

JUSTIFIED' 15 : MOOT COURT CASE

Dania is one of the biggest democracies in the world with 2nd highest demographic in the world. The capital of Dania is Heldi. Heldi is one of the major cities of Dania, where large number of individuals pour in from different cities of Dania with hopes of better standard of life and greater earnings to support families back home.

Rajvir and Avantika belonged to a small city called Nilatan in State of Chalmiha in Dania. Nilatan was about 650 km from Heldi. They got married in December, 2004. Their marriage was a love-cum-arranged marriage. Their parents did not object to their marriage as the families had known each other for more than two decades.

Rajvir and Avantika shifted to Heldi in August, 2005 for better prospects for their families. Both got an opportunity to work at the office of an upcoming lawyer, Mr. Aafreen Sethia (now a renowned lawyer for criminal law). Mr. Aafreen Sethia had a sprawling office with many junior lawyers working under him including Mr. Saksham Tandon, assisting Mr. Aafreen Sethia in various property, criminal, matrimonial disputes etc. Rajvir got to work as a Court-Clerk in Mr. Aafreen Sethia's office and was assigned to Mr. Saksham Tandon's team. Avantika got the job of managing the office of Mr. Aafreen Sethia. However, in September, 2007, when Avantika became pregnant, she had to leave her job at Mr. Aafreen Sethia's office as she could not afford to put in the number of hours that were required by her job. Mr. Aafreen Sethia accepted her resignation and also offered her two months' salary on the condition that she will train her successor in his office, as his work could not have stopped. Avantika, pursuant to her agreement with Mr. Aafreen Sethia trained Ishani in the month of December, 2007 before leaving Mr. Aafreen Sethia's office. Ishani was to succeed Avantika in Mr. Aafreen Sethia's office. Rajvir and Avantika were blessed with a girl child named Saira in May, 2008.

Rajvir continued to work as a Court-Clerk, while Avantika stayed home to take care of their daughter Saira. When Saira started to go to school in 2011, Avantika joined the clinic of Dr. Sunil Wilfred as receptionist-cum-manager to avoid sitting idle at home. Often in her free time Avantika used to visit the office of Mr. Aafreen Sethia to meet and interact with the staff at Mr. Aafreen Sethia's office. Over the period, Avantika and Ishani had become very good friends.

However, the happy couple story of Rajvir and Avantika started to change sometime in 2012 with exchange of heated arguments over responsibility of Saira and their respective work commitments. This exchange of heated arguments was sometimes also followed by physical abuse. Eventually, even petty disagreements resulted into arguments between the two of them and the relationship got strained to the extent of breakdown of marriage.

Avantika, eventually took the step of leaving her matrimonial home and shifted to a separate accommodation with Saira, in February, 2013. When this information reached the ears of Mr. Aafreen Sethia, he offered to mediate. But, his attempts did not result in any fruitful outcome for Rajvir and Avantika.

Falling short on source of income to live in a city like Heldi, Avantika filed a petition (Petition No. 420/2014) in the Court of Metropolitan Magistrate (Hironi district) seeking maintenance for herself and her daughter Saira under Section 125 of Code of Criminal Procedure alongwith application for interim maintenance (Application No. 786/2014). Avantika also filed an application (Application No. 787/2014) under Section 12 of the Protection of Women from Domestic Violence Act, 2005 in the Court of Metropolitan Magistrate (Hironi District) for the same relief. It was difficult to live in a city like Heldi with meager salary of a receptionist-cum-manager. The Court of Metropolitan Magistrate (Hironi District) issued notice to Rajvir on 21st January 2014.

Upon receiving notice issued by Metropolitan Magistrate (Hironi District) in Petition No. 420/2014 & Application No. 787/2014, Rajvir in order to save himself from paying maintenance and having liability of paying rent of two households filed a petition under Section 9 of the Hindu Marriage Act, 1955 (HMA Petition No. 666/2014) for restitution of conjugal rights before the Family Court (Hironi District), Heldi.

On 14th November, 2014 during the proceedings for relief of maintenance pending before the Metropolitan Magistrate (Hironi District), Rajvir proposed to take Avantika and Saira to his house and make an effort to continue his matrimony with her. Avantika agreed to this proposal upon insistence from the Metropolitan Magistrate (Hironi District) to make an effort to reconcile as both of them had given almost 10 years of their lives to this matrimony. Avantika also considered it best to do so, realizing that it is not possible for her to live alone, with her daughter, in a city like Heldi. However, during the intervening period, the proceedings before the Metropolitan Magistrate (Hironi District) were kept in abeyance upon submission of Avantika that she would like to have the case pending for a couple of months until this effort on both of their part works out.

Unfortunately, for Avantika, life did not revert back to the way it used to be. Though there was no physical abuse this time, but heated arguments still used to take place. Suddenly, on 28th January, 2015 Rajvir threw Avantika out of his home alleging that she has an illicit relationship with a third person, but did not allow Saira to go with her. On 4th February, 2015 Rajvir filed applications (Application Nos. 111-112/2015) before the Metropolitan Magistrate (Hironi District) to dismiss the petition and application filed by Avantika (Petition No. 420/2014 & Application No. 787/2014) seeking maintenance on the ground that she is living in adultery. This application was accompanied with photographs, which were taken from a video recording, showing Avantika in a compromising position with a third person.

Upon receiving copy of Application Nos. 111-112/2015 and the photographs, Avantika had a breakdown and was in shambles. On 10th February, 2015 Avantika got FIR No. 786/2015 registered at PS Dwarka under Section 376/34 IPC against Ankush and Rajvir alleging that Ankush [who is the person seen with her in the photographs] raped her upon directions of her husband Rajvir in his presence. She substantiated her allegation stating that Ankush was Rajvir's friend who often used to visit them and sometimes even stayed at their residence over the night. She further stated that occasionally Rajvir used to take drugs and sometimes even made her take drugs (which he referred to as 'ice') to enhance sexual desire and pleasure, and has probably taken advantage of her being in vulnerable state.

When Ishani came to know about what transpired between Rajvir and Avantika, she informed Avantika about an instance when she over-heard a conversation of Rajvir with Mr. Saksham Tandon in his cabin during which Mr. Saksham Tandon was telling Rajvir about a moot court competition which he had gone to judge and the same revolved around how for the purpose of getting evidence for divorce proceedings a man had got his wife raped by another man and had then taken pictures to malign the character of his wife.

On 15th February, 2015 apprehending arrest from police, Rajvir filed application (Bail Application No. 108/2015) before the Sessions Court (Hironi District) seeking anticipatory bail stating therein that he will co-operate with police authorities and the video recording from which the images were taken got destroyed in the fire caused at his residence due to short circuit. Notice was issued to State and Avantika in this Bail Application. Pursuant to notice in the Bail Application, police authorities filed status report before the Sessions Court detailing recovery of powdered substance which preliminary results revealed to be a derivative of benzodiazepine and that Ankush was not traceable.

Upon receiving notice of the Bail Application No. 108/2015, Avantika observed that Rajvir is being represented by Mr. Saksham Tandon [who Ishani spoke of] and sought for Mr. Saksham Tandon also to be made an accused in FIR No. 786/2015, PS Dwarka for abetment under Section 376/109 IPC.

Upon inaction of the police authorities to make Mr. Saksham Tandon an accused for offence registered vide FIR No. 786/2015 PS Dwarka, Avantika filed an application (Application No. 129/2015) under Section 156(3) of Code of Criminal Procedure seeking directions from Metropolitan Magistrate (Hironi) for Mr. Saksham Tandon to be made an accused in FIR No. 786/2015, PS Dwarka.

The Metropolitan Magistrate (Hironi District) allowed Application Nos. 111-112/2015, vide order dated 22.02.2015, observing that Avantika has been living in adultery. The Metropolitan Magistrate (Hironi District) dismissed Application No. 129/2015, vide order dated 25.02.2015, observing that there is not enough material to proceed against Mr. Saksham Tandon.

Avantika has preferred Revision Petition No. 6/2015 before Sessions Court (Hironi District) challenging order dated 22.02.2015 and Revision Petition No. 7/2015 before Sessions Court (Hironi District) challenging order dated 25.02.2015.

Avantika also filed objections / reply to the Bail Application No. 108/2015 stating therein that case registered vide FIR No. 786/2015 PS Dwarka warrants custodial investigation as the photographs supplied by Rajvir are images taken from video recording and the said video recording has not been brought forthwith by Rajvir.

Upon noting that Bail Application No. 108/2015, Revision Petition No. 6/2015 and Revision Petition No. 7/2015 arise out of same set of facts, the Sessions Court (Hironi District) has decided to hear arguments on all of them on the same day.

Notes:

1. Teams are to make submissions for “Petitioner” side and “Respondent” side in the following manner:

Petitioner: Respondent in Application No. 108/2015

Petitioner in Revision Petition Nos. 6/2015

Petitioner in Revision Petition Nos. 7/2015

Respondent: Applicant in Application No. 108/2015

Respondent in Revision Petition Nos. 6/2015

Respondent in Revision Petition Nos. 7/2015

2. The laws applicable to Dania & Heldi is *pari materia* to the law applicable to India & Delhi respectively

KINDLY TAKE NOTE OF THE CHANGES IN THE NAME OF THE CHARACTERS AND PLACES

NAME OF CHARACTERS

<u>OLD NAME</u>	<u>REPLACED BY</u>
Yudhishtir	Rajvir
Draupadi	Avantika
Kunti	Saira
Krishna Vasudev	Aafreen Sethia
Panchali	Ishani
Shyamsundar Tiwari	Sunil Wilfred
Arjun Panda	Saksham Tandon
Duryodhan	Ankush

NAME OF PLACES

<u>OLD NAME</u>	<u>REPLACED BY</u>
Kuru Rajya	Dania
Khandavaprastha	Heldi
Vrindavan	Nilatan
Yadav Land	Chalmiha
Gangakinara District	Hironi District

Disclaimer - All characters appearing in this work are fictitious. Any resemblance to real persons, living or dead, is purely coincidental.