



INSTITUTE OF LAW, JIWAJI UNIVERSITY NATIONAL MOOT COURT COMPETITION - 2016



***** MOOT PROPOSITION *****

Samrashtra is a state in Hindia which is a democratic country located in the South East Asia. Also that, Hindia has adopted the same legal and constitutional structure as that of India. The Penal Codes along with other procedural codes are same as that of India which could be taken in reference at any instance regarding the given case.

Shahid Khan is a famous cine actor of the film industry of Hindia. Being a superstar, he is provided with police security and one Mr. Rajesh Kadam was appointed as a security guard of Shahid Khan. On 7th August 2003 around 10:30 pm, Shahid Khan along with his friend one Mr. Abdul Khan and Rajesh Kadam took out his Toyota Land Cruiser car and drove towards a Hotel Blue Heaven. At about 1:30am all of them left for City Center where Shahid Khan resides. Shahid was driving the car in a very high speed and while the car was taking a right turn from the M.G. Road, Shahid lost control of the car and it mounted on the footpath and dashed into the shutters of a footwear showroom known as "Ethnic Touch". As a result of which, one person was crushed to death and four others received grievous injuries. All these persons were sleeping on the staircase of the said shop. As a result of the accident, many people gathered there and started pelting stones. On seeing the aggression of the crowd both, Shahid and Abdul ran away from there. However, Rajesh told the crowd which had gathered there that he is a police constable therefore the crowd didn't hurt him. Thereafter Rajesh went to the police station and lodged an F.I.R. against Shahid Khan on 8th August 2003 and a case of negligible and reckless driving was registered as a result of which he came to be arrested. However, since the offence was bailable, Shahid Khan was enlarged on bail on the same day.

On 17th September 2003, Shahid Khan came to be again arrested by the police as they added provisions of Sections 304(A) of the Penal Code in the case. However, later on

fresh charges were framed against Shahid Khan us 304(II). Thereafter the Court of Sessions found Shahid Khan guilty on the following grounds:-

- Shahid was driving the car at the time of accident in the stage of intoxication.
- Shahid was driving the car in a reckless and negligible manner which resulted in the accident even though he had the knowledge that there were poor people sleeping in the locality on the staircase of the said shop.

and thus convicted him under sections 304(II), 279, 357, 338, 427 of the Penal Code read with 130(1), 134(a) and (b), 177, 181(3) of the Motor Vehicles Act for five years of imprisonment and a fine of Rs. Fifty thousand.

Aggrieved by the decision of the Sessions Court, Shahid Khan appealed before the Hon'ble High Court of Samrashtra where the Court decided that the burden of establishing the guilt of an accused which is to be proved beyond reasonable doubt lies with the prosecution. Considering the shortcomings such as non-examination of necessary and appropriate witnesses, the omissions and contradictions in the evidence of the injured witnesses has definitely created a doubt as to the involvement of the appellant for the offences for which he is charged. Hence, the order passed by the Sessions Court framing charge under Section 304(II) against the applicant is quashed and set aside.

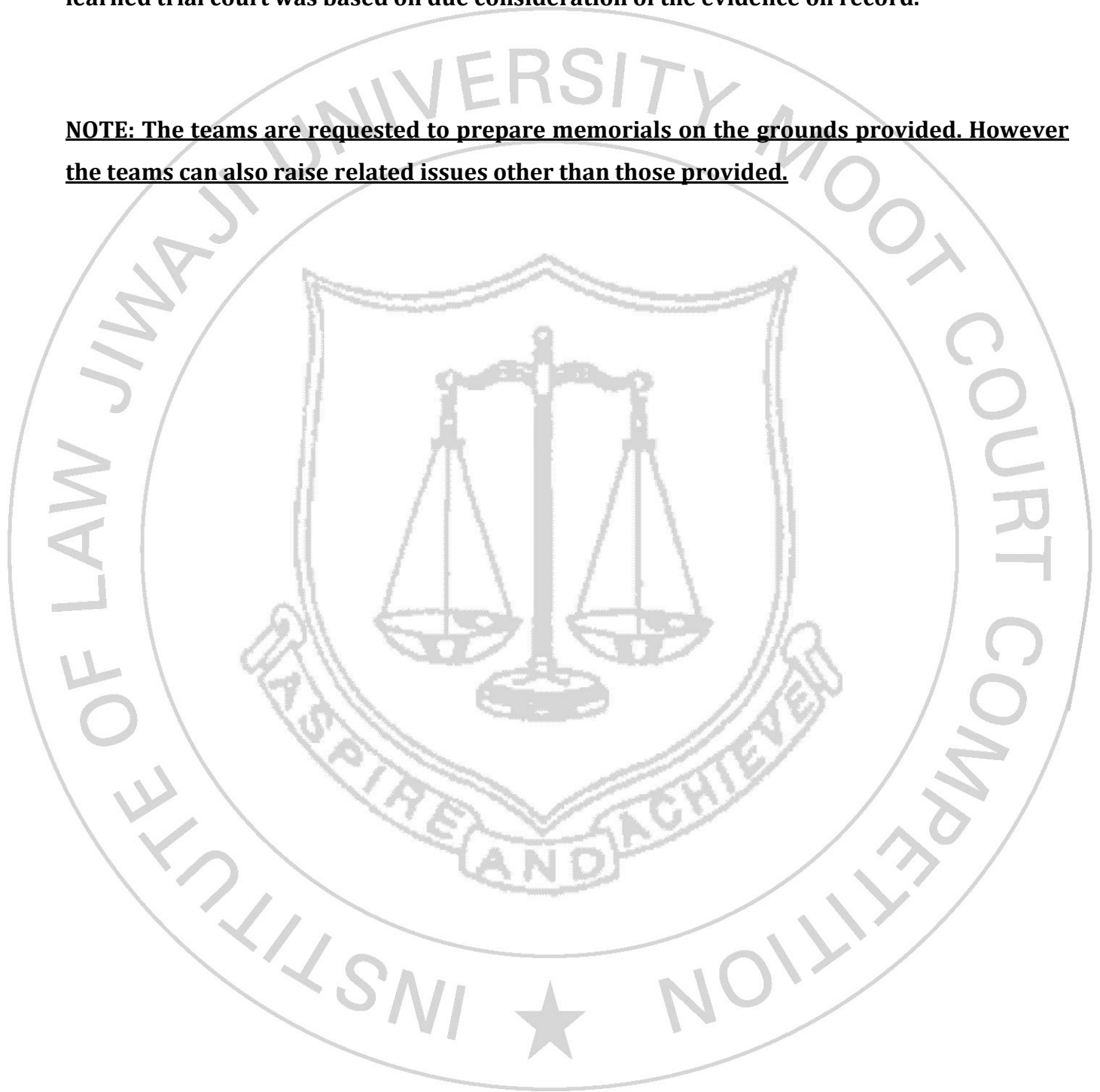
Against this order of the Hon'ble High Court of Samrashtra, the state has appealed before the Hon'ble Supreme Court of Hindia.

The participants have to prepare arguments on the following issues:

- 1. Whether, the evidence laid by the prosecution has proven its case beyond reasonable doubt.**
- 2. Whether, minor discrepancies occurred in the prosecution witnesses' testimony can form the basis of acquittal and on basis of the discrepancy of such nature, the story of prosecution could said to be doubtful.**

3. Whether, the High Court of Samrashtia in the exercise of its appellate jurisdiction was right in setting aside the order of conviction when the order of conviction passed by the learned trial court was based on due consideration of the evidence on record.

NOTE: The teams are requested to prepare memorials on the grounds provided. However the teams can also raise related issues other than those provided.



*** ANNEXURES ***

• **LIST OF PROSECUTION WITNESSES:-**

PW-1. Mohd. Hussain Lahiri - Injured

PW-2. Chandu Rustam - Injured

PW-3. Samir Mohd. - Injured

PW-4. Ram Saran Singh - Injured

PW-5. Chitransh Singh – Waiter in the BLUE HEAVENS BAR AND RESTAURANT at the time of visit of Shahid Khan.

PW-6. Ramadhar Dayanand Shukla – First visitor at the site of accident. Saw the accused getting out from the right side of the car.

PW-7. Shammi Aslam – Manager of the BLUE HEAVENS BAR & RESTAURANT, and in his evidence, the bills were proved.

PW-8. Nitin Dayal Verma (HOSTILE) – He had seen one big car coming which went over the persons sleeping on the platform of Ethnic Touch.

PW-9. Aman Joseph – Assistant Chemical Analyser who did the analysis of the blood sample of accused for alcohol test and prepared the C.A. Report and found 0.058 mg. alcohol in the blood of Shahid.

PW-10. Rakesh Pilgaonkar – RTO Inspector who inspected the vehicle involved in the accident and submitted his report.

PW-11. Dr. Surendra Nath – Medical Officer in the Govt. Hospital who extracted blood from Shahid for the alcohol test.

PW-12. Hamid Mohd. – He had taken the blood sample to the Central Pathology Lab, Govt. Hospital, (Carrier).

PW-13. Deshraj Singh Nathu – Assistant Inspector in RTO who was examined by the prosecution to show that the accused was not possessing his Driving Licence at the time of accident.

PW-14. Mahesh Kadam – Brother of the complainant, Rajesh Kadam (deceased examined by the prosecution to show that Rajesh Kadam was expired on 23.12.2008).

PW-15. Complainant Rajesh Kadam, examined in the Court of Additional Chief Judicial Magistrate Court – His evidence was taken on record under Section 33 of the Evidence Act.

PW-16. Vijay Dutt Salunkhe – The Investigating Officer, who conducted the investigation process. He also added Section 304(II) of Penal Code in the crime and also filed the charge-sheet on 02.11.2003 before the 7th Judicial Magistrate Court.
