

DISCLAIMER

- The facts stated in the moot proposition are fictitious and have been drafted solely for the purpose of the moot court competition.
- The names, locations, dates used and the situation described in the proposition has no resemblance to any person alive or dead or to any event.
- No real incident can be attached to anything contained in this proposition.
- The proposition doesn't intend to hurt the feelings of any person or any section of society.

MOOT PROPOSITION

1. The state of 'Musicstan' is a Sovereign, Socialist, Secular, Democratic and Republic country. 'Harmanpreet', aged 27, a citizen of Musicstan, was a popular pop singer who gained fame and name in the field of music in almost no time. He had a huge fan following among youngsters and teenagers but on the other side, he had critics too. His critics always criticised him for promoting gun culture and glorifying violence through his songs. Nevertheless, his popularity and fame were known to the world at large. Harmanpreet also contested the latest assembly polls from his hometown district Ramgarh, Fanjab, however, couldn't secure a win. His life took an unfortunate turn when he was found dead in his jeep wounded completely by the bullet shots. Following is the narrative of the FIR lodged by his father "Jaspal Singh":
2. "I "Jaspal" aged 50 years s/o Ram Singh r/o village Haripur, district Ramgarh give this statement that my son Harmanpreet was a famous singer who recently had contested in the local assembly polls from the CRP party. Due to his fame in his profession and that he stepped into politics, he was getting extortion calls from a lot of gangsters. He particularly told me he got a death threat from the 'RED GANG'. On 28th June 2022, he was at his village house only. His two friends Simran and Sandeep came to meet him. Harmanpreet also had kept a bulletproof car beside a regular jeep and was having gunmen too. However, on the aforesaid day, he left in the jeep along with his friends without any gunman. When I saw him leaving the house without a gunman I went after him along with the gunmen in the bulletproof car and started chasing

him. While chasing him when we crossed the periphery of the village, I saw a Corolla sedan car chasing my son's jeep. I read the number of the car as 'DL 00 AB 0000'. I saw four unknown persons to be sitting in the car. Our car was still quite far from my son's jeep when my son's jeep suddenly stopped as the narrow road of the village's periphery was already blocked by a Bolero car from the front side, the number of which I read as 'DL 00 XX 0000' and I saw four persons sitting in that car too. The drivers of both the cars waylaid my son's jeep in between their cars and thereafter started firing indiscriminately at my son's jeep. After having fired multiple rounds they quickly drove their car away from the village. This incident happened around 5 pm. When I along with the gunmen went near my son's jeep, I found my son on the driver's seat while Sandeep was sitting behind and Simran in the front seat adjacent to the driver's seat. My son had multiple bullet wounds on his right side of the body while both Simran and Sandeep were also injured. We raised hue and cry for help and the nearby villagers reached the spot. We took all the three to the nearby hospital, however my son succumbed to his fatal injuries as we reached the hospital whereas Simran and Sandeep died later in the night on the same day."

3. The investigation was commenced by the 'Investigation officer', namely Jai Singh, hereinafter called 'IO' after lodging of FIR. The police got a tip about the location of the accused. They were hiding in a secluded house in the village of Tehri, Tehsil Rizwan and district Ramgarh. As per the version of the police, the police requested the accused through a loudspeaker to assist them in arrest however, they started firing at the police. So, in defence, the police also started firing. In this exchange of fire four accused died while two policemen sustained grievous injuries. However, no firearms were shown by the police to have been recovered from the accused in such an encounter. The police officers were able to apprehend 4 accused namely Sonu, Harry, Tony and Vicky while the other four accused Sham, Sanjay, Ajay and Ricky died in the encounter.
4. Upon interrogation of Sonu in a separate cell from others he agreed to show the vehicles and weapons used in the commission of the offence. Upon directions of Sonu, the police were able to recover a Corolla sedan car bearing number 'DL 00 AB 0000' and a Bolero car bearing number 'DL 00 XX 0000' from a car parking of Chaupati Fast Food, a famous food market of

district Ramgarh. The accused Sonu also took the police to a public park where he pointed at a huge pile of leaves. The pile of leaves was removed beneath which four automatic guns were recovered by the police. The 'IO' made a memo of recovery which was signed by the panch witness (independent witness), Hira Lal, testifying to the fact that the recovery has been made in his presence.

5. A test identification parade was conducted by the police of all the accused by asking the informant Jaspal, father of Harmanpreet, to identify the accused by placing the arrested accused along with dummies (*dummies were lookalike of the accused persons having a similar appearance, dress and height*). Each accused person was separately placed among dummies who looked similar to him and the informant was able to identify all the arrested accused persons. The statement of the informant Jaspal identifying the arrested persons Sonu, Tony, Harry and Vicky as the culprits who committed the murder of his son was recorded by the 'IO'.
6. During the pendency of the investigation, Tony requested the IO that he wants to make a confession. The 'IO', therefore, produced the accused Tony before the magistrate. The magistrate gave him the warning that the confession may be used against him as evidence later on in trial and that he is not under any compulsion to give the confession. The magistrate gave him some time to rethink. He also put the accused Tony some questions to ensure that the confession was being given voluntarily by him without any compulsion or force from the police. Thereafter, the confession was recorded by the magistrate which reads as follows:

"I, Sonu, Harry, Vicky and other accused persons who have been killed in the encounter have committed the murder of Harmanpreet."
7. The police, thereafter, submitted the police report to the magistrate who committed the case to the session's court. The session court framed charges under sections 302 r/w 34, 341r/w34, 148, 149 and 120B of MPC (Musicstan Penal Code) against the accused.
8. In the trial, the prosecution, first of all, produced Jaspal Singh, the informant, as PW1 (Prosecution's Witness No.1). PW1 stepped into the witness box and deposed in his examination-in-chief what he stated in FIR earlier. He also made testimonial identification of

the accused persons in the court to be the real culprits who murdered his son which was sought to be corroborated by the prosecution by using the identification made by the informant in his statement made during TIP. In his cross-examination, he admitted that he has weak eyesight and often has to wear glasses to see clearly far away objects. However, when asked the question whether he was wearing glasses on the day of the incident he answered 'No'.

9. Two gunmen of Harmanpreet, Shingara and Saif were produced as PW2 and PW3. They supported the version of PW1, however, in their cross-examination they categorically answered that they are unable to recall the numbers upon the plates of the cars used in the commission of offence nor do they remember precisely the faces of the accused.
10. The prosecution also tendered the report of a fingerprint expert Dr. Tejinder Singh marked as Ex-P1. He was also summoned as a prosecution witness PW4. He remained trustworthy throughout his examination-in-chief and cross-examination
11. Dr. Ghanshyam Kumar, a ballistic expert, was also summoned as PW5 by the prosecution. He too remained credible and trustworthy throughout his cross-examination. The report submitted by him was tendered in evidence which is marked as Ex-P2.
12. In order to prove the discovery of weapons and vehicles used in the commission of the offence, the prosecution tendered the memo of recovery in the evidence as Ex-P3. The prosecution also produced Hira Lal, the panch witness (the independent witness), who purportedly attested to the memorandum of recovery of cars and weapons by 'IO' as PW6. In his examination-in-chief and cross-examination, he denied the fact that any recovery was made in his presence.
13. Thereafter, the 'IO', Jai Singh, himself stepped into the witness box as the prosecution witness PW7 who deposed that the recovery of cars and weapons was made from the information given by the accused 'Sonu' in police custody. He remained credible and didn't falter in his cross-examination.
14. The confession given by the accused Tony was also tendered in the evidence as Ex-P4, however, the court observed that it was not signed by the accused 'Tony'. The Magistrate, Vijay Singh Judicial Magistrate First Class, Ramgarh who recorded the confession also stepped into the

witness box as PW8 and deposed that the accused Tony gave a confession before him which was duly recorded by him after giving him warning that he is not bound to make the confession. He also deposed that he gave him some time alone in a room to rethink and put him questions to ascertain whether he was giving the confession voluntarily. He testified that only once when he ascertained that the accused was voluntarily making the confession then he recorded it in writing. The PW8 remained credible and trustworthy in his cross-examination too.

15. Thereafter, the statement of all the accused under section 313 of the Code of Criminal Procedure of Musicstan was recorded by the court. All the accused in their statement have denied that they have committed the offences they are charged with. In the defence's evidence, the accused tendered in evidence the report of the network service provider, duly certified, disclosing the GPS location of the mobile phones of all the accused. The report is marked as Ex-D1. As per the report on 28th June, 2022 around 5 pm, none of the accused's locations, as traced through the GPS location of their mobile phones, was near the place of the incident. As per the report during the time of the commission of the offence all the accused, as traced through GPS location of their mobile phones, were together at one place about 50 kilometres from the place of occurrence.

16. List of Witnesses and documentary evidence:

<u>Prosecution Witnesses</u>	<u>Witness Number</u>
Jaspal Singh	PW1
Shingara Singh (Gunman No.1)	PW2
Saif (Gunman No.2)	PW3
Dr. Tejinder Singh (Finger Print Expert)	PW4
Dr. Ghanshyam Kumar (Ballistic Expert)	PW5
Hira Lal (Panch Witness)	PW6
Jai Singh (Investigating Officer)	PW7
Vijay Singh Judicial Magistrate First Class, Ramgarh	PW8

<u>Prosecution's Documentary Evidence</u>	<u>Exhibited as</u>
Fingerprint expert's report	Ex-P1
Ballistic expert's report	Ex-P2
Memo of recovery	Ex-P3
Confession by the accused Tony	Ex- P4
FIR	Ex-P5

<u>Defence Witnesses</u>	<u>Witness Number</u>
None	None

<u>Defence' Documentary evidence</u>	<u>Exhibited as</u>
Report disclosing GPS Location of mobile phones of all accused	Ex-D1

17. On the basis of the evidence adduced and after applying mind to it, the Session's court convicted all the four accused under sections 302 r/w 34, 341r/w34, 148, 149 and 120B of MPC (Musicstan Penal Code, 1860) and sentenced them to death. The death sentence given by the Session's court was confirmed by the High court of Fanjab. The High court also dismissed the appeal of all the four accused and refused to grant the certificate to file a regular appeal before the Supreme Court of Musicstan. Therefore, the convicts presented an appeal to the Supreme Court by way of a Special Leave petition under Article 136 of the Constitution of Musicstan, 1950. The Supreme Court admitted the appeal of the convicts and served the notice upon the state for further hearing.
18. Meanwhile, Radha the mother of a deceased accused Shyam who was killed in the encounter with the police filed a writ petition in the Supreme Court under Article 32 of the Constitution of Musicstan pleading that she should be given compensation by the state government for

violating the Fundamental rights of his deceased son primarily the right to life and right of a fair trial by illegally murdering him in the encounter. In reply to the writ petition, the state government contended that the state government is not liable to pay any compensation since the police officers have acted in the right of private defence. The state further contended that even if the police officers have not acted in the right of private defence, the state government cannot be made liable for the illegal acts of the police officers and the compensation, if any, has to be claimed from the police officers personally by filing a suit against them.

19. Since both the petitions i.e. SLP under Article 136 filed by the convicts and the Writ petition filed under Article 32 of the Constitution of Musicstan, 1950 filed by Radha, mother of the deceased Shyam have common questions of facts and law, the Supreme Court by exercising its powers has now clubbed both the petitions and is hearing both together:

THE PETITIONS ARE TO BE HEARD TOGETHER AS A SINGLE PETITION IN THE FORM OF TWO ISSUES:

1. ISSUE NO.1 : Sonu and Others(*petitioners*) v. State of Fanjab(*respondent*):

Whether all or any of the accused is entitled to acquittal, lowering of offence or reduction of the sentence?

2. ISSUE NO.2: Radha (*petitioner*) v. State of Fanjab(*respondent*):

Whether the State is liable to pay compensation for the death of the deceased accused persons?

EXHIBIT P1

FINGER PRINTS' EXPERTS' REPORT



Conclusion: The fingerprints of all the accused persons were found in the Corolla sedan and Bolero car bearing numbers 'DL 00 AB 0000' and 'DL 00 XX 0000' respectively. However, no fingerprints of any human being were found on the weapons which have been recovered by the police upon interrogation of the accused Sonu. However, it is possible that due to the erosion caused by a huge pile of leaves traces of fingerprints, if any, may have been lost.

(Signed)

Dr. Tejinder Singh

Certified Fingerprints' Expert

EXHIBIT P-2

BALLISTICS' EXPERT REPORT



Conclusion: the bullets found in the body of the deceased Harmanpreet were shot from the weapons which have been recovered by the police upon interrogation of the accused Sonu.

(Signed)

Dr. Ghanshyam Kumar

Certified Ballistics' Expert

EXHIBIT P-3

MEMORANDUM OF RECOVERY

Following discovery is made from the information received from the accused Sonu while he was in police custody.

1. A Corolla sedan car and a bolero car bearing no. 'DL 00 AB 0000' and 'DL 00 XX 0000' respectively shown by the accused himself in Chaupati Fast Food Market, Ramgarh.
2. Five semi-automatic AK-56 guns and Three 32 Bore Revolvers hidden inside a pile of leaves of Fragrant Garden, a public park in Ramgarh.

(Signed)

Inspector Jai Singh

Investigating Officer

I declare that I do not know any of the accused and nor do I have any connection with the deceased. The aforementioned objects were discovered in my presence and I attest to the recovery of these objects by the police in my presence

(Signed)

Hira Lal

Independent Witness

EXHIBIT P-4

CONFESSION BY THE ACCUSED TONY

Confessionary statement:

“I, Sonu, Harry, Vicky and other accused persons who have been killed in the encounter have committed the murder of Harmanpreet.”

(SIGNATURES OF THE ACCUSED ARE MISSING)

(Not signed)Signature of the accused Tony

“I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed)

Vijay Singh Judicial Magistrate First Class, Ramgarh.

EXHIBIT P-5

FIRST INFORMATION REPORT (u/s. 154 of CrPC)

1. **District: Ramgarh; PS: Haripur; Year: 2022**
2. **FIR No: 17/2022**
3. **Date of occurrence: 28/06/2022**
4. **Information recorded at PS: Date -30/06/2022; Time: 8:20 am**
5. **Occurrence of Offence:**
 1. **Day: Tuesday.**
 2. **Time: Approximately 5:00 pm**
6. **Acts and Sections: 302,341,148,149,427,120B IPC**
7. **General Diary Reference Entry No. 8 of 30th June 2022**
8. **Information recorded by: Inspector Jai Singh**
9. **Type of information: Personal**
 3. **Written/Oral: Oral**
10. **Place of occurrence: Haripur Village.**
 4. **Distance from Police Station - 15 km**
11. **Informant Name: Jaspal Singh**

Nationality: Indian

Occupation: Farmer
12. **Details of Known/ Unknown/ Suspected/ Accused with particulars: Suspected**

Persons: unknown

Occupation: unknown
13. **FIR Contents** – I “Jaspal” aged 50 years s/o Ram Singh r/o village Haripur, district Ramgarh give this statement that my son Harmanpreet was a famous singer who recently had contested in the local assembly polls from the CRP party. Due to his fame in his profession and that he stepped into politics, he was getting extortion calls from a lot of gangsters. He particularly told me he got a death threat from the ‘RED GANG’. On 28th June 2022, he was at his village

house only. His two friends Simran and Sandeep came to meet him. Harmanpreet also had kept a bulletproof car beside a regular jeep and was having gunmen too. However, on an aforesaid day, he left in the jeep along with his friends without any gunman. When I saw him leaving the house without a gunman I went after him along with the gunmen in the bulletproof car and started chasing him. While chasing him when we crossed the periphery of the village, I saw a Corolla sedan car chasing my son's jeep. I read the number of the car as 'DL 00 AB 0000'. I saw four unknown persons to be sitting in the car. Our car was still quite far from my son's jeep when my son's jeep suddenly stopped as the narrow road of the village's periphery was already blocked by a Bolero car from the front side, the number of which I read as 'DL 00 XX 0000' and I saw four persons sitting in that car too. The drivers of both the cars waylaid my son's jeep in between their cars and thereafter started firing indiscriminately at my son's jeep. After having fired multiple rounds they quickly drove their car away from the village. This incident happened around 5 pm. When I along with the gunmen went near my son's jeep, I found my son on the driver's seat while Sandeep was sitting behind and Simran in the front seat adjacent to the driver's seat. My son had multiple bullet wounds on his right side of the body while both Simran and Sandeep were also injured. We raised hue and cry for help and the nearby villagers reached the spot. We took all the three to the nearby hospital, however my son succumbed to his fatal injuries as we reached the hospital whereas Simran and Sandeep died later in the night on the same day.

14. FIR read to the complainant/ informant, admitted to be correctly recorded and a copy given to the complainant/ informant free of cost.

15. Signature/thumb impression of Complainant/ Informant:

**16. Jaspal Singh
(Signed duly)**

Signature of Officer-in-charge, Police Station:

(signed duly)

Jai Singh

Senior Police Inspector

EXHIBIT D1

GPS LOCATION OF THE ACCUSED PERSONS



Reports' conclusion:

It is ascertained that the mobile phones having sim cards registered on the name of the accused Sonu, Harry, Tony and Vicky and the deceased Sham, Sanjay, Ajay and Ricky were found to be present together on 28th June at 5 p.m. at one common spot which is 50 kms away from the place of occurrence.

Duly Certified

(Signed by)

Authorized person

Network Service provider

NOTE FOR THE PARTICIPANTS:

- 1. There is no preliminary issue regarding clubbing of the petitions, hence clubbing cannot be disputed. Participants are required to focus on the issues on merit.**
- 2. Indian legal system with all its laws and judgments applies as it is to the Republic of Musicstan. The Supreme Court of Musicstan has the same powers and functions as the Supreme Court of India. Similarly, the High Court of Fanzab has same powers and functions as those of the Punjab and Haryana High Court in India.**
- 3. The issues identified may be divided into sub-issues and can be added to or amended.**
- 4. Laws of Musicstan are in *pari materia* with the laws of India.**