

ARGUENDO, UILS LAW FEST 2nd UILS NATIONAL TRIAL ADVOCACY, 2016



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2ND U.I.L.S. NATIONAL TRIAL ADVOCACY PROBLEM

THE STATE (UNION TERRITORY OF CHANDIGARH)

V.

1. PIA TANDON

2. FARHAN QUERESHI

On the basis of the evidence on record, there is sufficient material to make out the offences against Accused No.1 u/s 67A & 67 of the Information Technology Act, 2000 as well as u/s 302, 292, 295A of the Indian Penal Code, 1860 and against Accused No. 2 u/s 67A, 67 & 85 of Information Technology Act, 2000 and u/s 354C, 292, 295A of Indian Penal Code, 1860.

List of Annexure and Exhibits:

- 1. First Information Report (Annexure 1)
- 2. Statements under Section 161 Cr.P.C. (Annexure 2)
- 3. Statements of Defence Witnesses (Annexure 3)
- 4. Post Mortem Report (Annexure 4)



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ANNEXURE 1: FIRST INFORMATION OF A COGNIZABLE CRIME REPORTED U/S 154, CRIMINAL PROCEDURE CODE

1. State: Chandigarh (Union Territory) Police Station: Police Station, Sector-20, Chandigarh.

2. Case No.: 155/16

3. Date of occurrence: 14th March, 2016

4. Statutes: Indian Penal Code, 1860 and Information Technology Act, 2000.

5. General Reference Entry: 2016/14

6. Informant's name: Mr. Nitin Rastogi

7. Address: #397, Sector 8-M, Mohali, Punjab.

8. Nationality: Indian

9. Age: *32*

10. Basis of information received: Mr. Nitin Rastogi

11. Suspected accused with particulars: Mrs. Pia and Mr. Farhan

12. Reasons for delay in reporting by informant: No delay; informed immediately

13. Signature/thumb impression of complainant/informant: Mr. Nitin Rastogi

14. Signature of Office-in-charge, Police station: I.O., Shamsher Singh and Chaman Singh

15. Date of F.I.R: 14th March, 2016.



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16. Date and time of dispatch to the Court: 11:00 am, 15th March, 2016.

I am Shamsher Singh, the investigating officer in the case. At around 8:00 pm on 14th March, 2016, I got a call at the Sector 20 police station from the control room to check house number 5002, sector 21-E, Chandigarh for an attempted suicide. We reached the site at 8:15 pm. The outer wall of the house had splashes of black paint thrown on it. The wooden door showed damage as if someone had thrown stones on it. No one answered the door bell. Constable Chaman Lal went to the back of the house and found that a standard size window (4 feet x 2.5 feet) at the back of the house was broken. In the meantime, I called the neighbour as a pancha in the matter suspecting a suicide attempt. The neighbour Mr. Himanshu came back with us. The front door of the house of the deceased was unlocked and we proceeded inside. We reached the back of the house to the deceased's bedroom, where we found that she was hanging from the ceiling fan by a nylon rope. Mr. Nitin, the informant and brother of the deceased, too reached the spot. He identified the deceased as Ms. Mona.

There was an initial presumption of suicide. However, on closer investigation of the crime scene there were elements of foul play. The most significant of these elements was the broken glass on the inside the bathroom. The glass on the floor had traces of blood. A single strand of long brown hair was also found in the bathroom, which is distinguishable from the deceased's short black hair. Evidence on the spot was duly collected and sent to the forensic experts. The dead body too was sent for the Postmortem report.

When Mr. Nitin, the informant brother of the deceased) arrived, he informed us that Mona had an affair with Mr. Suhas Tandon, Mona's boss. A video of Mona and Suhas engaging in sexual activity in their office was posted on a website <code>www.sell-it.com_</code> Later this video was uploaded on many pornographic sites. The video is now no longer available on sell-it.com. Mr. Nitin further stated that Mona was being tormented by her co-workers and then she was forced to quit her job. She was also subject to ignominy and threats on social networking sites by the followers of Gyan



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Baba Ji. Apparently the video that was posted had Baba Ji's picture in the background. The true statement of the informant is quoted hereunder:

I am Nitin Rastogi. I am the brother of the deceased, Mona Rastogi. Mona had been very upset for the past few days because of a video that was uploaded onto "sell-it.com" and then later uploaded on pornographic sites. As a software engineer I can say for sure, that the company running the website did not take adequate safety measures or necessary precautions otherwise such a video would never have been uploaded in the first place. I find the response of the company is inadequate and wholly unacceptable. They took 3 hours to take off such a video? It should have been done in 30 minutes. Suhas Tandon is the man in the video with Mona. She was being tormented by her coworkers. That's what drove her to this point. I received a text message from Mona at around 6:30 pm saying "Bhaiya, I'm so sorry. I have brought so much shame to myself and my family. But I am paying for it every day at work and in the society. I have no friends left. It's all because of that woman, Pia. She has caused me so much suffering. She along with that stupid website is responsible for all my pain. I barely have a sane thought anymore. I think it'll be better if I just end this here and now." I was attending an official meeting and my phone was silent so I did not read the text. After the meeting at around 7:45, I immediately called her up but her phone was switched off. I opened the message she sent and I was terrified when I read it. I kept calling her, but her phone remained off. So I called the Police Station nearest to her house and started for her place immediately. At the spot, I saw the house door open and found two policemen and one other person inside. I saw my sister hanging from the ceiling fan with her room in disarray.

Upon the information so received, an FIR has been registered against unknown persons.

Sd/-

I.O. Shamsher Singh Nitin Rastogi



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ANNEXURE 2:STATEMENTS UNDER SECTION 161, CR.P.C.

P.W. 1-: STATEMENT OF INFORMANT: NITIN RASTOGI

Sex: Male Age: 32 years Occupation: Software Engineer

I am Nitin Rastogi. I am the brother of the deceased, Mona Rastogi. Mona had been very upset for the past few days because of a video that was uploaded onto www.sell-it.com and then later uploaded on pornographic sites. As a software engineer I can say for sure, that the company running the website did not take adequate safety measures or necessary precautions otherwise such a video would never have been uploaded in the first place. I find the response of the company is inadequate and wholly unacceptable. They took 3 hours to take off such a video? It should have been done in 30 minutes. Suhas Tandon is the man in the video with Mona. She was being tormented by her co-workers. That's what drove her to this point. I received a text message from Mona at around 6:30 pm saying "Bhaiya, I'm so sorry. I have brought so much shame to myself and my family. But I am paying for it every day at work and in the society. I have no friends left. It's all because of that woman, Pia. She has caused me so much suffering. She along with that stupid website is responsible for all my pain. I barely have a sane thought anymore. I think it'll be better if I just end this here and now." I was attending an official meeting and my phone was silent so I did not read the text. After the meeting at around 7:45, I immediately called her up but her phone was switched off. I opened the message she sent and I was terrified when I read it. I kept calling her, but her phone remained off. So I called the Police Station nearest to her house and started for her place immediately. At the spot, I saw the house door open and found two policemen and one other person inside. I saw my sister hanging from the ceiling fan with her room in disarray.



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P.W. 2-: MR. SUHAS TANDON

I am Suhas Tandon s/o Bajirao Tandon r/o #4200, Sector 20-A, Chandigarh. The deceased, Mona was my secretary. I loved her and I wanted to be with her. It was only for my daughter's sake that I hadn't divorced my wife yet. Unfortunately, my wife Pia found out about us. She put a spy camera in my office. She retrieved the video from there and I'm sure she uploaded it. I am sure she had a copy of the video on a pen-drive. We had a fight when she found about Mona and me. She told me that she would hurt both of us. I remember her exact words. She had said, "I will hurt you, you and that woman! Just like you hurt me! Someday, somehow, I will hurt you."

On 14th of March I reached home from my office at 7:30 pm just like any other day. Pia was not at home at that time because I went to check on Sukriti, our daughter, in her nursery. This was the room which Pia had also been using since we had our fight. She wasn't back until 8 p.m. I left the nursery when I heard the car in the driveway. I went straight back to my room and did not see her. I heard her moan in pain as she was walking upstairs. I did not want to see her because of the bitterness between us.





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P.W. 3-: MR. RAJESH SHERWAL

My name is Rajesh Sherwal and I am the owner of Hi-Speed Cyber Café. I do not know anything about the uploaded video. At least hundred different people visit my café every month to avail the best internet services. I do not remember each and every visitor by face apart from few regular visitors. We do maintain a proper record of each visitor and the duration for which he surfs the net. Unfortunately, I do not have any record of the past week. Due to the voltage fluctuation, there was a short circuit in the Air Conditioner and the log register being placed next to the stabilizer got burnt. Fortunately, we handled the situation and nothing else was damaged. The lady in the picture (Pia) is a face that I think I remember. She had visited my café a few times. As far as I can recall, she visited my café recently. I remember her as she has a very unique style of talking. I am not sure as to the exact date and time of her visit.





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P.W. 4-: MR. HIMANSHU GARG

S/o Bhishma Garg r/o #6001, Sector 21-D, Chandigarh.

I, the above named pancha, was questioned by Sub-Inspector Shamsher Singh on 14th March, 2016 about the whereabouts of Ms. Mona, at around 8:30 pm. I did not know anything about her whereabouts. However, as a responsible citizen I accompanied S.I. Shamsher Singh to her house. The front door of her house was unlocked. We proceeded to the back of the house into her bedroom. What we saw there was horrifying.

Mona was hanging from the ceiling fan of her bed room by a rope. A stool was toppled over on the floor. There was an empty whiskey bottle sitting on her side table and a broken whiskey glass on the floor. An empty leaflet of an anti-depressant medication "Cipralex" was found along with the

bottle of alcohol. It was collected as evidence by the police.

The S.I. then checked the bathroom adjoining her bedroom. There was broken glass found inside the bathroom with traces of blood on it and a single strand of long brown hair. It was collected as evidence under the suspicion that it's not Mona's since her hair was black. The police photographed the dead body and collected samples of the broken glass (with the blood) from the

bathroom.

The police then checked her side table drawers and found a fruit knife and a few pictures. These included a picture of Mona with an unknown man. Subsequently, the pictures and the knife were collected as evidence. Mona's phone was in the adjacent room on a table. The phone was switched off. By this time Mona's brother Nitin reached the scene.

14th March, 2016

Time: 10:00 pm

Signature of Pancha: ___ Himanshu Garg

Signature of I.O.: Shamsher Singh

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P.W. 5-: SHAMSHER SINGH

I am Shamsher Singh, the investigating officer in the case. The day after the FIR was registered, I reached Mr. and Mrs. Tandon's house. We informed Mr. Tandon about the Mona's death. He was shocked and in disbelief. He was asked if he knew anything about her death and the video that was uploaded on *www.sell-it.com*.

Suhas accepted the fact that he was in an illicit relationship with Mona. He said he loved her and wanted to be with her. He knew that video was uploaded on a website. On questioning whether he has a suspect who might have uploaded it, he alleged that it is his wife who is responsible for the same. He told us that his wife had recorded a video via a spy cam. She had confronted him in the past about it and even threatened to take revenge on him and Mona.

We then turned our attention to Mrs. Pia Tandon who was in the other room all this time. Apparently she was under the weather. Pia walked to the drawing room with some difficulty. She was favouring her left leg. She also had a bandage on her right hand which showed bleeding from her palm. She had long brown hair which made her a possible suspect. Upon our insistence, she agreed to make a statement. Pia denied having any video of Suhas and Mona. She further stated that it was her suspicion, and Suhas' confession, that lead her to the truth of his fidelity. She also denied that she does not have any knowledge about Mona's death. She seemed to be very confident and indifferent during the questioning. However, when she asked about the bandage on her right hand, she seemed to fumble and could not give a convincing answer. She only said it was a minor kitchen injury.

On further investigation, it was found that the website running the financial transactions for *sell-it.com* was using servers of *Buy It Sell It and Co*. Further the user friendly method of posting an ad on *www.sell-it.com* required only a 2 step signup. It required a 6 digit username and a password of the user's choice. No details for any identification were required.



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The video was traced back to a Hi-Speed cyber Café by our Computer experts. Upon receiving the information, I immediately proceeded to the Café. I met Mr. Rajesh, the owner of the Cyber Café. Unfortunately, no log register could be recovered as the same was destroyed by a minor fire accident. However, upon showing him a photograph of Pia, he did confirm that Pia had visited the café within last few days. It was difficult for him to recall the exact time and date.

We further approached Bahadur Ram, Pia and Suhas's domestic help for a statement. According to Bahadur Ram, Suhas and Pia had been quarrelling very often. Their relationship was strained. Suhas was out of the house very often and didn't return for hours as a stretch. On 14th March Suhas had come home from office early. He received a phone call and got very angry. On checking his phone records, could not be ascertained who he was talking to. The number was a recently installed pay phone booth in sector 21. Babu Rao's statement made it clear that Mr. Tandon cared for the deceased and so we turned our focus to other theories.

That same day the post mortem report came back and I foul play was certain because of the nature of the injuries sustained by the deceased. Within a few hours the forensics report from the CFSL came back. According to the report, the blood found on the glass in the bathroom and the hair found in the bathroom is not Mona's. Nothing else could be ascertained since there was no one to compare the samples with. Constable Pyare Ram and I returned to Suhas and Pia's house to take their blood samples for DNA analysis. Pia refused to give her blood sample (or any other form of DNA containing material). A lady police constable was called to arrest her immediately. Suhas was at his office at this time however Pia's refusal to cooperate almost completely confirmed her as the killer.

I approached Mr. Andy, an ethical hacker. I called him to assist me in the investigation of the case. He has been assisting the police in many cybercrime cases. He was asked to trace the video which was uploaded on *sell-it.com* and ascertain where it was uploaded from. He found that the video was uploaded at Hi-Speed Cyber Café. At the café, we ran a check on all the systems and recovered the



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deleted files in all of them. On the data recovered from computer number eleven, we got a match on the digital fingerprint of the video. This confirmed that the upload was made from Hi-Speed Cyber Café. Because of the distorted nature of the video, it could not be ascertained what device was used to record it.

Andy also helped me track down websites through which www.sell-it.com customers transfer money. Some of these websites use servers owned by Buy It Sell It and Co. to run secure transactions.

Due to the peaked interest of the media and a large number of complaints claiming hurt of religious sentiments. The company *Buy It Sell It and Co* was also charged. Their CEO Mr. Farhan Qureshi was personally charged under the IPC and the IT act along with Pia.

The main reason for charging Mr. Qureshi were that there was not proper filtering of the content posted on the website, and, that once he found out that the video had been posted, why wasn't any measure taken to stop all payment through Banking channels.





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ANNEXURE 3: STATEMENTS OF DEFENCE WITNESSES

D.W. 1-: PIA TANDON

I am Pia Tandon d/o Aniruddh Sethi r/o #8001, Sector 20-F, Chandigarh. The deceased, Mona had an illicit relationship with a married man and I was the unfortunate wife. I would have left Suhas and gone away the day I found out if it weren't for the prenuptial agreement he made me sign. I did put the spy camera in my husband's office. However, due to some technical fault in the camera it didn't record anything. I threatened my husband saying I have a video and he snatched the camera from my hands and broke it. It was his guilty conscience that convinced me. There is no way I could upload the video because there is no video with me. I never wanted anyone to find out about Suhas's infidelity because it would have affected my father's reputation and business. Not to mention my own reputation. If anything, my husband Suhas was very mad that day. He thought Mona was responsible for the destruction of his "Mr. Perfect" image. I got the cut on my right palm (on being questioned by the I.O.) by a vegetable knife while I was working in the kitchen yesterday.





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D.W. 2-: FARHAN QURESHI

I am Farhan Qureshi. I work as the CEO of *Buy It Sell It and Co*. Recently we have been involved in a major controversy regarding our website *www.sell-it.com*. I assure you that the company did everything we could to prevent the video from being sold. However, it needs to be understood that, like many others, our company is merely a platform where buyers may contact the sellers. We have no say in the products that are placed for sale or the profits that are made from such sale. Our website relies on advertisement and sponsored products for revenue generation. Even though we had filters applied to prevent the sale of any kind of weapons, restricted goods, goods requiring specific license and pornographic material, this video unfortunately was not covered by the filters. Under the circumstances I do not know what else we could have done. As far as the charge of hurting religious sentiments is concerned, we did not display any picture of Baba Ji or have any intention to hurt anyone's feelings. The video was titled "Baba Ji Blesses Happy Office Couple" and, thus, it evaded all our filters. No one could have envisaged that video had sexual content.





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D.W. 3:- MR. ANIRUDDH SETHI

My name is Aniruddh Sethi and I am a businessman. My daughter is married to Suhas Tandon and she was happy until all of a sudden, their relationship deteriorated. Pia thought this was because Suhas had an affair with some other woman. I brushed this aside as a mere suspicion until I saw the video of Suhas with another woman. Pia came over to my place and cried the whole day. I tried to persuade her to get a divorce, but she wanted to sort things out because of her child. On 14th March, 2016, she came to meet me at around 6 pm. She was really upset and she finally decided to obtain a divorce. We had a long chat for about 2 hours and then she left to go back to Sukriti. There is no way she could have killed Mona. Mona made so many enemies in the followers of Gyan Baba Ji. My daughter has never hurt anyone in her life.





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D.W. 4-: BABU RAO APTE

My name is Babu Rao Apte s/o Ganpath Rao Apte. I work as an intern in Mr. Tandon's advertising agency. The agency handles advertisements for major companies and even the Gyan Baba Ji herbal hair product campaign. It was rumoured that Mr. Tandon was having an affair with Ms. Rastogi before the video came out online. Some other employees said that they saw Mr. Tandon alone with Ms. Mona many times in the shooting room which also had a green screen. No one said anything to Mr. Tandon because he was a very short tempered man. When the video came out, all the office employees taunted Ms. Mona. She often broke down. Finally she quit the agency. Mr. Tandon was very upset because of this. He sat in his office for hours, refused to take any calls, kept breaking pens on his desk. I believe it was a spy camera hidden in a pen that exposed his relationship with Ms. Mona.





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D.W. 5-: BAHADUR RAM

(Original statement recorded in Hindi)

My name is Bahadur Ram, s/o Jungbahadur Ram. I work as a cook at Mr and Mrs. Tandon's house. In the past few weeks Mr. and Mrs. Tandon were fighting a lot. So much that they barely spoke to each other. Mrs Tandon started staying in the nursery. On 14th March 2016, Mrs Tandon left the house at about 6 pm. She didn't say where she was going. She asked me to leave after I finish the cooking for the day. Mr Tandon came home at 6:30. He was talking to someone on the phone and got very angry. I could not understand what he was saying because he was speaking in English. I could only understand, "main abhi aa raha hoon...main kuch karta hoon uska" in the entire conversation. Mr. Tandon left the house at about 6:40 pm. Since I finished my work, I checked on Sukriti Baby in the nursery and left at 7 pm. I cannot believe she would hurt anyone, she even refused to kill cockaroaches in the house as she believed it was a sin to kill or even hurt another living being.





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ANNEXURE 4: POST MORTEM REPORT

Female of 25 years, light build. Rigor Mortis well marked over whole body. Postmortem lividity towards the feet. No signs of decomposition of the body. The face was puffy and cyanosed. Tongue within oral cavity without visible injury. The deceased presented with oozing from her mouth. Cyanosis was present in finger nail beds of her hands and lips. Surface injuries on body were present as follows.

- 1. Multiple crescent shaped abrasions (5 in number) of size varies from 0.4x0.3 cm over anterior part of neck and dark reddish in color at the level of thyroid cartilage.
- 2. A circular contusion of size 3x3 cm was present sub-mandibular region of left side of neck, dark reddish in color and 1.5 cm from midline presenting as an oblique mark.
- 3. Ligature mark was oblique and V shaped. Traces of nylon found in the ligature mark.
- 4. Trauma and haemorrhage found on the left side of the cranium.
- 5. Multiple scars of lacerations running medially of size range 3-6cm found on the wrists. Fresh lacerations of size 3cm x 3cm running laterally.
- 6. Contusion of size 4cm x 3.5cm, irregular in shape on upper right arm above the deltoid.

Internal Examination: An infiltration of blood in sub-cutaneous tissue seen underneath the external contusion on neck, dark reddish in color.

There was infiltration of blood within neck muscles & in the thyro-hyoid membrane of right side. No injuries seen over tongue, buccal mucosa and teeth.

Large dosage of serotonin reuptake inhibitor was found in the blood.



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Imprint abrasion suggestive of use of nylon rope. Esophagus Mucosa congested. Larynx congested. Hemorrhaging found over laryngeal mucosa.

Blood alcohol levels were elevated and high quantity of alcohol was found in the liver.

Cause of death: Asphyxiation.

Sd/- Sd/-

Dr. K.P. Joshi Dr. M.K. Malik Dr. S. Kumar



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DISCLAIMER

All characters in the above problem are fictional. Any resemblance to a person living or dead is purely coincidental, unintentional and not intended to hurt anybody's sentiments.

