

1st ALL INDIA NATIONAL MOOT COURT COMPETITION, 2019

By

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In Association with

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MOOT PROPOSITION

1) Suresh, a poor boy who lived in a slum in the outskirts of the city of Vardha in the Republic of Industan. He studied in a government funded school named, Anganwadi School up to Sixth Standard but then he dropped out of school and since then, he has been in the employment of Mr.Avinash Chopra for doing his household and other allied chores. Mr.Chopra lives in Sun City Society in the city of Vardha. Suresh lives in the quarter provided by Mr.Chopra. It has been 6 years since his employment. Mr.A.Chopra had two children, a boy named Shubham, aged 18 years and a girl named Shubhangi, aged 16 years. Both Shubhangi & Shubham treated Suresh in a condescending manner; they insulted him on trivial matters.

2) One day, Siddhart aged 17 years and 7 months, son of Mr. Kapoor, neighbor of Mr.Chopra, was playing soccer in the society park. Shubham & Shubhangi were jogging there as per their routine. Siddhart & Shubham had animosity since childhood. While playing soccer, the football hit over the head of Shubhangi which gave her a minor head injury. Over this, Shubham started verbally abusing Siddhart, this lead to a heated quarrel between the two. This provoked Shubham to give Siddhart a blow but suddenly Mr.Khanna another neighbor came and resolved the quarrel.

3) Then another day, Suresh was bringing groceries, when he reached in the vicinity of the society, he came across Shubham who asked him whether he brought his (Shubham's) things or not Suresh said, "It was not available in the market." On this, Shubham started insulting him in public. On several occasions, Shubhangi also verbally abused & tormented him in public about which Suresh complained to Mrs.Chopra to which she paid no heed. One time, while Shubham was insulting Suresh in the society doorway; Siddhart saw this & after Shubham left, Siddhart took this opportunity to talk to Suresh. Both shared the hatred for Shubham & Shubhangi.

4) On 7th March, 2018, Suresh took leave for 3 Days from work for going to his village with the permission of Mr.Chopra. On 8th March, 2018, Mr.Chopra left to attend a business seminar in another city. As it was Sunday, Mrs.Chopra had planned to go to a painting exhibition with her family but due to Mr.Chopra's work she decided to go along with her children. Suresh had prior knowledge regarding it.

5) At 7:30 p.m. on 8th March, 2018, Mrs.Chopra reached the exhibition which was located in the remote & desolate part of the city of Vardha. The organizer of exhibition was Mrs.Chopra's college friend so she engaged with her. Meanwhile, around 8:30 p.m., Shubhangi was taken by four persons & Shubham sensed that his sister was missing, and then he started searching her. While searching, he reached the basement where he saw two guys were tightly holding his sister and the other two were trying to outrage her modesty by tearing off her clothes. When Shubham tried to save his sister, one of them gave a blow by a rod on his head & several blows over his abdomen due to which he fell unconscious. When Shubhangi tried to scream, her mouth was forcefully shut and in a sudden haste she was strangulated. When Shubhangi fell dead, all of the four persons fled away. Around 9:30 p.m., the guard who came in to switch off the lights of basement discovered two bodies and thereon the case was reported to the nearby police station, the police arrived and the bodies were sent for medical examination.

6) On 10th March, 2018, the investigating officer arrested Siddhart on the information of S.K.Kumar who saw Siddhart sneaking out of the basement on the night of 8th March, 2018. On 12th March, 2018, Investigating Officer arrested Suresh along with Suraj, aged 17 years & Dharmesh, aged 17 years who were Siddhart's friends.

7) The postmortem report revealed that Shubham died due to head injury & internal bleeding and Shubhangi died due to suffocation caused by strangulation. Her clothes were torn & the medical report also revealed the presence of several scratches & injuries on her body.

8) The case was admitted to the Juvenile Board as all the boys were below 18 years of age. On 15th May, 2018, the Juvenile Board found Siddhart & Suresh to be well aware of the circumstances & consequences of their acts and, therefore, their case was committed to the Session Court finding them capax of committing offence. In addition to the above reason, Suresh's case was also committed to Sessions Court due to insufficiency of the evidence of age. Both of them were tried in the court of Session u/s 304, 326, 354 read with sec.-34 of the Industan Penal Code, 1860.While Suraj & Dharmesh were tried by the Juvenile Board u/s 304, 326, 354 read with sec.- 34 of the Industan Penal Code,1860 (hereinafter referred to as IPC, 1860).

9) The parents of deceased started protest to try all the juveniles in conflict with law as adults due to their heinous act of brutally killing both of their children rather than like minors just because their age fell short of 18 years by just few months.

10) On 9th June, 2018, the Juvenile Board found both Suraj & Dharmesh guilty u/s 304, 326, 354 read with sec. - 34 of the Indian Penal Code, 1860 & their guilt was corroborated by circumstantial evidence and medical evidence. The Juvenile Board directed them to be sent to special home for a maximum period of one year. Both of them did not prefer any further appeal.

11) Both Siddhart & Suresh submitted to the Session Court that the court has no jurisdiction to try the case, both of them being juveniles and, hence, their case should be remanded back to the Juvenile Board. On 12th June, 2018, Siddhart's case was remanded back to Juvenile Board but Suresh's submissions were rejected due to lack of evidence of age. The Birth Certificate of Suresh provided by the Municipality could not be discovered so there was no evidence of his age. Then Suresh asserted that a Bone Test or other allied test should be conducted to determine his age but this was rejected by the Court due to the inconclusiveness of these kinds of tests. Later on, on 28th July, 2018, Suresh was found guilty u/s 304 of IPC, 1860 as his fingerprints were found on Shubhangi's body as per medical report and u/s 326 & 354 read with Section 34 of IPC, 1860 & the Court sentenced him for imprisonment of 3 years. On 4th August, 2018, Siddhart was found guilty u/s 304, 326 & 354 read with Section 34 of IPC, 1860 and this was corroborated by the statement of S.K.Kumar. The Juvenile Board directed him to be sent to a special home for a maximum period of 3 years.

12) An appeal was preferred by Siddhart in the Court of Session against the judgment and order passed by the Juvenile Board. He submitted his mere presence does not prove the guilt but the Session Court dismissed the appeal on the ground that appeal was not maintainable as the case has proved beyond the reasonable doubts before the Juvenile Board, moreover case also corroborated by circumstantial evidences, statement of eye witness and medical evidence and that no other question of law was raised by the appellant in the said appeal.

13) An appeal was filled in the High Court by Suresh seeking setting aside the order of conviction since the Court of Session has no jurisdiction to try the case as the accused was a minor & for the suspension of execution of sentence passed by the Session Court. It was also submitted that there was abuse of process of law by the trial of his case in the Session Court & he also raised the question regarding the justification of order passed by the Session Court rejecting the Bone Test for determining his age. At the same time, a revision petition was also filed by Siddhart for the quashing of order of conviction of the Court of Session. But both the petitions

were rejected by the High Court as in the opinion of the High Court, the evidences revealed that both of them were well aware of the circumstances and consequences of their delinquent acts and, therefore, both were capax of committing crime & that both were acting under common consensus.

The requirement of any test to determine age was consequently rejected. In addition to this, in the opinion of the High Court, the case was proved beyond reasonable doubts. In the cross appeal which was filed by the prosecution against Suresh and Siddhart, it was contended that both culprits should be convicted under Section 302 IPC instead of 304 and this contention of the prosecution was accepted by the High Court and Suresh was ordered to be sentenced for a period of 10 years.

14) The Juvenile Justice (Care & Protection of Children) Act, 2014 was passed on 17th December, 2014 by the Parliament of Industan which came to force on 20th January 2015. This Act of 2014 of the Republic of Industan is analogous to the Juvenile Justice (Care & Protection of Children) Act, 2015 of the Union of India.

15) On 4th January, 2019 both Suresh & Siddhart approached the honorable Apex Court of Industan & the Apex court clubbed both the Matters & decided to hear the same. The following points were in question-

- Suresh challenged the proceeding of the Session Court as he was minor; therefore, he seeks that his case be remanded back to the Juvenile Board & also seeks that the sentence passed by Session Court and High Court be set aside.
- Suresh also raised question regarding the justification of the order passed by the Session Court & the High Court, rejecting the conduct of the Bone Test or other allied test for determining his age.
- Siddhart raised appeal against the judgment & order passed by the Juvenile Board, Session Court & the High Court which was passed solely on the bases of his presence in the exhibition on the night of 8th March, 2015 and seeks acquittal from all the charges.

A PIL is also filed by WTH Foundation, an NGO working for child rights, challenging the constitutional validity of the Juvenile Justice (Care & Protection of Children Act), 2014.

Note: The PIL filed does not form the part of any of the appeal before the Supreme Court of Industan, but for the convenience of argumentation, the last issue shall be dealt in the same Court.

16) Industan is a signatory to the United Nation's Convention on the Rights of the Child (UNCRC). Its Article 40 specifically establishes parameter for juvenile justice. In addition to this, the case of Suresh is supported by a Human Welfare Organization to protect his interests.

17) All the teams are required to prepare arguments from both Appellants' & Respondent's side & all the teams are at liberty to frame issues. All the legislations of the Union of India shall be mutatis mutandis to the legislations of the Republic of Industan.