



3rd State Level AMITY Moot Court Competition, 2018

MOOT PROPOSITION

1. Arushi Parmar, a 29 years old lady, Research Associate by profession, is a resident of Punvil, Mimbasa, one of the provinces in Union of Alohra. She was a regular passenger of Thanung passenger train running between Thanung and Puram. She usually travelled from Punvil to Andh, where her workplace was situated, and back. Punvil and Andh are the 8th and 17th stations respectively from Thanung. On 07-06-2018 she boarded the train from Andh at 8:30 p.m to return home. It was raining that night and she was late almost by an hour too from her usual time of travelling back home.
2. Later that night she was found in an unconscious state in woods at around 10:30 p.m. by a dog walker near the Tikha road which was situated behind the Tikha railway station. Tikha was the 13th station from that of Thanung. She was immediately taken to the Tikha Government Hospital, where she succumbed to injuries at around 9:00 p.m. on 09-06-2018.
3. On 13-06-2018, the police arrested accused Raghu Chaubey, a man of 43 years, resident of of Mas Nagar, Mimbasa. Later it was found by the police that he is a habitual offender and previously was convicted by the courts. According to the prosecution, Raghu was already in the train when Arushi boarded from Andh along with his two friends Ajay and Vikash. He at first, teased Arushi in the women's compartment. Then he tried to rob her. When some co passengers came forward to help her, he took out a blade from his pocket and threatened them to go away. When she tried to resist him, he smashed her head against the wall and cut her cheek and wrist with the blade. Then, he threw her out of the running train nearby Tikha. He, too, jumped out of the train, walked approximately 200 metres and found her lying in a pool of blood but in a conscious state. Ajay and Vikash pulled the chain and jumped out of the compartment in search of Raghu. Thereafter they

found Raghu and they gagged Arushi with chloroform and made her unconscious. Afterwards they carried her in the dark gully of Tikha road behind the station amidst the woods near the rail track and over there Raghu brutally raped her.

4. The skin tissues found in the victims fingernails and the DNA samples collected from the site of the crime and victim's body were compared with suspect's samples. Traces of his semen were found in the victim's body and clothes. The skin cells also matched and there were marks of scratches in his arms and face too.
5. There are plenty of co passengers who have eye witnessed the incidents in the train's compartment. A few people noticed him near the Tikha station. Some nearby residents heard their voices too. The victim's cell phone was recovered in switched off mode from the Tikha platform. The victim's office bag was found in the woods without money.
6. During the medical examination and police interrogation, the accused confessed to the Doctor and police that he had raped the victim and after that he took the money from the bag and left it there.
7. Forensic surgeon, Dr. Indrajit Sur, who conducted the post-mortem, stated before the court about 14 injuries in different parts of the body. The death primarily resulted from joint injuries. The first reason of the death is the injury she had at the time when the accused threw her from the running train. At that time her head was injured causing an immediate internal brain Hemorrhage. Blood from that trauma irritated brain tissues, it caused swelling. The pooled blood collected into a mass, which is called a hematoma in medical terms. These conditions increased pressure on nearby brain tissues, and that reduced vital blood flow and killed the brain cells. Bleeding occurred inside the brain, between the brain and the membranes that cover it, between the layers of the brain's covering and gradually between the skull and the covering of the brain.

8. The other injury that jointly caused her death is heavy flow of blood or Hypovolemic shock. This condition resulted when she was left bleeding without any medication or treatment. The victim lost more than 20 percent (one-fifth) of her body's blood and fluid supply. This severe fluid loss made it impossible for the heart to pump a sufficient amount of blood to the body. Hypovolemic shock led to organ failure. This condition required immediate emergency medical attention which she did not get. She was found and admitted to the hospital after hours of her injuries. In that time her body lost litres of blood and caused her death thereafter.
9. On conclusion of the final hearing in trial court, the prosecution stated that this case should be considered as a rarest of rare in the light of scientific and circumstantial evidences. Absence of eyewitnesses should not be a lacuna in awarding maximum punishment in committing rape and murder together.
10. The trial court found the accused guilty under section 376 and section 302 of Alohra Penal Code and awarded him death sentence for murder and the offence of rape. On appeal by the accused, the High Court modified the judgment by partly allowing the appeal and exonerated the accused from the charge of murder with the observation that prosecution failed to prove that the lady was thrown out of the train by the accused and also failed to prove that the accused has the *mens rea* to cause the injuries and which subsequently resulted in the death of the victim. The said court convicted him under section 325 instead of section 302 and upheld the punishment under section 376, of Alohra Penal Code. Aggrieved by the judgment of the High Court, the State filed criminal appeal before the Supreme Court and the Supreme Court confirmed the judgement of the trial court.
11. Aggrieved by the order, the defence filed a review petition before the Supreme Court



ISSUES:

1. Whether the review petition is maintainable or not?
2. Whether circumstantial evidence and expert opinion is sufficient to convict a person for charge of murder?
3. Whether the present can be considered within “the rarest of rare case”?

Note 1: All laws being in force for the time being in the Union of Alohra are in parimateria with the present laws of the Union of India.

Note 2: The participants are to consign their argument strictly for the “Issues framed” and the “Review Petition” as mentioned in the facts of the case.

Disclaimer: This Moot Court Proposition is hypothetical and all names and facts used and stated respectively herein are fictitious.