

**SCHOOL OF LAW,
GUJARAT UNIVERSITY, AHMEDABAD**

MOOT PROPOSITION

- 1) Dev, a poor boy who lived in a slum in the outskirts of the city of Brada in the Republic of Indiana. He studied in a government funded school named, Best Highschool School up to Sixth Standard but then he dropped out of school and since then, he has been in the employment of Mr. S.Verma for doing his household and other allied chores. MS.Verma lives in Anand Vihar Society in the city of Brada. Dev lives in the quarter provided by Mr. Verma. It has been 6 years since his employment. Mr. S.Verma had two children, a boy named Aman, aged 18 years and a girl named Sakshi, aged 16.5 years. Both Sakshi & Aman treated Dev in a condescending manner, they insulted him on trivial matters.

- 2) One day, Aniket aged 16 years and 6 months, son of Mr. Dixit, neighbor of Mr. Verma, was playing soccer in the society park. Aman & Sakshi were jogging there as per their routine. Aniket & Aman had animosity since childhood. While playing soccer, the football hit over the head of Sakshi which gave her a minor head injury. Over this, Aman started verbally abusing Aniket, this led to a heated quarrel between the two. This provoked Aman to give Aniket a blow but suddenly Mr. Nagar another neighbor came and resolved the quarrel.

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

- 4) On 7th March, 2015, Dev took leave for 3 Days from work for going to his village with the permission of Mr. Verma. On 8th March, 2015, MS.Verma left to attend a business seminar in another city. As it was Sunday, Mrs. Verma had planned to go to a painting exhibition with her family but due to Mr. Verma's work she decided to go along with her children. Dev had prior knowledge regarding it.

- 5) At 6:30 p.m. on 8th March, 2015, Mrs. Verma reached the exhibition which was located in the remote & desolate part of the city of Brada. The organizer of exhibition was Mrs. Verma's college friend so she engaged with her. Meanwhile, around 8:30 p.m., Sakshi was taken by four persons & Aman 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 Aman 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 Sakshi tried to scream, her mouth was forcefully shut and in a sudden haste she was strangled. When Sakshi 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, 2015, the investigating officer arrested Aniket on the information of Ram Manohar who saw Aniket sneaking out of the basement on the night of 8th March, 2015. On 12th March, 2015, Investigating Officer arrested Dev along with Mayank, aged 16 years & Ranveer, aged 16 years who were Aniket's friends.

- 7) The postmortem report revealed that Aman died due to head injury & internal bleeding and Sakshi 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, 2015, the Juvenile Board found Aniket & Dev 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, Dev'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 Indiana Penal Code, 1860. While Mayank & Ranveer were tried by the Juvenile Board u/s 304, 326, 354 read with sec.- 34 of the Indiana 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, 2015, the Juvenile Board found both Mayank & Ranveer guilty u/s 304, 326, 354 read with sec. - 34 of the Indiana 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 Aniket & Dev 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, 2015, Aniket's case was remanded back to Juvenile Board but Dev's submissions were rejected due to lack of evidence of age. The Birth Certificate of Dev provided by the Municipality could not be discovered so there was no evidence of his age. Then Dev 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, 2015, Dev was found guilty u/s 304 of IPC, 1860 as his fingerprints were found on Sakshi'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, 2015, Aniket was found guilty u/s 304, 326 & 354 read with Section 34 of IPC, 1860 and this was corroborated by

the statement of Ram Manohar. 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 Aniket 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 Dev 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 Aniket 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 Dev and Aniket, 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 Dev was ordered to be sentenced for a period of 10 years.

14) The Juvenile Justice (Care & Protection of Children) Act, 2014 was passed on 16th December, 2014 by the Parliament of India which came to force on 20th January,

2015. This Act of 2014 of the Republic of Indiana is analogous to the Juvenile Justice (Care & Protection of Children) Act, 2015 of the Union of India.

15) On 11th January, 2016 both Dev & Aniket approached the honorable Apex Court of Indiana & the Apex court clubbed both the Matters & decided to hear the same. The following points were in question-

- Dev 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.
- Dev 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.
- Aniket 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 AIM 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 Indiana, but for the convenience of argumentation, the last issue shall be dealt in the same Court.

16) Indiana is a signatory to the United Nations' Convention on the Rights of the Child

(UNCRC). Its Article 40 specifically establishes parameter for juvenile justice. In addition to this, the case of Dev 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 Indiana.