

# Stayzilla case: Will criminal cases against failing startups be a norm?

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BENGALURU: The arrest of Stayzilla founder Yogendra Vasupal late Tuesday over alleged non-payment of dues to a vendor has sent the country's startup community into a tizzy. Several in the startup world are rallying around Vasupal, either through social media campaigns or by directly extending support to the Stayzilla team. And many are raising a larger issue — will criminal complaints against failing startups become a norm?

Several industry members, including entrepreneurs and investors, have formed an informal group called SaveYogiSaveStartupMovement to try and help Vasupal get bail as well as to explore what legal action to adopt to deter such incidents. Members of the group declined to be identified.

Vasupal, founder of Stayzilla that had announced the halt of its operations last month, was taken into custody by the Chennai police following charges of defraud by an advertising firm. Software industry body Nasscom said it has contacted senior officials in the Tamil Nadu government for their support to resolve the issue. The Internet and Mobile Association of India (IAMAI) said that the criminal first information report (FIR) filed with the Chennai police against Vasupal was "unprecedented".

Many in the startup community concurred, based on details publicly available, that this issue should not have led to an arrest. The two industry bodies and many others in the startup community have warned of harm to the startup ecosystem and the Union government's Startup India drive if such cases were to become a norm. "So far, it looks like a business dispute which should be a civil case. We can't allow intimidation of entrepreneurs in this manner," Girish Mathrubootham, founder of Chennai-based Freshdesk, told ET.

Several others ET spoke with also said that the matter should have been resolved in a civil court and not have amounted to Vasupal's arrest. Vasupal's arrest spurred government officials in Karnataka into action. "I took a conscious decision to speak up on the issue given our focus on ease of doing business, and we feel that the government should be approachable. I spoke to the IT minister of Tamil Nadu and asked him to intervene based on the merit of the case," Karnataka's Information Technology Minister Priyank Kharge told ET.

Corporate lawyer Vaibhav Parikh of Nishith Desai Associates said a default on payment is usually a civil case unless there is an intention to cheat, wherein it would become a case of defraud and can attract criminal complaints.

"Usually, a civil case, even for a small amount of non-payment, can stretch for years, which is why it is now becoming a norm to file criminal cases for defraud," said Parikh. Padmaja Ruparel, president of Indian Angel network, an early investor in Stayzilla, said the need of the hour was to create a supportive ecosystem for startups. "The government and the Prime Minister have been talking about Startup India and ease of doing business, so building an ecosystem for a company to pivot the business without getting into trouble should also be considered into it," said Ruparel, declining to comment specifically on the Stayzilla incident.

Nasscom emphasised on the need for a proper legal framework for startups to address business troubles. "Any actions that go beyond the provisions of the law and create undue fear and harassment would raise the insecurity for startup founders and raise the cost of failure in an unacceptable way," Nasscom said in a statement. Yet, in Vasupal's arrest, there could also be lessons for startups on ensuring that they do not wind up leaving employees, vendors and other stakeholders in the lurch.

"There is a cost to shutting down just as there is a cost to starting up. Liabilities need to be taken into account and there should be planning with stakeholders and vendors," said Ravi Gururaj head of Nasscom's product council. "However, what happened with Vasupal is disappointing and such heavy-handedness is unacceptable."