experience of bewildered British technicians working on the sound mixing of Vidhu Vinod Chopra's *1942 A Love Story* (1994), wanted to know if there was some 'aesthetic of Indian film sound mixing'.

Some years before he made *Khayal Gatha*, Shahani had produced some kind of manifesto statement for film sound. He wrote,

Yet silence, from which everything was originally supposed to begin, does not exist in an absolute sense. 'The soundtrack invented silence', says Robert Bresson, and this is perhaps true in a far deeper sense than even he meant it. On the most obvious level, silence in music relates to space indirectly. In the cinema, on the other hand, it relates to space in *movement*. In music, it relates to the sustaining of a note, to reverberation, to absorption by the spatial enclosures, producing, transmitting and receiving the sound. In the cinema all this and more.

In fact, cinema may or may not relate to the spaces which produce and receive sound. It is the arbitrariness of silences, created both by the sounds, the music, the speech and its juxtaposition with the visual imagery, changing in tone, line and colour that articulates silence further. For this perhaps a reference point could be the discontinuities of sound in the scene where the heroine of Subarnarekha kills herself offscreen. Neither the spoken word nor music can work in such discontinuity ('Notes for an Aesthetic of Cinema Sound', *Journal of Arts & Ideas*, no. 5, Oct-Dec, 1983, p. 39.)

What I understand from Shahani's statement is this: the *sound source* that constitutes the origin of music – the "reverberation, absorption by the spatial enclosures, producing, transmitting and receiving the sound" – has to first name its resource coordinates, as *soundspace*, before we can even think of calling it music. This is because the *spatial source* needs to be first defined for the cinema in a way that Indian music does not easily reveal: before *cinematic space* can take musical space into consideration. It is the further stitching together of that relationship – in discontinuity and in continuity – that makes it, if at all, become music later on. Such a source, as I will tentatively suggest later, is quite different from diegetic sound source. I want to propose, following Shahani's essay and the *Khayal Gatha* experience, the following two correctives to both Deodhar's and Ray's positions: music cannot be seen to impact film narratives unless we account for the technological, and hence, aesthetic interventions of at least two key intermediate processes: one, the *recording* process, and, two, the *mixing* process. From sound mixing, I would further propose two practices: 1. Artificially combining, post-shooting, various effects – including here dialogue and music and incidental sound, material inherited from the shooting phase, newly generated and taken off sound banks: the domain that clearly sees the most innovative work being done in Indian cinema, and 2. The gradual tendency in any film towards the elimination, in the mixing, of *all* material inherited from the shooting phase, with the concomitant increase in post-

shooting generation of effects created within an entirely new spatial coordinate produced, explicitly, during the recording phase: the spatial grounding of all source into a single point produced in the studio regardless of whether the diegetic action was taking place in a room, on a hillside or a beach: a point that contained the “reverberation, absorption by the spatial enclosures, producing, transmitting and receiving the sound” into a determinate spatial coordinate.

If, on the one hand, Ray’s theory does not necessarily accommodate these interventions, on the other hand Deodhar’s, which does, makes the second mistake: that the accommodation of sound recording and mixing would inevitably take film sound (and hence music) in the direction of realism: or the sound of thunder. There appears significant evidence in the Indian cinema to show, from virtually the inception of cinema sound, that the tendency has been precisely the *reverse*. I would propose, for example, that the move from say the 1930s, when filmmakers had inherited – and battled against – the single camera-recorder technology that had imposed live sound upon them, to the 1980s, which systematically saw the elimination of all location sound, can be schematically charted into the following tendency:

<b>1930s</b>	<b>1980s</b>
Location Dialogue	Dubbed dialogue
Location music	Recorded music
Location effects	Artificial effects/Sound banks
Live mixing	Emphasis on multi-track merging together of dialogue/music/effects in post-production
Fidelity to location	Elimination of locational referents  Fidelity to ‘recording room’ produced inside a single sound source

In this brief paper I visit two moments in this period, one from the 1930s itself, and a second, from the 1980s. My first moment is to do with the writing of composer Keshavrao Bhole, working on V. Shantaram's *Amritmanthan* (1934), barely three years into the invention of sound. I will suggest, from his writings, that already the tendency was one contrary to both Deodhar's and Ray's positions: a tendency away from fidelity to location and towards an artificial single-source referent. In this, I will further suggest, Bhole is also working contrary to Ray's contention, emphasizing mixing as the point of intervention, rather than musical narrative, and thus *effect* – the kind of pure sound that would enthrall my generation decades later with sonic discontinuities in Ghatak's *Subarnarekha* (1962) and Bahadur Khan's plucked sarod to simulate the drops of falling rain in *Titash Ekti Nadir Naam* (1974), and, iconically, the sound of the trolley turning musical in Tarkovsky's *The Stalker* (1979). My second moment briefly reprises the notorious situation on musical remixes that would besiege the Hindi cinema's music industry. I would suggest that the similarity has to be found between the use of film song and the widespread practice of dubbing everything. I propose that the aesthetic-legal crisis of the cinema offers significant insights into this practice. The remix crisis therefore offers us more than what is superficially obvious.

## I

In October 1933, Keshavrao Bhole was contracted by the Prabhat Film Company, Pune, to do two films. Both would end up becoming iconic explorations in film sound: the first, V. Shantaram's *Amritmanthan* (1934) and the second, Fattelal/Damle's legendary *Sant Tukaram* (1935). Bhole had earlier experimented with sound on stage in Vartak's play *Andhalyanchi Shala* (1933) and had seen films from at least 1919 on at Bombay's Capitol, the West End and the Opera House. He writes about both his film-going experience and his early experiments in the book *Mazhe Sangeet: Rachana Ani Digidarshan* (Bombay: Mauz Prakashan, 1964; see 'Keshavrao Bhole: Excerpts from his *Mazhe Sangeet*', trans. Ashish Rajadhyaksha, *Sangeet*

*Natak*, no. 100, April-June, 1991). Seeing live English conductors bringing to life films like *The Gold Rush*, *Scaramouche*, *Lady of the Camille* and *Faust* with lined sheets of music fascinated him. Most of all, however,

(I)t was the pianist that fascinated me. He would hold his rhythm with his left hand and play something quite different with his right. If I tried the same thing on my pedal organ I only produced chaos... We started rehearsing for *Andhalyanchi Shala* in 1933. I looked for the places that needed musical support (and) intended using the piano, organ, sarangi and violin. Working from the way English films used music, I realized that the moments when the characters were filled with emotion, or engulfed with fear and danger, particularly required musical sustenance. Even instruments were chosen according to the emotional qualities of the sequence. Passages of *shringara* naturally lent themselves more effectively to music – the trilling, flying notes were used to effect, and often they achieved their lilt in mid-scale by combining different instruments – the violin, especially. Sometimes they strummed the violin like a sitar... All this was to explain several insoluble mysteries to me...

So when Bhole was hired by Prabhat, the first thing he would do was to order a piano. This was his showpiece, but he would have two violins, a sitar, a dilruba, a cello and been, tables of different scales to make a tabla-tarang and harpophone, to “start rehearsals of *Amritmanthan* in earnest”.

The opening sequence of the film itself suffices to indicate the directions Bhole would now take, in this film, and generally in his musical career in the movies. The film *Amritmanthan* revolves around an evil priest who, representing religious orthodoxy, is plotting to kill the good King of the land. Bhole describes both the sequence and his musical solutions thus:

There is the hideous statue of the goddess, the Priest and his men gathered in the dark: the Priest standing in the middle swathed in



shadow. 'Killer of demons, the victorious goddess Chandika' goes the prayer in slow ominous chant. I composed this prayer in raga *Hindol*. The instruments were also orchestrated to emphasise the somber and fearsome mood. Whatever the priest wants he claims to be the desire of the Goddess Chandika: the recurring line, 'The Goddess Chandika desires...', is followed by two piano strokes whenever it is uttered. The music for the plotting scene, composed in Ragas *Hindol* and *Lalit*, is however played on the harsh sound of a steel-wired *sarangi*. The knife, which is to determine the man who shall kill the king, falls before the Sardar...

This sequence, with its steel-wired *sarangi*, Bhole proposes, "lends itself remarkably well to musical elaboration": it also, we may equally conclude, led to the introduction of sound proper into the music. It would thence lend itself, unexpectedly, to some further consequences:

During rehearsals I timed every sequence with a stop-watch and composed my phrases to given durations. And then, to demonstrate the effect to the director as much as to actors and musicians, we would play to the action in rehearsal. But we had a remarkable and unforeseen result. The actors started choreographing their performance to the music, finding a rhythm that they matched with their movements, speaking their lines to the curves of the music. I had sensed this effect in *Andhalyanchi Shala* itself: *the pace of the performance was bound to the music...* In the opening sequence, Chandramohan rehearsed only to the music. Watching his acting I got new ideas about the music itself. We could also exercise greater control over sound volume than ever before. In talkie shots we were able to keep the background music in the background. The pitch and qualities of the spoken voice helped us choose our instruments as well, so that there was no interference in frequency, It helped us choose our octaves.

Speaking of the song sequence, *kiti sukhada yeta nisha*, directly following on from the Priest sequence, introducing Shanta Apte into the film, Bhole says that "lines that had a purely theatrical effect were deleted. The orchestral addition between lines was worked out in terms of visual action, and not just for its sound".

I was particular that each word had to find a particular rhythm. In *Kiti sukhada* the beginning of the line *sinchit jagata asha* had to come at the beginning of the rhythmic cycle: the nasal consonant in words like *sinchit...* had to fit their place in the rhythm.

Rhythm however would add to new issues:

To shoot a song with action meant taking several shots at different distances. Sometimes trolleys were used. At other times they placed a static camera, all of which affected the singing. For the *kiti sukhada* song, Sumitra completes one entire *mukhada* as she springs past the bed before the shot is over. When the next shot begins she has moved to the *antara*. Some of the action called for our invention of a primitive playback mode. How could Shanta Apte sing *and* jump on the bed simultaneously? Shantaram said, let her sing the song as best as she can, after the shot we can re-record her singing and insert it. We did four songs like this, including the action in the singing.

It was inevitable, perhaps, that at the very inception of the invention of sound in the Indian cinema, this entire tendency, moving further and further away from reality-sound, would take the film aesthetic into the direction of both dubbing and playback.

## **II**

Through the 1980s and 1990s, Indian music would be faced with a crisis. Historically, music, most directly the film song, has been the bane of the Indian cinema's endeavour towards realism, the one habit that prevented

filmmakers from attempting, diegetically, what Deodhar wanted them to achieve musically. Even one of India's best known makers of film melodrama, and perhaps its greatest exponent ever of song picturization, would attack Indian cinema on precisely this count:

In spite of big budgets, star-studded casts and costly music, 80% of our films produced in a year don't prove a big success and a majority of these fail. This means stars, huge sets, music and the overabundance of the so-called box-office ingredients are not the be-all and end-all of hit making. At a limited cost of four lakhs or so we could make new attempts to break the barrier of the present stagnation. By giving more prominence to the story and its treatment and by the lesser reliance on the music-at-any-cost craze we can definitely change the pattern of present-day filmmaking. *I firmly believe that the songs seriously hamper the emotional development of a story in a film, however good the literary contents and however brilliant the musical form of the song, unless it is out and out a musical picture.* (Guru Dutt, 'Classics and Cash' in Firoze Rangoonwala, *Guru Dutt: 1925-1965*, Pune: National Film Archive of India, 1973. My emphasis).

Going even further back, an important industry spokesman of the 1930s, arguing for an overarching national film policy, would draw attention to the need to master *storytelling* conventions in terms of *production* efficiency:

If an action is filmed one day it is possible that the scene following may be taken a month later. For example, a scene may show two people speaking angrily and then one of them walking out into the corridor and meeting someone else walking in. The second scene in the corridor may be taken a month later than the first one inside the room. The tempo of the acting has to be maintained. When the corridor scene is taken it should not be forgotten that the actor has left the room in anger... I have given a very common incident but there are many instances of

continuity of action not being properly maintained which has weakened the acting value of the picture and resulted in failure to get public approval... Some of our Directors are careful enough to prepare ... instructions for the Setting Department and the amount of detail that is necessary is really amazing. When it is realised that many stories come for production without the Art Department having this information, one cannot wonder that faults like this are mentioned so often in the criticisms of the pictures. There is no excuse for such technical faults appearing in modern times. (Y.A. Fazalbhoj, *The Indian Film: A Review*, Bombay: Bombay Radio Press. 1939, pp. 15-17).

As films began to be able to define their narrative purpose, and the larger context for defining that purpose, a more abstract problematic could be seen to surface even in seemingly straightforward narrative legislation: one of how to understand the normative function for the cinema. One way of making the link would be to decipher the concern with how systems of control external to the functioning of cinema could be positioned so as to bring to light the internal systems of narrative regulation, and how strictures and guidelines around the making and showing of film might connect to what the cinema 'ought to be like', and how the film-going spectator could be tutored into the protocols of responsible reading.

By the 1980s-90s, the much-decried film song, accused of being the barrier to realism, would itself face a strange and bizarre challenge: from the 'remix', or the common practice of taking a song and spicing it up and re-releasing that song in the market. In July 2003, a delegation representing the Indian Performing Rights Society (IPRS) and the Indian Music Industry (IMI) met three Union Ministers, including the Deputy Prime Minister, L.K. Advani, asking for the deletion of Section 52 (1) (j) of the Indian Copyright Act. According to a news report (*Mid-day*, July 18, 2003), Advani "assured the delegation that he would ask the Culture and I&B ministries to take suitable steps in that direction", describing the practice of remixes as 'shameful', according to IPRS Director General Sanjay Tandon. Murali

Manohar Joshi, perhaps typically, was also reported to have added that “remixes were a blot on India’s music culture”. On that occasion, the IPRS presented the remix phenomenon as part of a larger problem of audio piracy, claiming that over the last three years the music industry has lost “Rs 1,800 crore in revenues” due to “remixes and cover versions”.

This meeting, in many ways, raised to a further notch an increasingly noisy war, presented in the media as a war between the original composers and lyricists on one hand, and their remixed versions on the other: classic film tunes that we have heard all our lives, grown up with – tunes like ‘*Hawa mein udta jaye mera lal dupatta*’, ‘*Chadhti jawani meti chaal mastani*’ and ‘*Saiyan dil me aana re*’ – were being whacked off, plagiarized, transformed into cabaret numbers by virtually anonymous remix artists, taking, without permission and without paying any money, the very *amanat* of a generation of cultural producers. This was unacceptable, as much to me as it was to our then-Censor Board chief, Anupam Kher; and I was certainly surprised to find myself momentarily on the same side of the fence as our Chief Censor. I saw the great lyricist Gulshan Bawra barely contain his rage on NDTV, and heard Naushad’s call for public mobilization against these pirates, saying that when his generation beat a path, moving rocks and smoothing the way for a new generation, they also planted flowers as they went; while the new generation has walked on these smooth roads with hobnailed boots trampling on those flowers, unaware even of what the resources were that they were plagiarizing.

Put in this fashion, and with representatives such as these speaking for the music industry, the conflict was seriously debilitating. I could not, and I do not, believe anyone can take a stand that, whatever our position on copyright law, legends like Naushad – without the likes of whom there would be no music industry to remix – can be denied a right to their work, and that we had a duty to respect it. On the other hand, like many people I did also believe that some of this remix work was indeed innovative, along the tradition set by the original composers in collaboration with legendary sound

recordists/mixers like Hitendra Ghosh. There was a divide here, perhaps a generational one, on which I perhaps preferred to be neutral. But more than that, I believed that this terminal battle, a perceived antagonism along the lines of *degradation of taste* and to the further violation of the spirit of a classic composition, and far more seriously, a *violation of authorial rights and the royalties* to which a Naushad or a Gulshan Bawra were clearly entitled, was going to do nobody any good. On this divide I desperately didn't want to take sides. To put it bluntly, I don't want the old classics to die out, and do feel annoyed when I buy what a CD label purports to be 'Kishore Kumar's Greatest Hits' to find an added percussion beat and a line in small print saying 'Remixed' or 'Additional Sound'. On the other hand, it appeared somewhat ludicrous for composers, who had precisely thrived on crossover music such as the great Salil Choudhury's Mozart adaptation, 'Main ik badal awara', or S.D. Burman, could take a stand banning the reproduction of music within different composing contexts

It appeared clearly that the remix issue was – especially if seen alongside the parallel tendency in the Indian cinema to go with original dialogue tracks recorded during the shooting – substantially complicating what I have called the field of narrative legislation. Both, remixed music and dubbed sound, appeared to need a referent, and were increasingly facing trouble producing this referent: and this trouble was shortly to enter the domain of legal legislation. The referent of 'reality' was being transformed into a referent of 'originality', the 'original track'. I will briefly draw upon legal material to explore its visibility: the curious and somewhat bizarre case of 'Super Cassette Industries Limited vs. Bathla Cassette Industries Pvt. Limited Decided On 09.09.2003'.

This story begins when T-Series goes to court against Bathla for whacking off their version of the famous *Chalo dildaar chalo chand ke paar chalo* song from *Pakeezah*. T-Series maintained that their production, itself a cover version, had strictly maintained the terms of the controversial Section 52-1-j

of the Indian Copyright Act; they had especially complied with the following term:

Provided that in making the records such person shall not make any alterations in, or omissions from, the work, unless records recording the work subject to similar alterations and omissions have been previously made by, or with the license or consent of, the owner of the copyright or unless such alterations and omissions are reasonably necessary for the adaptation of the work to the records in question.

Indeed, T-Series had put considerable effort to ensure that there would be no alterations or omissions from the original work, and had tried to make the new version sound as like the old one as possible. On the one hand they hired new musicians and new singers even to re-record the song, so that this was an entirely new soundtrack; on the other, the new recording was such as, in the words of the court, to confuse an average, i.e. non-expert listener into believing that this was the original song from *Pakeezah*.

The problem, of whether this was or was not an original work, would become serious when Bathla, in turn, copied the T-Series version and claimed that if *they* had no right to the song neither did the T-Series people. Now emerged a complicated business, of what the moral or ethical rights of T-Series were over their recorded version of a famous song. The court wavered: on the one hand

The primary alteration in the present case comprises of a singer different from the original singer. A different orchestra is also involved... In my view a change of a singer in particular is an alteration which cannot be said to be reasonably necessary for the adaptation of the original work to produce the sound recordings of the plaintiff. In my view while the sound recording of the plaintiff may sound similar to the original version and the difference may appear insignificant and indeed negligible to the lay public, nevertheless to the owner of the copyright

such alternation is of vital significance and indeed affects the integrity of his product... For example a recording originally made in 1950 in a mono format may be altered and adapted to a stereo recording or there may be digital re-mastering of tracks. A change of the singer in a vocal rendering is a change in the most vital constituent of a recorded song and cannot be done without the previous permission of the owner of the original recording as per the mandate of Section 52 (1) (j) of the Act. The voice is the soul and essence of a vocal rendering in a sound recording. (Delhi HC Judgement on Super Cassettes vs. Bathla)

So T-Series erred in stating to the producers of the original song that they were not making changes to the original: they were, in effect, making a new soundtrack altogether: recognizing this fact was the very gist of their accusation against the Bathla people. On the other hand, despite having got themselves a new orchestra and a new singer, despite having changed what the court calls the 'soul and essence' of the original song, T-Series nevertheless could not prove their ownership rights over their version:

On comparing the two songs the similarity in both form and content is striking. In fact there is no attempt even to disguise the fact that the version recording is almost a duplication of the original.

Upon hearing the two audio cassettes, one of the plaintiff, and the other the original soundtrack of *Pakeezah*, the following findings emerge:-

- (a) The musical arrangement of notes is the same.
- (b) The orchestral accompaniment and the cue pieces are also the same.
- (c) To the uninitiated ear the songs are identical and may convey the impression that both the original and the plaintiff's version are



from the original soundtrack.

- (d) The differences in the two sound tracks are negligible.
- (e) The plaintiff's musical work is indeed a fairly accurate copy of the original soundtrack of the film, '*Pakeezah*'.

So what then was to be the way to determine originality? It is crucially important to note that in the history of Indian musical recording, it has always been the piece of recorded music that has had any rights at all: since it was presumed, and in classical music continues to usually be, that original lyrics (the *bandish*), the *raga* or the *taal*, are all traditional compositions and therefore in the public domain. The Delhi High Court itself has given examples like this one:

For example the bhajan 'Raghupati Raghav Raja Ram' which is a part of the Indian history of independence was originally composed and sung by Pt. Vishnudigambar Paluskar at Mahatma Gandhi's meetings. The melody of 'Raghupathi Raghav' did figure in the soundtrack of the film *Purab Aur Paschim*. That does not give any right to the producer of *Purab Aur Paschim* soundtrack to claim copyright against others who may record or sing 'Raghupati Raghav Raja Ram'. Similarly a well-known traditional Khayal composition in Indian classical music in Raag Kalyan 'Main Vaari Vaari Jaon' has been sung in the film *Dil Se*. Whatever be the legality and efficacy of such a version, the adaptation of such a traditional composition by a contemporary composer/performer does not in law give him any rights capable of being asserted against other performers who may sing/record the said traditional composition. Similarly the well-known Meera Bhajan 'Payojee Maine Ram Ratan Dhan Payo' was first recorded by the well-known classical musician, Shri D.V. Paluskar. It has subsequently been rendered and recorded by current performers. Owners and/or right holders of such versions cannot lay any claim to exclusive rights over

their version recording or indeed legitimately claim to be composer of such traditional melodies.

Thus by taking recourse to the traditional reservoir of Indian Classical Raags and traditional folk music, compositions based thereon may result in a sound recording. Such a derivative by a contemporary composer/performer may not refer to the original source in their sound recording. In such a situation, the current composer cannot claim exclusive rights to such a sound recording, which are assertable against any other performer/sound recording based on such traditional repertoire. Thus no enforceable rights can be acquired by any contemporary musician in rendering/recording traditional compositions. Consequently, the traditional repertoire of Indian music which may not now enjoy copyright protection due to passage of time and being in the public domain, cannot be appropriated by any individual by virtue of a later and current sound recording by excluding other performers and/or composers. The tradition of Indian classical and folk music is a valuable public heritage common to all adherents and cannot be purloined by a contemporary performer/composer by denying to others the benefit of the same. (Delhi HC Judgement on Super Cassettes vs. Bathla)

The consequence of the privileging of the *soundtrack* over the *composition* has meant that the three major distributors of music in modern times, the gramophone industry, the cinema industry and All India Radio, have all for years now controlled the only legally recognizable element in the entire process of music creation, the recording. The recording, furthermore of the individual and autonomous song, that is assembled by the original music director, handed over to the film's producer for a fee, and further handed over by the producer to the music companies for a further fee, was therefore the only commodity being circulated. This specific commodity circulates in different versions: on the radio, for example, or on television, in public spaces and both in musical sales referring to the particular song as well as to

the particular singer (hits of Kishore Kumar, for example), or even a genre (a compilation of love songs). Given that neither composer nor lyricist, nor, one should add, singer, musician or technician, have any say in the future career of the recording, it follows in the very logic of the history legal commerce in Indian music that, firstly, if that specific recording is changed, added to and remixed, a new recording emerges with its own rights, and secondly, as current practice dictates, the dispute that might emerge will only concern the rights holders of the original recording, who in almost all instances are the film and music industries, and radio and a few other archives.

### ***III***

*How would one resolve this contradiction? Was there any inexorable way in which Bhole's experiments with mixing, which would lead to the invention of playback, would also lead to these kinds of problems emerging in what I have confusion over the referent?*

We have here, I propose, a problem that is primarily driven by a perceived legal antagonism between original composers and remixes, but one that appears to resonate repeatedly across the several positions taken on the aesthetics of Indian film sound. The multiple antagonisms, between sound and music, music and narrative, recorded sound and authentic location sound, mixed (and remixed) music and sound – seem repeatedly to draw attention to a common basis to all these problems. My own sense is that our cinema's continued reliance on the dubbed soundtrack, paralleling elimination of ambient sound, in favour of an entirely artificial sound track, set either to edited visual, or vice versa, to pre-recorded sound to which visual is later added – what is known as 'sound or song picturization' – provides a central aesthetic resource from where to unlock key knowledge around the cinema. Critical to this entire argument about the referent is the emergence of a single sound 'source', the one from where Chandramohan would rehearse the performance of the priest set to music: a sound source apparently autonomous to the diegetic 'location' of the shot. Indian cinema - including

the documentary - has never, ever, used the concept of ambient silence, and this sound source, in dubbed sound especially, tends to flatten out diegetic space almost as though the action is being performed on a stage with a cloth backdrop providing the locale. This somewhat quixotic practice in fact offers the clearest definition for the category of the 'character' of the fiction - the narrative space from where the character speaks - and in turn allows a conduit by which a range of musical and theatrical practices get smuggled into the cinema, and deal with its endlessly dynamized - therefore endlessly problematic - diegetic source. We know that the absence of a perspectival tradition in Indian art has led to many controversies around how it may work with narrative at all, and more specifically, with the 'character in/of fiction'.

The coming of sound in fact changed, and transposed, this visual 'problem' of the lack of perspective, and pre-dominance of frontality into a problem of sound.