

Asgar Khan Advocate National Online Moot Court Competition - 2020

BACKGROUND OF MOOT PROPOSITION

Internet and Social media have become inseparable part of our lives in 21st century for both educated and uneducated people in developed as well as developing countries. Internet as well as Social Media have spurt uncountable opportunities in all walks of life. They have opened many ways of economic growth and have potential to offer solution to archaic and incurable problems which existed in society at large. Revolutionary developments have occurred in real time communication / message about natural calamities, their accurate predictions and advanced warning system among other things. They have helped not only in responding and meeting the emergent situations but also in mitigation, rehabilitation and readjustment etc. with an unprecedented efficiency through free flow of information. They have made Generation X into a generation of informed common folks who have access to information from around the world at tips of their finger but the laws, rules and regulations made in order to contain the ill effects of Internet and Social Media are often outdated and dwarfed in front of rapid advancements in technology which creates new ways to misuse these boons and turn them into banes. The Republic of Orient is one of the countries struggling to balance its cyber laws against new forms of cyber crimes.

The Republic of Orient is a constitutional democracy. The Constitution of Republic of Orient establishes the Supreme Court of Orient which is the final interpreter of the 'The Constitution of Orient' and is considered as the custodian of basic civil rights and liberties of its citizens. The Supreme Court of Orient has devised new methods and secured justice to its citizens as per law. It has a rich history and legacy of contributing some of the overarching principles of constitutionalism like 'basic feature of the constitution doctrine', 'absolute principle liability', 'letter –petitions as social action litigation' etc. With such enrichment, the constitutional governance in Republic of Orient is described as one of the most progressive governance based on the principles of 'rule of law' and liberal democracy. It guarantees several fundamental rights, broadly corresponding to those recognized in international human rights instruments. The constitutional and policy framework of Republic of Orient are pari materia to the Republic of India and their laws are identical.

MOOT COURT PROPOSITION

Brief Facts:

1. Dauphin Cooper, aged 32, a highly educated rich corporate heir and enthusiastic young politician, held position of managing trustee and trustee of several trusts in the State of Seola(southernmost state of Republic of Orient situated on shores of the Orient Ocean), held a respectable and dignified position in the eyes of people of Seola. He often shared with his friends and family that he wanted to dedicate his life for social upliftment since he was a child. In 2018, Government of Seola invited tenders for construction of a bridge named as Sohaner expressway which was won by Dauphin's company 'Bourbon Constructions' as it was one rupee less than the bid of 'Natraj Builders' owned by family of former MLA of Sohaner, Heera Bisht alias Dappu, aged 30, .
2. A few weeks after opening of tender Dauphin Cooper and his brother Phillip Cooper started to receive abusive and demeaning comments on their social media posts on various social platforms from Heera Bisht and his associates named Peter Williams and Daniel Thomas. Prank calls at night disturbing Coopers' peace from various unknown numbers followed the cyber bullying series. Dauphin reported these incidents to the local police of his locality who showed their inability to act as the prank calls were being made from stolen cell phones and section 66A of Information Technology Act, 2000(I.T. Act), which was the only remedy available in most of the Cyber Bullying cases was declared unconstitutional by Supreme Court of Orient after stating that it violated Freedom of Speech and Expression under Article 19(1)(a) of the Constitution of Orient. Soon after this, the news of attempt to lodge a complaint against Heera Bisht by Dauphin Cooper reached Heera Bisht, he made his Cyber Bullying more rigorous as he knew that Dauphin Cooper was well connected and any other act amounting to an offence on part of Heera Bisht would put him in trouble. Heera Bisht uploaded caricatures, offensive and annoying pictures on social media replacing face of men in various offensive pictures with face of Dauphin Cooper and tagging Dauphin Cooper and Phillip in them regularly.
3. Meanwhile Neelima Riddle, live-in partner of Heera Bisht made a fake profile named Joel Simpson, came in contact with Dauphin Cooper on various social media platforms,

posed as a follower and well wisher of Dauphin Cooper and suggested Dauphin Cooper to sexually assault herself (Neelima, girlfriend of Heera Bisht) to avenge all offensive acts done by Heera Bisht against Dauphin. Dauphin Cooper refuted this idea and shared screenshot of this chat on various social media groups in order to gather information on Joel Simpson. Peter Williams was a member in one of these groups and so used the screenshot posted by Dauphin misinterpreting its contents in order to make a public opinion against Dauphin.

4. Soon after this Neelima Riddle made a social media post on 22 March 2019 stating #MeToo alleging that Dauphin Cooper sexually harassed her, she also lodged a FIR against Dauphin on same date. On the same day an unknown person hacked Dauphin Cooper's Facebook social media account and sent a message on Neelima's account apologizing for sexually harassing her. Meanwhile, Dauphin's anticipatory bail application u/s. 438 Cr.P.C. was rejected by High Court and soon after that police called Dauphin to police station and his statement u/s. 161 Cr.P.C. was recorded in which he stated that "he doesn't even know who Neelima is and that the FIR filed against him was nothing but a plot hatched by Neelima, Heera and his friends". Dauphin was arrested by police and criminal proceeding u/s. 354-A was initiated against him after Heera pulled a few strings using his political influence. A bail application was filed by Dauphin u/s. 439 Cr.P.C. and subsequently bail was granted. Dauphin Cooper could not handle his character assassination and insults anymore and on 30 April 2019, soon after his bail, he called his brother Phillip and told him that he wants to end his life as he cannot bear cyber bullying and fake allegations by Heera and his girlfriend anymore. On the very same day, Dauphin hung himself from a ceiling fan in his house and left a suicide note mentioning that he cannot bear the fake allegation and societal pressure, by the time Phillip reached to save Dauphin, he was already dead.
5. An FIR was filed by Phillip Cooper to seek justice for his brother. The whole incident soon became a highlighted case, media trials created high pressure on investigation authorities that created considerable pressure on investigation officer who soon found that Neelima Riddle's story was not beyond suspicion. Investigation Officer also found sufficient evidence in support of the claim that Dauphin's social media account was hacked before texting an apology to Neelima. Soon a case was registered against

Neelima, Heera, Peter and Daniel u/s. 120-B, 306 and 500 of ORIENT PENAL CODE (OPC) and s. 66C of Information and Technology Act, 2000 on grounds of various evidences including a suicide letter found in purse of Dauphin stating that his life turned into hell due to consistent bullying from Heera and his friends and that Neelima's false accusation against him was the final nail in his coffin which made him feel that he had no option other than ending his life in order to evade constant mental torture inflicted by Heera, his friends and Neelima.

6. Trial Court acquitted Heera and his friends as no evidence was present on record incriminating them but Neelima was convicted u/s. 500 on the basis of circumstantial evidence present on record for criminally defaming Dauphin by putting false allegation on Dauphin to defame him, consequentially she was awarded imprisonment of six months and a fine of Rs. 5000. In the Abetment of suicide case filed u/s. 306 ORIENT PENAL CODE (OPC), all accuses were acquitted by trial court stating that "Merely because a person, who has committed suicide has left a suicide note, one cannot immediately jump to a conclusion and that it is enough to charge the accuses with criminal liability under Section 306 ORIENT PENAL CODE (OPC). One has to analyze and examine the contents of the suicide note to find out whether it contains any incriminating information in the nature of instigation, provocation, forcing the victim to commit suicide."
7. Phillip appealed against the judgment of Trial Court in High Court of Seola but the High Court upheld the decisions of Trial Court and both the appeals were dismissed. Whereas, in Neelima's appeal against the order of Trial Court, the High Court of Seola allowed her appeal and reduced her punishment only to a fine of Rs. 5,000 taking into account that it was her first offence and that she was four months pregnant which would mean that any imprisonment awarded to her will be detrimental to her innocent child's health. Phillip decided not to give up and took a pledge that he will do everything in his power so that what happened to his brother is not repeated with any other person due to unfortunate lack of legislation. He decided to take his grievances to Supreme Court of Orient.
8. The case is listed for final arguments during 29-08-2020 for final disposal.

NOTE:-

- Participants are requested to argue on the side of the Petitioner as well as on the side of the Respondents before the Hon'ble Supreme Court of Orient pertaining to the above case and further elucidate the arguments with appropriate case laws and inputs.
- The Supreme Court of Orient considers the leading common law precedents as being highly persuasive. Hence, all the relevant ancient/modern texts of Indian law may be referred for arguing the case.
- This Moot Problem has been formulated solely for the purpose of this competition for furthering the academic exercise only.

Relevant Laws:

- Constitution of India, 1950
- Indian Penal Code, 1860
- Criminal Procedural Code, 1972
- Indian Evidence Act, 1872
- Any other Appropriate Laws