

I. MOOT PROPOSITION¹

MOOT PROBLEM

1. Anamika Singhania (Age 20 yrs), a fashion designing student in her second year of UG program, was living alone in an apartment at the plush Boulevard Royale Apartments – Pune. Gaurav Sharma (Age 21 yrs.), a student of the same college in his penultimate year, is a tech enthusiast. He had an infatuation for Anamika since the time she joined college. He usually stalked many girls on Instagram, Snapchat etc. Gaurav was usually accompanied by Saurav Gupta (Age 20 yrs.) and Mayank Malhotra (Age 20 yrs.) who were engineering students in the same city, on their clubbing, house parties, road trips etc. Saurav and Mayank belonged to political families. Saurav’s mother namely Kamini Gupta is a local MLA in Pune city and Mayank’s father namely Rakesh Malhotra is local party president of a political party.
2. On 01/01/2020 Gaurav contacted Anamika on Instagram and both exchanged numbers upon few hours of friendly conversation and decided to arrange a house party at Anamika’s apartment. Accordingly, Gaurav, Saurav, Mayank and Nikita Sachdeva who used to reside nearby and is a close friend of Anamika gathered for the party on 25th January 2020. That Saurav and Mayank clicked some unsolicited photographs of Anamika and Nikita. Everyone left the place in the early morning hours of 26th January 2020. Nikita told Anamika in the afternoon on 26th January that ‘she felt like Saurav and Mayank violated Anamika’s privacy by touching her inappropriately while dancing’ and suggested her to go live and knock out Gaurav’s friends online for their misdeeds.
3. Furious Anamika went live on Instagram through her account on the same day i.e. 26th January 2020 at around 4 pm and narrated that she was harassed by Gaurav, Mayank and Saurav on the night of 25th January 2020 with all other details etc. That live session was seen by 150 friends of her including Gaurav and his friends.
4. The said Insta-Live session caused major embarrassment to families of Saurav and Mayank. The video got viral on social media and media started questioning Saurav’s

¹ The moot proposition is drafted by Mr. Vipul Dushing. (Alumni of ILS Law College, Pune and Advocate, District and Sessions Court, Pune.)

mother who is sitting MLA of the city. The incident brought huge humiliation for Mayank's father as well. They both denied any such involvement of their children and asked to initiate appropriate measures in that regard.

5. On 26th January 2020 at around 8 pm, Anamika received a text from Gaurav's cell phone number asking her to meet him at a secluded place outside the city. Thereafter Anamika went missing and on information provided by Nikita Sachdeva in this regard to Anamika's father namely Viren Singhania, they approached South House Police Station Pune and lodged a missing report and shared their suspicion on Gaurav Sharma. When South House Police Personnel reached Gaurav Sharma's home at around 2 am on 27th January 2020, he was found dead. His father Saumitra Sharma was immediately contacted and informed about the unfortunate event.
6. A report to that effect was registered at South House Police Station and necessary Inquest Panchanama was carried out with report of death by hanging and his body was forwarded for post mortem. Police recorded statements of various witnesses and seized the said video of Insta-Live Session by Anamika. Separate Teams of Detection Branch attached to Pune Police were deployed for investigation in the present matter.
7. That the Detection Squad of Pune Police nabbed 2 persons namely Daulat Ram (Age 30 years) and Naval Kishor (Age 27 yrs) from hotel namely Blue Sky Lodging in Panvel on the basis of secret information received in relation to an illegal arms case. The investigation further revealed their complicity in present case.
8. That accordingly a FIR was registered at South House Police Station on 25th February 2020 for offences punishable under S 302, 354, 354-C, 201, 120B r/w S 3(25) of Arms Act against Daulat Ram, Naval Kishor. Investigation was carried out in this aspect.
9. That thereafter, when investigating agency interrogated Daulat Ram extensively in his police custody remand, he consented to confess the crime on 2nd March 2020. Accordingly, Daulat Ram was produced before Magistrate and his confession was record on 3rd March 2020. That sum and substance of his confession is attached herewith. The confession was later on retracted by Daulat Ram stating coercion at the behest of the investigating agency. Accused Daulat ram and Naval Kishor gave memorandum statement and a panchanama was made in this regard. The investigating agencies were able to recover certain incriminating material from spot of the incidence as well.

10. That the investigation with respect to call details and number revealed that the number through which calls were made to Daulat Ram was registered in the name of Kamlesh Sahu who was driver of Kamini Gupta. Accordingly a search operation was initiated to arrest Kamlesh Sahu, Kamini Gupta, Saurav Gupta, Mayank Malhotra and his father Rakesh Malhotra to assess and figure out their role and involvement in the said crime. Detection Squad Unit nabbed Accused Kamlesh Sahu, Kamini Gupta, Saurav Gupta, Mayank Malhotra and his father Rakesh Malhotra from various places and were taken into custody.
11. The miscellaneous parts of head in a decomposed state along with blood-mixed soil from the spot of incidence were dispatched for DNA profiling after taking necessary approvals in this regard. The incriminating articles including their mobile phones received from the Accused Naval Kishor, Daulat Ram as well as from spot of incidence including mobile phones of Kamlesh Sahu, Kamini Gupta, Rakesh Malhotra were forwarded to forensic analysis and necessary Call Details Records, Subscriber Details Records were procured from their telecom operators. A certificate under S 65-B of Indian Evidence Act was not filed in support of said CDR. The investigating agencies also recorded statements of certain eye witnesses however no TIP was conducted in this regard.
12. Accordingly a detailed charge sheet was filed by investigating agency attached to South House Police Station before the Ld Magistrate Court. That as the offence alleged were exclusively triable by Sessions Court, the case was committed to Sessions Court Pune for trial.
13. Accordingly charges were framed against following Accused:
 - i) Naval Kishor, ii) Daulat Ram, iii) Kamlesh Sahu, iv) Kamini Gupta,
 - v) Rakesh Malhotra, vi) Saurav Gupta, vii) Mayank Malhotraunder Sections 302, 354, 201, 120B of Indian Penal Code r/w S 3(25) of Arms Act and the trial commenced at the Hon'ble Sessions Court of Pune.
14. In order to bring home the guilt of Accused, the prosecution in and all examined 14 Prosecution Witnesses.
15. Details of material brought up on record and relied by prosecution to prove its case beyond reasonable doubt before the Trial Court :

| Exhibit | Details | Particulars |
|----------------|---|---|
| 1 | FIR | Lodged by Viren Singhania |
| 2 | Spot Panchanama | <ul style="list-style-type: none"> • Panch Gurudev Pande Examined. • Two KF 7.65 mm pistol empty without primer caps recovered from spot. • Fw – Forensic Analysis |
| 3 | Inquest Panchanama | <ul style="list-style-type: none"> • Deceased Gaurav Sharma – Death by Hanging. |
| 4 | Confession of Accused Daulat Ram | <ul style="list-style-type: none"> • Recorded before Ld Magistrate • Retracted by Accused. • Refer Annexure A |
| 5 | Memorandum Panchanama of Accused Daulat Ram (Under S 27 of IEA) | <ul style="list-style-type: none"> • Panch Sahebrao Kale examined. • Mobile Phone, Cash amount of INR 4 lacs recovered. • Bloodstained Clothes recovered. • Fwd. - Forensic Analysis. |
| 6 | Memorandum Panchanama of Accused Naval Kishor (Under S 27 of IEA) | <ul style="list-style-type: none"> • Panch Gurudev Pande examined. • Mobile Phone, 2 miscellaneous body parts of Anamika, one country made pistol with magazine having crude marking and No 7.65 Round, made in USA Pistol, and his bloodstained clothes seized. • Fwd. - Forensic analysis. |
| 7 | Memorandum Panchanama of Accused Kamlesh Sahu (Under S 27 of IEA) | <ul style="list-style-type: none"> • Panch Nivrutti Kadam examined. • Spot where the mobile phone of Gaurav was thrown detected. |
| 8. | PM Report of Gaurav Sharma. | <ul style="list-style-type: none"> • Medical Expert examined. |
| 9. | Ballistic Report | <ul style="list-style-type: none"> • Refer Annexure B |

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| 10. | DNA Report | <ul style="list-style-type: none"> • Refer Annexure C |
| 11. | CA Report | <ul style="list-style-type: none"> • Refer Annexure D |
| 12. | Call Details Records Subscriber Details Record | <ul style="list-style-type: none"> • CDR, SDR of Kamlesh Sahu, Kamini Gupta and Rakesh Malhotra proved through Nodal Officer. |
| 13. | Insta-Live Video of Anamika Singhania | <ul style="list-style-type: none"> • Video seized through Nikita Sachdeva by panchanama. • 65-B Certificate not attached. • Hash value determined. • Regarded as Dying Declaration (As per S. 32 of IEA) |

16. That the statements of Accused were recorded under S 313 of Code Of Criminal Procedure where the defence taken by Accused is of Total Denial.
17. That the Sessions Court Pune by regarding Exhibit 13 as dying declaration of deceased and also a cogent material to substantiate motive behind the crime relied on the same. That the medical opinion, retracted confession of Accused corroborated by independent witnesses and material was held reliable. That the conspiracy was held to be proved on the basis of CDR and SDR Records. Medical Opinion and DNA Report also were relied upon by the Sessions Court. As the case does fall within the categories of rarest of rare cases taking into consideration the modus and brutality involved, death penalty of imposed by Sessions Court Pune to all the Accused.
18. That a Criminal Confirmation Case along with Appeal is pending before Hon'ble Bombay High Court for adjudication.

ANNEXURE A

Confession of Accused Daulat Ram (S 164 of Cr.P.C.)

BEFORE HONORABLE JMFC COURT PUNE AT PUNE

1. That the Accused Daulat Ram is produced before me by Police Constable attached with South House Police Station.
2. I have informed Accused that he is no longer in police custody.
3. I have satisfied that there is no policemen in the Court or in any place from where the proceedings could be heard or seen.
4. After satisfaction that the Accused is making the statement voluntarily and of his own free will , I have recorded as follows :

“ I Daulat Ram state that On 26th January 2020, Naval Kishore received a call from one mobile number 5443234543 who asked him to eliminate 2 persons from Pune and told that he would receive 10 lacs for the job. He also stated that the person on call warned him not to involve too many persons. Upon accepting the offer by Naval Kishor, he asked me to receive advance amount in cash in Hotel Blue Sky Panvel at around 8 pm and was asked to immediately come to Pune. Accordingly, myself and Naval Kishor came to Pune. As directed by the person on call, we went to the home of Gaurav Sharma where Naval Kishor strangulated him by means of a nylon rope. Thereafter we were asked by the person on call to come to outskirts of Pune where Anamika was already kept inside a blue coloured van. Naval Kishor shot Anamika in head and thereafter cut her body by means of chopper knife and disposed of the body parts by throwing them at different place. Thereafter we called on the said number and informed that the job is done. We had still not received the remaining payment and were continuously calling on the said number and accordingly on one day we were asked to receive the remaining amount in Hotel Blue Sky where we got arrested.”

I Certify that the above confession was recorded in my presence and hearing and the record contains a full and true account of the statement made by Accused.

Sd-

JMFC Pune.

ANNEXURE B

Ballistic Report

Directorate of Forensic Science Laboratory

State of Maharashtra – Home Department

Kalina, Santacruz (East), Mumbai.

Examination Report

South House Police Station

State vs Naval Kishor

u/s 302, 354, 354-C, 201, 120B of IPC

r/w S 3(25) of Arms Act.

1. Description of Articles –

Exh 1 - One country made pistol with magazine having crude marking and No 7.65 Round, made in USA Pistol.

Exh 2 – One KF 7.65 mm pistol empty without primer cap.

Exh 3 – One KF 7.65 mm pistol empty without primer cap.

2. Results of Analysis –

Exh 1 is a country made pistol in working condition. It is capable of chambering and firing 7.65 mm pistol cartridges. Residue of fired ammunition nitrate were detected in Exh 1 which shows that it was used for firing prior to its receipt in the laboratory. The empties at Exh 2 and 3 are the fired 7.65 mm pistol cartridge cases without primer cap as received hence unsuitable for Ballistic Comparison. No further opinion can be reached.

Sd-

Dr Vasant Chandak

(Asst Chemical Analyser to Govt)

ANNEXURE C

DNA Report

Regional Forensic Science Laboratory

State of Maharashtra

Ganeshkhind, Pune.

Examination Report

South House Police Station

State vs Naval Kishor

u/s 302, 354, 354-C, 201, 120B of IPC

r/w S 3(25) of Arms Act.

1. Description of Articles :

Exh 1 – Blood in vials put in a cardboard box labelled Sample No 1.

Exh 2 – Hair in vials put in a cardboard box labelled Sample No 2.

Exh 3 - Blood in vials put in a cardboard box labelled Viren Singhania.

Exh 4 - Hair in vials put in a cardboard box labelled Viren Singhania.

2. Results of Analysis :

The DNA extracted from Exh 1 and 2 with that of Exh 3 and 4 is genetically identical.

3. Interpretation :

For all the genetic systems analysed with PCR Viren Singhania matched the Obligate Paternal alleles present in Sample No 1 and 2.

Opinion :

Sample No 1 and 2 are the miscellaneous body parts of deceased daughter Anamika Singhania who is concluded to be biological offspring of Viren Singhania.

Sd-

Dr Vinay Kulkarni

(Asst Chemical Analyser to Govt)

ANNEXURE D

Chemical Analysis Report

Regional Forensic Science Laboratory

State of Maharashtra

Ganeshkhind, Pune.

Examination Report

South House Police Station

State vs Naval Kishor

u/s 302, 354, 354-C, 201, 120B of IPC

r/w S 3(25) of Arms Act.

1. Description of Articles :

Exh 1 : Blood Sample of miscellaneous body part recovered during investigation.

Exh 2 : Blood Sample of Accused Naval Kishor.

Exh 3 : Blue Color T-Shirt of Accused Naval Kishor stained with blood.

Exh 4 : Black Color Pant of Accused Naval Kishor stained with blood.

Exh 5 : Blood Sample of Accused Daulat Ram

Exh 6 : Red Color T-Shirt of Accused Daulat Ram stained with blood.

Exh 7 : Black Color Pant of Accused Daulat Ram stained with blood.

Exh 8 : Blood Mix soil seized from spot.

2. Results of Analysis :

Exh 1 is found to be human blood having 'O +ve' Blood Group. Blood found on Exh 3, 4 6, and 7 is found to be Human however ABO grouping results are inconclusive. Opinion about Exh 8 is inconclusive.

Sd-

Dr Rajesh Mahadik

(Asst Chemical Analyser to Govt)