

Moot Problem – Final Round

1. The state of Prajasthan in Indica has faced the problem of corruption in public office for many years. The state capital is a city called Pink City. In order to control the same, the state government decided to set up the Anti Corruption Bureau (ACB) as a nodal police force which would tackle the problem of corruption.
2. Accordingly, on 2.2.16, the state government, through notification, created the ACB. The organisational structure of the ACB was decided to be such that it would be headed by a police officer of the rank of ADGP. There would be a Dy.SP in each of the thirty districts of the state. With each, Dy.SP, there would be two police inspectors and ten head constables/ police constables. These officers were drawn from the regular police force of the state and especially those who had experience of investigating corruption cases in the past. In this structure, police inspectors and lower rank officers always sit in the office of the Dy.SP.
3. On 4.2.16, the state government passed a notification stating that the office of the ADGP , ACB Police, Pink City, was declared to be a police station under S. 2(s) of the Code of Criminal Procedure, 1973 having jurisdiction over the entire state as if it were the local limits of the said police station.
4. On 6.2.16, the state government passed another notification stating that police inspectors were empowered under section 17(c) of the Prevention of Corruption Act, 1988, “for the purposes of the said section”.
5. On 15.2.16, the state government passed another notification which created a list of the all offices of Dy.SPs posted across districts and declared them to be police stations of the ACB having territorial jurisdiction over the said district.
6. On 01.3.16, the Dy.SP office in Pink City received information that a particular Class II officer, Y, working with the Public Works Department, Pink City had amassed assets disproportionate to his known sources of income. This information was recorded by the Inspector of Police at the police station, who then conducted an enquiry into the information. He discovered the bank statements of the officer, records of ownership of immovable property, and then proceeded to create a document called the source report of the case.
7. This source report was placed before the Superintendent of Police, Pink City, on 5.3.16, who proceeded to issue the following order on the same day: “Based on the materials placed before me, I am satisfied that a prima facie case is made out against the accused. I direct the inspector of police to register a case and proceed with investigation.”

8. An FIR was registered against the accused on 6.3.16 by the inspector of police, office of the DySP, Pink City. Raids were conducted on the house of the accused without warrant from the jurisdictional magistrate, materials and documents were seized as a result of the raids.

9. On 7.11.16, the police inspector, office of DySP, Pink City, received information that a particular officer, X, in the Small Irrigations Dept, Pink City was demanding a bribe from a person. The person alleged as the one being asked to furnish a bribe produced an audio clipping of the said officer asking for Rs. 20,000. This information was recorded in the Station House Diary. The inspector proceeded to listen to and record the information, including the audio clipping. He then conducted a pre-trap mahazar, by recording the serial numbers of the Rs. 1000 notes being offered to the officer, spraying the said notes with phenolphthalein powder, and arranging for trap witnesses. He then registered the FIR.

10. Based on the FIR, on 7.11.16 itself, the trap mahazar witnesses and the informant went to the office of the Small Irrigations Dept. A trap was laid out and the officer accepted the notes as bribe. Then the officer was confronted, the notes seized from his possession and phenolphthalein test conducted, which showed positive results indicating the officer had handled the bribe money.

11. The two officers who have been made the accused in these cases, have approached the High Court of Prajasthan under Articles 226 and 227 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, 1973. They pray that the investigation conducted against them, as well as the registration of the FIRs is illegal and unconstitutional as per the provisions of the Code of Criminal Procedure, 1973; the Prevention of Corruption Act, 1988 and the Constitution of Indica. Therefore, the said FIRs deserve to be quashed. The two petitions have been clubbed together for common hearing.

12. Assume that the legal provisions of Indica are in pari materia to those of the Republic of India.

13. Based on the above, argue for both sides of the petition, taking into account all issues that you may deem fit, including the issue of maintainability.