

D.E.S. SHRI. NAVALMAL FIRODIA LAW COLLEGE, PUNE

MOOT COURT SOCIETY MEMBER SELECTION ROUND I (A.Y. 2017-18)

MOOT COURT PROPOSITION

SANJU & ANR.

V/S

STATE OF MAHARASHTRA

Ramgarh and Bharatpur are two villages that fall within the district of Pune. The two villages are separated by a perennial river named Jeevanadi which is used by farmers from both Ramgarh and Bharatpur. The two villages are connected by a bridge under which the river flows. In May 2016, Jeevanadi was reduced to a mere rivulet due to the indiscriminate use of its waters by the residents of Ramgarh. The idea of placing water pumps further upstream was suggested by the school Headmaster of Ramgarh. The farmers of Bharatpur suffered the most as they could not draw enough water for their fields. Consequently, the farmers of Bharatpur faced economic losses and hardship. This led to a rise in tension between the two villages which reached its climax on the 25th of May 2016 when the residents of Bharatpur attacked and burnt the farms of Ramgarh. The frenzy escalated as factions from both villages confronted each other with lathis and kukris. In the violent encounter between these two factions, 13 people died. The police were called in to control the mayhem. Ever since this incident, there has been constant acrimony between the two villages.

On 24th February 2017, Basanti, aged 15 years, a resident of Ramgarh and daughter of a very respected school headmaster was returning home from school. As always, the school bus driver had dropped Basanti off near the Ramgarh end of the bridge at about 4 pm. Her home is a mere 500 meter walk from the Ramgarh end of the bridge. However, when Basanti did not make it home by 6 pm, her worried mother and father went around asking the locals about her whereabouts and if anyone had seen or heard

from her. Basanti's friends told her parents that they last saw her near the bridge where Basanti got off the bus. Meera, who is Basanti's classmate mentioned that on 24th February, 2017, she last saw Basanti talking to Sanju and Kartavya, both of whom are residents of Bharatpur and the sons of a local politician, Gabaji, near a pan shop at the Bharatpur end of the bridge. Gabaji happens to own the largest plot of farmland in Bharatpur. On asking the Panwaala about their daughter, he stated that he hadn't seen her ever before. Worried beyond measure, Basanti's parents went to the police and filed a missing person report at about 7:00 pm on the same day.

On 25th February 2017 at about 6:00 am, the police received an anonymous call which mentioned about a body of a young girl lying face down under the bridge near the Bharatpur end. When the police arrived, they discovered that it was the dead body of young Basanti. The corpse was sent to the Government Hospital for post mortem and medical examination. The police informed the parents of the deceased about the unfortunate incident. The post mortem revealed that Basanti had suffered blunt force trauma to the back of her head. There were strangulation marks around her throat. She was also very savagely raped as was evidenced from the wounds around her private parts. Further, her mouth and nostrils were completely packed with mud. There was mud in her lungs. There was also one clean and deep incision in her chest which punctured her heart and eventually lead to her death. Her time of death was estimated at about 4:30 - 5:30 pm on the 24th of February.

Based on the information received from the parents of the deceased about her last whereabouts, the police suspected that Sanju and Kartavya had a role to play in the death of Basanti. On the basis of this suspicion, both Sanju and Kartavya were arrested on 26th February 2017. Their clothes and belongings were seized and their house was searched wherein two sets of muddy clothes were discovered from their washroom which belonged to Sanju and Kartavya respectively. The interrogation of the accused by the police revealed that Kartavya, who claimed to be aged 16 years, was Basanti's classmate. However, he never travelled on the same school bus. Sanju, aged 24 years, remained stoic throughout the interrogation and did not say a word. Both the accused were

examined by a government doctor. The accused were brought before the Magistrate the following day and were ordered to be kept in police custody for 10 days.

In the course of the investigation, many tests were carried out by soil analysts such as pH test, X-ray fluorescence tests. The reports of these two tests indicated that the soil recovered from the victims mouth and the soil found on the muddy clothes of the accused belonged to the crime scene. A photospectrometer test was carried out on the victims and the accused which revealed that the genitals of both, the victim and both the accused, had the depositions of a similar type of lubricant from a latex contraceptive. However, the weapon that caused the death was not recovered. A final report was drawn up wherein both the accused were charge-sheeted for the offence of rape and murder of Basanti. The Magistrate committed the matter to the appropriate Court. The Trial Court framed charges under the appropriate provisions of the Indian Penal Code, 1860 and the Protection of Children from Sexual Offences Act, 2012.

Based on the reports of the soil analyst, testimonies of Meera, the bus driver, the victim's parents and the medical reports, the prosecution pressed that this is a fit case for rape and murder and that both the accused are guilty of the same. In the course of the trial the accused took the defence of alibi, stating that at the alleged time of commission of the offence, they were busy campaigning for the local elections with their father, Gabaji, who was contesting the said elections. Around 30 people, who were a part of the rally, testified to that effect as defence witnesses. Photographs and videos were adduced as evidence showing that the two accused were in fact with their father in the campaign at the time of the commission of alleged offence as per the date and time stamp on both, the photos and the videos. However, the cameras which captured the photos and videos were not brought before the court.

On the basis of the abovementioned facts, the Trial Court came to the conclusion that both the accused are guilty of the offences of rape, murder and appropriate charges under the POCSO Act, 2012 and convicted them under the same. The Trial Court states

that this case falls under the category of rarest of rare and, therefore, awarded capital punishment to both the accused.

Both the accused have preferred an appeal against the order of conviction and the sentencing before the appropriate appellate authority. The matter now rests for final argument.

***Disclaimer:** All the characters, names and events mentioned in this 'Moot Court Proposition' are entirely fictitious and used for purely academic purposes. Any similarity to actual events or persons, living or dead, is purely coincidental*

***Note:** This Moot Court Proposition has been framed by Adv. **Abhishek Chitnis** (Alumni of D.E.S.Shri. Navalmal Firodia Law College, Pune) for academic use only.*