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## Madras High Court says Stayzilla case civil, but probe still on

By [Bharani Vaitheesvaran](#) & [Mugdha Variyar](#), ET Bureau | Updated: Apr 15, 2017, 01:07 AM IST

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CHENNAI | BENGALURU: The [Madras High Court](#) judge's remarks in the bail order for [Stayzilla](#) founder [Yogendra Vasupal](#) seem to back the startup community's contention that a civil matter was incorrectly pursued as a criminal case, although the last word on that is yet to be delivered.

"Taking into consideration all the above said facts and the rival contentions, it appears to be dispute relating non-compliance of the contractual obligations and as contended by the petitioner, it appears to be a civil dispute," reads the bail order, which ET has seen.

While Vasupal has been freed after being held for 28 days, many in the startup community say the movement against such cases of "intimidation" will continue and take a broader shape, including the formation of a volunteer code of conduct for shutting down a startup.

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following a police complaint by [Jigsaw Advertising](#), an offline marketing vendor, which said the startup owed it Rs 1.69 crore.



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### Timeline to Trouble

- FEB 23** Stayzilla's Yogendra Vasupal announces closure, promises reboot
- MAR 13** On Jigsaw's complaint, cops file FIR under sections relating to criminal matters against Vasupal and others
- MAR 14** Vasupal arrested in Chennai and remanded to judicial custody. Publishes blog post - 'Help! I Need Everybody'
- MAR 23** Egmore court rejects Vasupal's bail plea. He writes another post clearing air about alleged financial bungling at Stayzilla
- MAR 28** Principal sessions court denies bail
- APR 11** Madras High Court grants bail to Vasupal

Entrepreneurs across the country rallied behind the Stayzilla founder following his arrest and during his incarceration, declaring that such intimidation would hurt India's booming startup ecosystem.

Over 1,000 entrepreneurs had joined a virtual movement under the Help Yogi banner, which championed Stayzilla founder's cause and said the issue should have been treated as a civil dispute.

While Vasupal is out on bail, the case will continue. "The investigations are ongoing," said an investigating officer with the Central Crime Branch (CCB)-Chennai. "Vasupal has been ordered by court to present himself before the police. As for the charge sheet, it has not been prepared yet."

A legal expert said the bail order's wording doesn't necessarily mean the case will be considered a civil dispute.

"The police will still be investigating, and if they conclude it is a civil dispute, they will not file a chargesheet, and the complainant will then have to approach the civil court," said Vaibhav Parikh, a corporate lawyer with Nishith Desai Associates. "However, if the police do find evidence to file a charge sheet, then it will be treated as a criminal case and he will be tried in a magistrate court. The Stayzilla party can approach a higher court to quash the charge sheet if they think it is motivated, but it is usually rare for higher courts to quash cases."

The point will be decided on the question of intent. "The whole thing will depend on whether the police can prove that there was an intention to cheat, which makes it a criminal case," said Parikh.

One of Vasupal's key supporters believes the matter isn't criminal in nature. "My view is that there is no smoking gun here," said Sharad

Sharma, cofounder of software think tank iSPIRT. "In the early days, there had been a lot of effort on part of Help Yogi movement to conclusively establish there was no fraud on Yogendra's part." Sharma, among the leaders of the Help Yogi brigade, said the movement will try and broaden its activities.

### ARBITRATION OVER INTIMIDATION

"In phase two, it will seek to create a deterrence so that such acts of goondaism don't happen to startup founders. We want people to choose arbitration over intimidation. In phase three, Help Yogi movement and iSPIRT will work to create a volunteer code of conduct for founders doing a shutdown or pivot," Sharma said.

The Stayzilla episode has been an edifying one for investors as well. "Investors also have to mentor entrepreneurs. Just as there is a need for handholding while starting up, there is also need for handholding while winding up," said Padmaja Ruparel, president of the Indian Angel Network, which was an early investor in Stayzilla. The company raised a total of \$34 million from venture capital investors like Matrix Partners India and Nexus Venture Partners. "As the ecosystem grows with more startups being founded, number of failures will also increase just as number of successes will. There needs to be more education on the right process of winding down," she added.

As the ecosystem matures, the number of founders closing businesses is expected to rise as average failure rate among startups is pegged at 90%. According to startup tracking platform Tracxn, 314 of them shut in 2016, higher than 215 in the previous year. Some of India's most high-profile founders, like Flipkart group CEO Binny Bansal, also feel that while the government has started taking the right steps some issues remain.

"One of the big teething issues is how do you shut down businesses in a way that the founders are not really criminally liable. Those become really big distractors if not taken care of for future founders of companies," Bansal told ET in an interview earlier this week.

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