

6th Jamia Millia Islamia National Moot Court Competition, 2016

1st -3rd April, 2016

MOOT PROPOSITION

IN THE SUPREME COURT OF INDIA

Mrs. Rohini	v.	State of NCT of Delhi
	(S.L.P No. 5 of 2016)	
	along with	
Mr. Atul	v.	State of NCT of Delhi
	(S.L.P No. 12 of 2016)	
	and	
Mr. Madhav	v.	State of NCT of Delhi
	(S.L.P No. 14 of 2016)	

1. Mrs. Rohini Sariman is a 40 year old entrepreneur and is the CEO of JM Media, a popular national media house. She enjoys a good reputation as the head of her media network and is very well known within the elite social spheres. In 2004, she married Mr. Akash Sariman, an influential man in Indian music and film industry. Even though Mrs. Rohini is an influential person, very little is known about her past prior to her marriage to Mr. Akash.
2. Mrs. Rohini hails from Patna in Bihar and is known to have been highly ambitious since a very young age. She took her education and career very seriously and claims this hard work to be the secret of her success. She is known to be particularly good at networking and has been able to create amicable relationship with a lot of influential people. In 2009, Forbes Magazine named her among the ‘50 most influential women in media business.’
3. In one of her interviews to a popular media fanfare magazine, she spoke about her previous marriage to one Mr. Madan between 1998 and 2002. However, she declined to

comment on the nature of the marriage and also about the divorce. She has a daughter, Ms. Nidhi, from that wedlock. In 2005, Ms. Nidhi was legally adopted by Mr. Akash and she also took his surname. Mr. Akash has two sons, Virat and Vikraant from an earlier marriage to Mrs. Ananya.

4. In 2010, Mrs. Rohini introduced her husband to Ms. Soumya, who she claimed to be her sister. Soumya started visiting Mrs. Rohini regularly and ultimately started living with her at her Delhi residence. She was a law graduate and decided to do her post-graduation in the same. She got enrolled at the Faculty of Law, Konoha University (New Delhi) to pursue her Masters in Law. Mr. Akash's son, Virat was pursuing his MBA from the same university. Over a period of time, Virat and Soumya developed into a relationship and they decided to get married.
5. By 2013, Mrs. Rohini's business ventures suffered heavy losses. As a consequence, the company had to scale down its operations which included selling off a sizable portion of the same to another company. Despite all her efforts to contain business losses, by December 2013, she had to sell all her interests in JM Media and relinquish her power in the board of directors. There were many allegations levelled against her of financial misappropriation during this period. It was also suspected that she used the bank accounts of her family members to hide her fraudulent transactions. However, there is no evidence on record of such transactions.
6. In March 2014, Virat filed a missing person report at the NFC Police Station claiming that Soumya has been missing for over 3 months. He stated that the last time he spoke to her was in January 2014 and she sounded sad and confused about something. He also mentioned that she kept apologizing to him and wanted to talk to him about some important secret. He also mentioned that their last interaction was through an SMS which was sent from an unknown number. The SMS stated that they could not meet again as she was leaving for the United States to pursue higher studies.
7. He also told the police that he had confronted Mrs. Rohini about Soumya. He said that all Mrs. Rohini told him was that Soumya decided to end their relationship because she wanted to focus on her career. And it was due to this reason she decided to go to USA without informing him. However, she did mention that she was not able to get in touch with her for the last one month.

8. Subsequent to the FIR, one Mr. Arsh, who claimed to be the son of Mrs. Rohini alleged that Mrs. Rohini along with Mr. Madan had murdered Soumya. He claimed that the two did this because Mrs. Rohini did not want Soumya to marry Virat. He claimed that she told about this to Mr. Madan, who agreed to help her if she helped him with a huge financial problem he was facing. Mr. Arsh also claimed that he was also born out of same relationship and that their father was a certain Mr.Subramanium.
9. The Police began the investigation immediately and called Mrs. Rohini, her ex-husband Mr. Madan and her driver Mr. Atul for questioning. Mr Madan and Mr. Atul confessed to having conspired with Mrs. Rohini and murdered Soumya. However, Mrs. Rohini maintained her stance that Soumya was in the United States pursuing higher education.
10. The Police managed to track down the vehicle used in the crime. It had changed many hands and was in regular use. A search of the car resulted in the finding of a few blood stains on the backseat and on the door handle. The blood samples were sent to a forensic lab for DNA testing and it was determined that the blood was definitely that of Ms. Soumya. It was also noted that the amount of blood found was not indicative of the fact that any major struggle or injury had taken place.
11. Moreover, during his confession Mr. Atul informed the police about the place where he disposed off the body. He said that he disposed off the body in a forest. However, the search team which went to retrieve the body along with Mr. Atul were not able to find anything there. The team was not able to find the body parts even though they conducted an extensive search within a 2 square km radius of the spot. However, they were able to retrieve some clothes with blood stains on them. The clothes were sent to the same forensic lab for DNA test. It was found that the blood on the clothes was of the same blood type as the blood found in the car. However, due to technical difficulties the scientific expert was not able to determine the same regarding the DNA. The report stated that it was not possible to do a DNA comparison of the two samples because of the condition of the sample found in the woods.
12. On the basis of the charge-sheet filed by the Police, charges were framed against Mrs. Rohini, Mr. Atul and Mr. Madan for the murder of Ms. Soumya. The Magistrate took cognizance of the matter and committed the matter to the Sessions Court for trial. On the

basis of the confessions of the co-accused and statements made by other persons,¹ the Trial Court convicted and sentenced all the accused to life Imprisonment.

13. Mrs. Rohini and the other accused filed an appeal against the order of the Sessions Court before the High Court wherein she contended that Mr. Madan was doing this to take out personal vengeance and Mr. Atul was helping him for money. Also, that the trial court lacked additional evidence and it was solely on the basis of the statements that she was convicted. However, the High Court found no merit in the appeals and accordingly upheld the trial court's order. Moreover, the state also filed an appeal against the decision of the trial court regarding the "nature and quantum of punishment". The State argued that the case was a rarest of rare case and the accused should have been sentenced to death. The court found merit in the State's appeal and declared that the nature of the actions of the accused and other circumstances required the case to be treated as a 'rarest of rare case'. The High Court therefore converted the "life imprisonment" given by the trial court to "death sentence".

14. Aggrieved by the judgement delivered by the High Court, Mrs. Rohini has now approached the Supreme Court under Article 136 of the Constitution [S.L.P. No. 5 of 2016] for relief in this matter. The other accused have also approached the Supreme Court under Article 136 [S.L.P. No. 12 of 2016 and S.L.P. No. 14 of 2016] and challenged the decision of the High Court as far as the 'quantum of punishment' is concerned. The Supreme Court has clubbed all the petitions and for the sake of convenience and has decided to refer to the petitioner in S.L.P. No. 5 of 2016 as petitioner no. 1, the petitioner in S.L.P. No. 12 of 2016 as petitioner no. 2 and the petitioner in S.L.P. No. 14 of 2016 as petitioner no. 3. The matter has been listed for final hearing on 3rd April 2016 on the following issues:

- a. Whether the trial court was correct to convict the petitioners solely on the basis of the confession made to the police and whether the court was correct to use such confession against petitioner no. 1 in the absence of any corroborative evidence?
- b. Whether the opinion of the DNA expert is admissible as evidence?

¹ Attached with the Moot Problem

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- c. Whether the petitioners are guilty under section 300 read with section 302, section 364 and section 201 of the Indian Penal Code?
- d. Whether the High Court was correct to convert the sentence from life imprisonment to death sentence?

❖ The participating teams may raise more issues.

Attached:-

- 1. Testimony of Mrs. Rohini
- 2. Testimony of Mr. Virat
- 3. Testimony of Mr. Arsh
- 4. Confession of Mr. Atul
- 5. Confession of Mr. Madan
- 6. Testimony of Mr. Akash
- 7. Testimony of Mr. Subramaniam
- 8. Expert Witness – Dr. Har Gobind Khurana

ANNEXURE – I

Testimony of Mrs. Rohini

My name is Rohini and I was Ms. Soumya's elder sister. She was 17 years younger to me and I always felt responsible for her. It was due to this reason that I asked her to come and stay with me in Delhi and agreed to take care of her education and other expenses. We had a very healthy relationship and I still cannot believe that she is gone.

I was aware that Soumya and Virat were considering marrying each other and I was very supportive of their decision. Even though I was a bit uncomfortable with the idea initially, I managed to come to terms with the same. I am a progressive and an open-minded woman who has worked hard to scale the heights of the corporate world. In January 2014 Soumya came to me and told me that her relationship with Virat was not working and it was jeopardising her career. She wanted to end the relationship. She also told me that she had secured admission to a good law college in USA and said that she had already booked her tickets. She wanted to leave immediately and did not want anyone to know about the same. However, she wanted to meet some of her friends before leaving. She said that she wanted to stay with her friends and left for the same. She told me that she would leave for USA from her friends place only. It is sick to even think that I could have anything to do with my sister's murder. I even made Soumya the legal guardian of my daughter Nidhi. Why would I do that if I thought that she was a person of questionable morals?

I did not involve my sister in any transaction that I undertook in 2013. It is unfortunate enough that people think that I have embezzled money from the companies, and it is even worse that I am being accused of endangering my family and also killing my sister.

She called me via skype one day and said that she had reached USA. I tried to contact my sister after that but failed to do the same. When Virat came to talk about her, I told him that she wanted to break up with him and that she was in USA. I also told him that I was not able to get in touch with her. She never kept me informed of her decisions or intentions and is a volatile person with prior history of drug abuse. We tried our best to help her come out of the same but she was vulnerable to numerous relapses. I believe her drug habits took a toll on her and brought her in touch with wrong people. I think she got involved in a bad drug deal and got herself killed. And all this time I just thought that she was in United States. I did not kill my Sister. I don't know why everyone is making such incriminating statements against me. I never realized I have made so many enemies who would hate me to the extent of accusing me of my sister's murder. I hope that the system works and justice prevails.

ANNEXURE – II

Testimony of Mr. Virat

My name is Virat and I am the step-son of Mrs. Rohini. I first met Soumya in 2010 when she came to Delhi to pursue her post-graduate in law. I liked her very much as she was very pretty and nice to me. We met again the next day and hit it off very well. Soon, I fell in love with her and couldn't imagine life without her. But she was always scared of what her sister would do if she found out that we were in a relationship.

Finally, we mustered up the courage to tell our families in January 2013 that we were in love and were planning to get married soon. Mrs. Rohini was visibly shaken by the news but we chose to ignore it as we understood that our relationship might come as a shock at a time when Mrs. Rohini was going through trouble in her business. However, she seemed to come to terms with the same later on.

On 7th January 2014, I received an SMS from an unknown number and it claimed to be from Soumya. It stated that she had received a once in a lifetime opportunity to go to the United States to do her Doctorate in Law. It also said goodbye and that she needed time away from me to think about our future. This was strange as she had no such doubts or inhibitions before. I tried calling her but she did not pick up. After a few hours her number went dead and the calls did not connect.

I met my mother and asked her about Soumya. She said that Soumya decided to end the relationship and go to the United States to pursue her higher education. I do not understand how the process of applying to foreign Universities and admissions happened so quickly! She never mentioned anything about her intentions to study abroad nor did I see her working on any applications before. This was an absolute shock for me.

I stayed confused for a while as I did not understand how to go about this situation. When I finally gathered my wits a few weeks later, I realized that this situation does not add up and I needed to find Soumya and that she might be in trouble. Hence, I thought of registering a missing person report with the police.

ANNEXURE – III

Testimony of Mr. Arsh

My name is Arsh and I am the son of Mrs. Rohini and Mr. Subramaniam. My Sister is Ms. Soumya. We were born out of wedlock. I have no shame in admitting the same but I have always found that my mother has always limited contact with us. Even though we knew about our parentage, our grandparents adopted us and raised us as their own children. Most of our documents name my grandparents as my parents even though my birth certificate reveals my true parentage.

My mother always found my sister and me to be liabilities that she had burdened herself with. My father visited us rarely till we were 13 years old and then stopped absolutely. I have no idea where he is or what he does today. I don't even know if he is dead or alive. These circumstances led to my sister and me becoming very close.

We belong to a lower-middle class family and have had a tough life. Suddenly in 2010, my mother took Soumya to Delhi with her as she said that she saw the potential in Soumya to do well academically. I had failed my matriculation exam and hence was not given the opportunity. It seemed that to be entitled to my mother's love and care I had to prove myself useful to her otherwise I could not expect any help from her in pursuing my career. Instead, I get a meagre allowance to live off here in Patna.

In 2013, Soumya called me informally and while we were conversing, she mentioned that our mother had all control over her bank accounts and undertook transactions valuing crores of rupees in her name. This came as a shock to me and I warned her to stay away from any such activity as it may spell doom later. If only I had known the danger she was in.

Later in 2014 when Soumya called me on the 1st of January, we had a long conversation wherein she mentioned that recently our mother had been behaving very strangely and that she was blaming Soumya for all the things that went wrong with her in the past one year. When I asked, if Soumya had been involved in our mother's transactions even after I had warned her, she told me that she was too deep in it now and that she had no idea what she was getting into. She seemed upset when she said her goodbye and I had a bad feeling about what she had said. That was the last conversation that I had with her. I am convinced that our mother killed her. I don't know the exact reason, nor do I know how. I just know that it is Mrs. Rohini. She had both the motive and intention.

ANNEXURE – IV

Confession of Mr. Atul

My name is Atul. I work as a driver for Mrs. Rohini. I am a very loyal employee of Mrs. Rohini and she could trust me with her most prized possessions. I have been in her service since 2004.

On the 7th of January 2014, I was called by Mrs. Rohini to her residence. When I reached the place I found Mrs. Rohini along with Ms. Soumya and Mr. Madan waiting for me. Mrs. Rohini looked calm and composed while Mr. Madan was tensed and fidgety. They all got into the car, a Maruti Sedan, and we left for a hotel in Chandigarh wherein Mrs. Rohini had a room booked. Mrs. Rohini sat on my left and Mr. Madan and Ms. Soumya took the backseat. I had no idea why we were travelling together but I was so blind in my loyalty to Mrs. Rohini that I never realized that what I did next was so wrong. Just after we crossed Sonipat, I suddenly realized that there was some movement in the backseat. When I looked back, I saw Mr. Madan strangle Ms. Soumya who was struggling against the force being applied on her. It took about 13 minutes till Ms. Soumya finally stopped struggling and breathed her last. I remember this because it is extremely difficult to drive when someone is thrashing around in the car. I looked at Mrs. Rohini but she seemed unfazed. She looked at me and told me that I was also a part of the act and now I had to help them get rid of the body of Ms. Soumya. We then put the dead body in a bag and kept it in the trunk of the car for the rest of the journey. We reached Chandigarh by nightfall and took rest. The next morning we took the body to the forests nearby and found a secluded spot.

I cut the dead body to pieces and separated them. We ensured that each part was properly burnt and that even if found, no evidence could be recovered. I was then entrusted with two tasks: 1) Sell the car in which the crime was committed; 2) Dispose off the body in such a way it couldn't be found again.

I sold the car ten days later to one of my friends who is a travel agent. The idea was to ensure that even if the car was found, any evidence that exists get distorted due to regular use of the car. Then I went on a tour of the country with my family that Mrs. Rohini paid for. I used to take one charred body part to each of the places we visited and threw it away. I shall be unable to point out the place where I threw even one part if taken to those cities today. I am sorry for what I did, I was blinded by the many things that Mrs. Rohini had helped me out with. I deserve punishment for my crimes.

ANNEXURE – V :

Confession of Mr. Madan

My name is Madan. I am Mrs. Rohini's ex-husband and the father of her daughter, Nidhi. I am a businessman in Delhi and used to own a sizable interest in Mrs. Rohini's media house. I have known Rohini for a while now and I know that she had worked very hard to achieve all that she has and does not take people lightly who interfere with her work. She is good at convincing people to work against their own self-interest and hence she managed to ensure my help in this despicable act that I am confessing to.

By December 2013, Rohini and I had realized that the JM Media House was losing money. We had a definite idea about how much money we would be losing and hence we planned to siphon a sizable amount from the Media House and its investors to our personal accounts. The plan seemed fool-proof to me and hence I agreed. We agreed that Soumya was indebted to Rohini and hence we could use her as a buffer in these transactions so as to avoid the transactions being traced back to us. We undertook these transactions between September 2013 and December 2013.

Rohini disapproved of the relationship between Virat and Soumya. The reason for the same was that she saw Soumya to be inferior to Virat and believed that Virat must marry an equally influential person and not her sister or daughter who was of no gain to her. Rohini was steadfast with her decision, she wanted Virat's matrimonial alliance to lead to bigger opportunities for her and knew that Soumya was creating a blockade for her plans.

The disapproval was very vocal when they were in private and Rohini had sworn that she would not let Soumya marry Virat. In response, Soumya threatened to disclose all our illegal activities that we had committed through the use of her bank accounts. Rohini then decided that there was only one possible method to rid herself of these problems and that was to kill Soumya.

Hence on the 7th of January 2014, we met at Rohini's residence wherein we were waiting for Atul to pick us up. It was decided that Rohini would take the front seat and I would take the back seat with Soumya as it would be better if I try to kill her rather than Rohini giving it a try. I don't remember why I agreed to it, Rohini convinced me. Just after crossing Sonipat I took the fibre cable that I had in my pocket and strangled Soumya. It took a lot of time and Soumya was struggling a lot but I managed to hold on. We then placed her dead body in a bag and transferred it to the trunk of the car. I couldn't sleep that night and the next day we went to the woods to burn the body. Atul said that it would be easier to dispose off parts of a body rather than the whole body itself. We agreed that it was a better plan and hence Atul chopped the body into many smaller pieces and then burnt them. He then carefully wrapped them up in plastic bags and placed them back in the trunk of the car. It was agreed that Atul would dispose off these body parts in various corners of the country and that Rohini would pay for the same.

I returned to Delhi on the 9th of January and since have been living with the constant fear of my actions catching up to me.

ANNEXURE – VI

Testimony of Mr. Akash

My name is Akash. I am Mrs. Rohini's husband. I have known Rohini for a long time now, we have been married for over 10 years. In 2010, I met Ms. Soumya for the first time where Rohini introduced her as her sister. It was strange that she did not introduce me to her family earlier but I didn't take much notice of it as I thought I could sense some sort of sibling rivalry between them. Soumya was a pleasant person who seemed to be nice to all of us. She was also very close to my son, Virat and since I saw that she is both, in terms of the suitable age for Virat and very persevering in her life in general and specifically in her career. I did not object to this relationship, in fact I was happy for them. On the contrary, my wife was never in support of Virat marrying Soumya, as she felt that marriage was not to be performed between family members.

Rohini did not keep many secrets from me and has always struck me as a straight forward and honest person. If she lied about her earlier children, I am sure she has a good reason for the same. I was also a major investor in her Media House and never found any evidence of foul play even when we were winding up operations. I personally overlooked the winding up process and found that there was no misappropriation of funds and that the investors left with the maximum amount that they could. I can take personal guarantee that the transactions that have been alleged have not taken place. There is simply no evidence of foul play in this matter even after thorough investigation.

If the financial crimes on which the subsequent events are based are not proved, I see no motive as to why Rohini would kill Soumya. I believe this is a conspiracy to send my wife to jail hatched by her enemies. It is unfortunate that some people would stoop to these levels to try and extract vengeance.

ANNEXURE – VII

Testimony of Mr. Subramaniam

My name is Subramaniam. I knew Mrs. Rohini a long time ago. We met when we were both students of West Bengal University wherein we were both in the same class. We fell madly in love with each other barely 3 months after our first meeting. As a result of the relationship, I fathered two children with Rohini while we were still very young. These children were named Soumya and Arsh.

Due to the various pressures that were on me at that point of time, I told Rohini that I couldn't take care of the children and that I wanted to leave. Rohini was miffed at the proposition and clearly stated that she had dreams of her own and if I did not want the children, she didn't either. Thus, in the interest of our children, we decided to have them adopted by her parents whereby they become adopted siblings of Rohini even though they were her children. It was for their best, as neither of us was ready to bear the responsibilities of children. I visited whenever I could but then life took Rohini and me on different paths and I found myself married to another woman after which I couldn't come to meet Soumya and Arsh. I just hoped that they would have a good life.

I have followed Rohini's rise in prominence though and have always wondered if she would include Soumya and Arsh in her world as she would include her other children. Looking at the way my children have been treated, I know now that she did not. I don't know whether Rohini killed Soumya or not. But she definitely despised me and the children that I had given her.

ANNEXURE – VIII

Expert Witness – Dr.Har Gobind Khorana

I received the blood samples recovered by the forensics team from the Maruti Sedan in which the crime has allegedly occurred. The test sample was very minimal and allowed me to only conduct a few tests on them. Additionally, the samples were distorted, i.e., due to the regular use of the car in the past few months as a taxi, the samples did not provide for any definite results. In fact, of the five samples that were sent to me from the scene of the crime, only three were that of Ms. Soumya, the other two did not even remotely match Ms. Soumya's true sample which we recovered from her residence.

In examining the pictures taken of the crime scene under blue light, it appears to me that the blood stain in the car is not indicative of any major struggle or injury that has occurred in the car. Having said that, I would also like to add that there are techniques to strangle a person without causing any noticeable blood loss.

In conclusion, I would note that Ms. Soumya was definitely in the car at some point of time and had lost some blood while travelling in this car. The samples were distorted and thus we could not determine the time when the blood loss had occurred. Prima facie, the blood loss does not seem to have occurred due to any major event, but given the circumstances, I cannot be sure as to the events that led to the recovery of the blood samples from the car. The evidence given to me by the Police was not ideal for examination, the car from which it had been recovered had been carrying 3-4 different people on long distance journeys everyday for the past 3 months. Given the samples provided to me, these are the best results that I could deliver.

I was also asked to examine the clothes that the police recovered from the forest. There were blood stains on the clothes and I was specifically asked to see if the blood from the car and on the clothes was of the same person. I was able to find that the blood type from both the samples matched. However, due to the condition of the sample from the forest, I was not able to determine if the DNA also matched.