

MOOT COURT PROPOSITION

BRIEF FACTS

1. Nisha Mishra (hereinafter NM) a smart, beautiful and fair skinned girl, aged 15 years was on 13/07/2019 crowned the new student "Ms. Fresher" in the Eleventh Grade of St. Peter's High School, Raipur in the State of Chhattisgarh. On the fateful day (15/08/2019), NM while coming outside the school premises went to a nearby shop to purchase a soft-drink. While sipping her drink, she saw her senior of Twelfth Standard Rudra Sharma (hereinafter RS) aged 15 years and 11 months, making gestures to come behind the shop. NM went with RS where RS took out a Cigarette and started smoking the same. After a few puffs (shots), RS offered the same to NM and told her, it is not a normal Cigarette and if you take only two puffs (shots), you will reach in a different world. NM being a curious teenager went ahead to "Try" that joint and as soon as she took that in, after a few moments, she started feeling lightheaded and she said that I am feeling too good and tried to enquire from RS that what is it actually and from where he got it. RS in reply gave her an address and asked NM to reach that place at 5 pm sharp and warned her not to disclose that address to anyone.

2. At around 4.45 pm, NM reached that spot and found that it was a deserted new construction site a bit far from the city, at the newly build four lane highway, where there was hardly anyone around. After waiting for few minutes, when she could not find RS, she called RS on his mobile phone. RS picked the call and told her that he will be late by half an hour around as he is stuck somewhere but requested NM to go to the Roof-Top of the deserted site and wait for him over there. RS also promised that he will bring 'A New Thing' for NM to 'Try' and he is busy arranging that only. NM went ahead and after sometime RS arrived there with four boys of age group between 14-19 years around.

3. They soon became friends with NM and gave her some special 'Chocolate' with a Joint of Marijuana. Two boys from that group thereafter started 'touching' NM on different parts of her body. NM by that time was so much intoxicated that she failed to understand the nature of that act and after some time NM lost her senses and slept.

4. At around 2.30 pm next day (16.08.2019) NM came back to her senses and found herself in a heavy headache and nearly unable to open her eyes. After gathering some strength she tried to get

up but found that very hard too. After making some efforts she finally stood up on her legs and found herself naked and in a corner of the same building but on different floor. She tried to recapitulate what happened last evening but reminding herself about yesterday's incident after she started eating the chocolate given by RS, she found herself unable to remember anything thereafter. With pain, she started walking and found a torn shawl nearby, covered herself and found her mobile phone near the shawl with a printed message to "check the inbox of your e-mail". NM switched on her mobile and opened her inbox on Gmail.com. There was a new e-mail with an attached video and near about a dozen photographs. She downloaded that Video file from her inbox and clicked on "Play Video". To her horror she saw herself being molested at the very first by all those boys and thereafter being raped by the entire group one by one. Thereafter, she received a call from RS who warned her of dire consequences for disclosing last day's act to anyone. He also told her that he will upload the video on U-2, a globally recognized free site for uploading Movie and Songs and also on Face-Life another trans-national social website. Thereafter, NM reached the nearby highway, got an auto-rickshaw for herself and reached home by 4 pm. At home everyone in her family was waiting for her. At once she didn't told to her parents about the incident but after their continuous questioning and mental assurance, told them the entire unfortunate incident. NM's parents assured her not to disclose this to the Police or anyone concerned as it was a matter of the reputation of the entire family concerned.

5. After two days, (on 18/08/2019) RS called NM and demanded Rupees 10,000 within 24 hours together with a rider that non fulfilment of which will lead to Video & Photo Upload. NM being a teenager got very scared from that call but didn't told that to anyone. As the time approached, she thought 'if I will not give him the money, what will happen to me and thereafter to my family's reputation'. Thinking that, she made a plan to steal her mother's gold earrings and pay the ransom. She worked as per her plan and furnished the ransom to RS. This continued for some time till NM's father realised that things are being stolen from the house. He followed NM one fine day and saw her delivering money to RS. NM's father thereafter went to "PRAYAS", a Non Governmental Organization (hereinafter NGO) and sought their help. The NGO first took NM into confidence, took her to the nearby police-station, got an First Information Report (F.I.R.) registered (on 25/08/2019) (copying that to the Cyber Cell of the Police). The police came in swift action, conducted raids and on preliminary investigation found that not only NM but at least two dozen more male/female teenagers were victims in the same kind of act. Not only the victims but most

of the alleged accused were also found to be teenagers involved in the gruesome act for easy money. The police also found post interrogation that the accused not only abused and blackmailed their victims but also supplied their Video files / Photographs to a person Jaswant Dutta (hereinafter JD), a resident of Delhi where these Video's etc. were actually uploaded on free porn sites available for downloading in public domain. Also it came out in the investigation reports that the main Kingpin in the aforementioned affair was no other than Ms. Shruti Kumari who also happens to be the current Women & Child Development Minister of India and a sitting Member of Parliament (hereinafter SK) directly in touch with JD. It also came out in the preliminary investigation that JD was a near relative of SK. The police, for nabbing JD (through proper channels) sought the help of Police Commissioner and got the information through Home Ministry.

6. The NGO somehow became aware of this investigation report and other concerned information(s) and passed on the information to a national newspaper AAWAZ who in turn conducted a "Sting Operation" (hereinafter OP) on SK on 30/08/2019 in very knotty circumstances and compiled its data in three various compact discs (C.D.'s).

Disc 1 Contained SK taking token money for a bribe from a reputed multi-billionaire private tycoon active in many sectors in national and trans-national level and getting a promise from that businessman for depositing the rest of the remaining amount in "Swiss Bank" as directed by SK & JD.

Disc 2 Contained SK observing the transportation of few children from orphan homes being transported to a third world country for prostitution etc.

Disc 3 Included contents of SK's 'private life' involved in natural/unnatural sexual intercourse.

The channel thereafter broadcasted all the three discs on 02/09/2019. Following the broadcast, almost all the News Channels in the Country aired the same news numerous times and a huge hue and cry was raised by different sections of the society.

PUBLIC INTEREST LITIGATION FILED

7. On the basis of the telecasted NEWS by PRAYAS, the NGO went ahead and filed a "Public Interest Litigation" (hereinafter P.I.L.) in the High Court of Chhattisgarh at Bilaspur for the same on 05/09/2019 and demanded SK's immediate resignation and an inquiry by the Central Bureau of

Investigation (hereinafter CBI) with a request that the Hon'ble Court itself shall monitor the entire investigation as it was a very high profile case. The Hon'ble High Court admitted PIL on 10/09/2019 and issued show cause notices for the same to all the concerned parties.

8. On the other hand, SK also filed a case of Defamation against AAWAZ & NGO on 15/09/2019 alleging her Right to Privacy enshrined by the Constitution and pleading that she is not guilty and that AAWAZ is from no stretch of imagination authorized to put on Television the news contents like the current one. NM, AAWAZ and some others adduced evidence, provided material. Investigation report was called and provided to the parties. SK, JD and RS denied the allegations and claimed the action by the opposite parties as private and malafide. They claimed damages for defamation. All the concerned parties argued through their counsel and during hearings a large number of persons attended the hearings in the Chief Justice's Court.

JUDGMENT OF HIGH COURT

9. The matter being of public interest and national importance, the Hon'ble High Court after hearing the concerned parties, perused and examined the record. Number of hearings day to day were given to both sides and to some interveners. The Hon'ble Court held on 20/09/2019 as under:-

- (i) There are prima-facie allegations against SK, JD and RS. Further investigation to be done by CBI and if sufficient material to launch prosecution in the appropriate court and in accordance with law. No sanction need be taken for SK from Central Government.
- (ii) Cost-cum-compensation of Rs.1.00 lac was awarded in favour of NM to be paid by SK and JD equally;
- (iii) RS being juvenile be dealt with by Juvenile Court in accordance with law;
- (iv) Appreciated the petitioners for taking up the sensational social issue at the national level;
- (v) Writ for defamation dismissed. May file suit.

SPECIAL LEAVE PETITION FILED

10. SK and JD thereafter filed S.L.P. before the Hon'ble Supreme Court, which was admitted. The Court clubbed other similar PILs pending before it and other High Courts. It issued notices to all

the States to represent and assist it and fixed 18/01/2020 for final arguments. Kindly draw S.L.P. and frame arguments & supporting judicial precedents from the appellant as well as from the respondent's side.



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