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# 7<sup>TH</sup> SETH JAGANNATH BAJAJ MEMORIAL RNBGU NATIONAL MOOT COURT COMPETITION, 2024



15<sup>TH</sup> - 17<sup>TH</sup>  
MARCH, 2024



RNB GLOBAL UNIVERSITY,  
BIKANER

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# MOOT PROBLEM

# “ MOOT PROBLEM

The Union of Indiana, situated in South East Ethiya, stands as the world's largest democracy with a "sovereign, socialist, secular, and republic" character. It boasts the fifth-largest GDP globally and holds the position of the most populous country. Embracing affirmative action in support of females and minorities, the Union, a UN General Assembly member and a signatory to CEDAW, UDHR, etc., is committed to fostering equal rights and unity. The Union believes in fostering equal rights and providing unity and harmony to its citizens. It is a country where women are not treated as an object but as a Goddess, while this is a part of the history as well as present day. The Union has implemented various laws in regards to safeguard women and child (Protection of youngsters from sexual offences act -POYSO, Juvenile Justice Act, Criminal Amendment Act, 2016, etc.).

Aarushi@Pari was a very bright child studying in 8th standard at Hatherop Castle International School, U.K. was a daughter of a renowned textile business man Mr. Thirani who is very famous in UK for his flourished textiles which are imported from Indiana and which are of great quality. Her mother Mrs. Kanta Thirani is also a very loving and a well-educated lady. Aarushi was born in Indiana but at the age of two her father got established in UK and so the family moved there. The family is beautifully complete and is very loving but sadly their only child was suffering from a mental illness from birth. To which she was being treated by one of the best neurologist – Dr. Randhir Verma from Indiana.

On 2nd January, 2021 Aarushi and her mother Kanta visited her Uncle's house situated at BG-5/65, Paschim Sarovar, and New Delphi, Indiana. Ever since from her childhood she was struggling from Autism Spectrum Disorder (ASD), to which she visits Indiana periodically to get a checkup from the well-known Dr. Randhir Verma since last 6 years.

On January 6, 2021, at around 2:30, she went for a medical check-up at Dr. Randhir Verma's Clinic. Later, at 6:00 PM, Aarushi went to a pharmaceutical shop near her uncle's house to purchase prescribed medicines.

At around 7:30, after an hour of her not returning home, Mrs. Thirani (PW-1) started to worry. Despite numerous calls, she couldn't locate Aarushi. Concerned, Aarushi's uncle Mr. Khatri, Aunty Mrs. Tina, and her mother went to the pharmacist's shop, where the owner claimed she never came. A thorough search yielded no results, prompting them to lodge an FIR at the nearest police station.

On January 8, 2021, at 5:00 AM, PW-2 Ram Bahadur received information of the victim lying in a naked condition near the New Delphi Railway Station from PW-3 Jitendra, a tea stall owner. PW-2 reached the spot and found the victim. She was then taken to a Government Medical Hospital, New Delphi. DNA Samples were collected from the site of the crime and victim's body. A button of his shirt was found in her hand while treating her. Traces of semen were also found on and in the victim's body and clothes. Her fingernails had traces of some skin cells and blood. Fingernails marks were also found on her body.



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During investigation, police came across a CCTV footage where accused was seen forcefully taking the victim away with him. The accused was identified as Mustakh, a student of JPJ Sr. Sec. School, New Delphi. The accused was arrested from Biaspur Boys PG, New Delphi. The police recovered the lost gold chain, earrings, Rs. 750 cash stained with blood, shirt with blood stain and a payjama with blood and semen. In the hospital, the victim gave her Dying Declaration to the PW – 4, Dr. Bhavya that she was raped. On 9th January, 2023 the victim succumbed to death due to her severe injuries.

Forensic surgeon, PW – 5, Dr. Radhika conducted the post mortem of the victim. 15 injuries were sustained by the victim and the death is the result of joint result of injuries No. 1 and No. 2. She opined clearly that the first injury “Lacerated wound with a surrounding abraded contusion on right side of forehead just above eyebrow and contusion of left temporalis muscle, involving its whole thickness. The left orbital margin showed a fissured fracture. The floor of left side of anterior cranial fossa also showed fracture. There is traumatic disruption of stem of pituitary gland and left frontal lobe of brain showed multiple areas of hemorrhage”, is out of hitting of her head from a concrete place more likely a floor or stone. It was also found that there was bleeding from vulva and the legs were also stained with blood. Cut mark (sharp) over right labia present a tag of vagina (6 cm in length) hanging outside the introitus.

There was profuse bleeding from vagina per vaginal examination: A posterior vaginal wall tear of about 7 to 8 cm per rectal examination: Rectal tear of about 4 to 5 cm. communicating with the vaginal tear.

After framing of the charge, the trial proceeded. After hearing the arguments the learned trial court arrived at the conclusions that charges against the appellant under Section. 376, 396, 365, 395, 307, 302 of Indiana Penal Code and section 3 of the protection of youngsters from sexual offences act (POYSO).

On 16th November, 2022 the Trial Court found the accused guilty for section 376 395, 396, 365, 395, 307 , 302 of Indiana Penal Code and section 3 of the protection of youngsters from sexual offences act (POYSO), awarded him death sentence for murder and life imprisonment for the offence of rape. The accused filed an appeal to the HC of New Delphi; the HC of New Delphi affirmed the judgment of the Trial Court via its order dated 12th February, 2023. Meanwhile, the Union of Indiana went through a revolutionary shift in its Criminal Laws by refreshing its laws by new which came into effect from 2nd January, 2023

Further, an appeal was filed by the accused before the Supreme Court of Indiana against this order of the HC of New Delphi. A PIL was filed by NGO Naaz International Women Upliftment Foundation in the Supreme Court against the Death Penalty which is awarded in rape cases.



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The NGO in its petition added while quoting the data of NCRB in which it was seen that there is a steep rise in the rape cases after 2016. The data clearly portrays that there has been several instances where rape is followed by murder. “In 278 horrifying incidents of sexual predator killing his victim, total 287 women were killed in murder with rape/gang rape cases, states data tabled by National Crime Record Bureau (NCRB) report for year 2021. While Bollrashtra reported 23 such incidents with 23 instances of murder with rape/gang rape.” Also, judges have started to give the death penalty in various such rape cases. Now the sexual predators to evade the Justice System/Legal System have started killing the rape victims, to avoid death penalty. While it is seen that in Rape cases the maximum punishment which could be awarded is Death Penalty where as in cases of Murder it is a maximum penalty of Life Imprisonment.

## ISSUES

The questions before Supreme Court are:

1. Whether the appeal filed by the appellant is maintainable in the Hon’ble Supreme Court?
2. Whether the PIL file by Naaz International Women Upliftment Foundation is maintainable or not?
3. Whether the current appeal may be considered in accordance with recently enacted criminal statutes?
4. Whether the subordinate courts erred in awarding death penalty to the accused?
5. Whether the subordinate courts erred in framing of charge under section 3 of the protection of youngsters from sexual offences act (POYSO)

Note –

1. The laws of Indiana are *pari materia* to that of India.
2. Team Can Frame Additional Issue.
3. Any attempt of solicitation with the Moot Court Committee or the Draftsmen of the Moot Proposition, shall be a ground for disqualification of teams.
4. The Moot Court Society, RNB Global University holds the copyright of the above-mentioned moot proposition, and any un-authorized use may invite legal consequences.

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## ANNEXURE – 1

### MEDICAL EXAMINATION REPORT

**Name of the Victim** – Aarushi@Pari

**Sex** – Female

**Age** – 13 yr.

**Height** – 120 Cms.

**Weight** – 40 Kg.

**Time of Event** – Around 8:30 P.M.

**Identification Marks** – Mole on cheek

**Clothes** – Pink top and Black trouser

**General Physical Examination**

**Mental Status** – ADR (Autism)

**BP** – High; **Pulse** - low

**Examination of Clothes** – Presence of blood and semen

**Injuries on the Body** - Various bite marks have been observed on her face, lips, jaw, rear ear, on the right and left breasts, left upper arm, right lower limb, right upper inner thigh (groin), right lower thigh, left thigh lateral and left leg lower anterior.

**Details of the Assailant(s)** – DNK

**History of Alcohol/Drug Intoxication** - DNK

**Was the Survivor Sleeping at the Time of Incident** - No

**Did the Survivor Lose Consciousness at Any Time During/After the Incident** - Yes

**History of Luring by Sweets, Chocolates, Money, Job, Etc.** – No

**Physical Violence Used by Accused** – Hand was tied with the rope.

(Hitting with hand, fist, blunt or sharp object, biting, pulling hair, pinching, barging head, kicking, violent shaking, dragging, burning with cigarettes, etc.)

**Use of Weapon, If Any** – No

**Use of Restraint, If Any** – Yes, survivor was gagged.

**Verbal Threats** – Yes, threat to kill.

**Psychological/Emotional Abuse** – DNK

**Resistance Offered by the Survivor** – DNK, but the button of accused’s shirt was found in the hand of the survivor.



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## Details of the Act

Specify the body orifice penetrated; mention the body parts/objects used for penetration.

(In case the survivor is not sure/does not know whether a particular act occurred or not, it should be documented as does not know or DNK)

- Orifice penetrated – Vaginal and Anal
- Complete/attempted - Complete
- Penetration by – Penis and wooden stick
- Emission of semen - DNK
- Emission of semen on breast, thighs, other body parts - DNK
- Emission of semen on clothes, bedding or other places – DNK
- Did the assailant use condom – DNK
- Status of condom – DNK
- Did the assailant use any foam, jelly or lubricant – DNK
- History of kissing, licking, sucking or biting any part of survivor's body - DNK

Loss of consciousness  
at the time of incident.

## Medicolegal Investigation

Blood for DNA	Collected	
Buccal Swab	Not collected	Mouth washed.
Scalp Hair	Collected	
Blood for grouping	Collected	
Blood for Drug/alcohol	Collected	
Urine for Drug/alcohol	Not collected	Catheterized.
Body swabs	Not collected	Body wiped.
Oral swab/oral rinses	Not collected	Mouth washed.
Perineal swabs	Collected	
Vaginal swabs	Collected	
Vaginal washings	Not collected	No secretion present.
Vaginal/anal smears	Not collected	

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Endocervical swab	Collected	
Anal and rectal swab	Collected	
Control swabs	Collected	
Pubic hair combings	Not collected	Pubic hair
Finger nail debris	Collected	
Clothes	Collected	
Drop sheet	Collected	
Sanitary napkins	Not collected	
Towel/ kerchief	Not collected	

**Opinion** – On the basis of local examination I am of the opinion that there are signs of force.

**Advice**

**Signature of Examining Doctor** *Bhavya*

**Name** Bhavya

**Designation** \_\_\_\_\_

**Seal** Dept. of OBG

**Date, Time, Place** 8 January, 2021

**Treatment Provided** – As advised by the concerned department.



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## ANNEXURE – 2 POST MORTEM REPORT

Post Mortem Done during Night in artificial Light by order of D.M. & C.M.O. /  
C.M.S Delphi

Post Mortem Examination No \_\_\_\_\_ Place: Delphi

Start Time - 8:30 PM

End Time - 10:45 PM

P.M done on the Dead Body \_\_\_\_\_

Age/Sex- 13y/ F

D/O Mr. Thirani

### 1. MUSCULARITY

Stoutness, emaciation

Rigormortis/Temperature

2. Mark of Identification in case of  
unknown body

3. EYE / NATURAL ORIFICES

N/A

4. INTERNAL EXAMINATION

N/A

5. THORAX

N/A

6. ABDOMEN

N/A

### Antemortum Injuries (AMI)

- Lacerated wound with a surrounding abraded contusion on right side of forehead just above eyebrow
- contusion of left temporalis muscle, involving its whole thickness.
- The left orbital margin showed a fissured fracture.
- The floor of left side of anterior cranial fossa also showed fracture.
- There is traumatic disruption of stem of pituitary gland and left frontal lobe of brain showed multiple areas of hemorrhage
- Due to hitting of her head from a concrete place more likely a floor or stone.
- Bleeding from vulva and the legs were also stained with blood.
- Pieces of wood and some grass inside the vagina of the deceased.
- Cut mark (sharp) over right labia present  
A tag of vagina (6 cm in length) hanging outside the introitus.
- There was profuse bleeding from vagina  
Per vaginal examination: A posterior vaginal wall tear of about 7 to 8 cm
- Per rectal examination: Rectal tear of about 4 to 5 cm., communicating with the vaginal tear



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## ANNEXURE – 3 WITNESS STATEMENT

### **Prosecution Witness 1 – Mrs. Thirani**

**Occupation – Housewife**

**Age – 34**

**Sex- Female**

#### **Statement:**

*I am Kanta Thirani, R/o United Kingdom, I am her mother and we came to Indiana for my daughter's check-up from Dr. Randhir Verma, when we came back home on 6th January, 2021, at around 6 PM, my daughter went to a nearby Pharmacist's shop which was not far away from our home, but even after the continuous calls when she didn't pick it up, my cousin and his wife came along with me to search for her whereabouts. We went straightaway to the Pharmacists shop and when we asked the shop owner he said that she never visited the shop. To this we tried to search for her more in nearby area, but were unable to find her. Then we went to the nearby Police Station and lodged a FIR*

### **Prosecution Witness 2 – Ram Bahadur**

**Occupation – Hawaldar**

**Age - 34**

**Sex - Male**

#### **Statement:**

*I am Ram Bahadur, I am a Hawaldar at Delphi Police Station, I received a call at around 5 in the morning regarding a girl found around the New Delphi Railway Station in an unconscious and naked state. To which I informed my seniors and went straight away to the place of incident. There I saw a girl lying with blood stains and fingerprint marks all around her body. To this we took her to the Government Hospital*

### **Prosecution Witness 3 – Jitendra**

**Occupation – Tea Stall Owner**

**Age – 30**

**Sex – Male**

#### **Statement:**

*I am Jitendra, R/o Shyam Nagar, near New Delphi Railway Station, on 8th January, 2021, at around 5:00 AM. I was going to open my shop which is near the New Delphi Railway Station when I was near my shop I saw a victim lying in the bushes and in unconscious condition. To this, I called a Police Officer and the hawaldar Sh. Ram Bahadur arrived at the incident place in around 20 minutes.*



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*I have examined the body of deceased; it was found from the body that brutal rape has been committed over deceased. Also, bruises and more than 15 injuries were found over various parts of body. The vaginal cuts and seizures were also present, along with the traces of wood which was recovered from the vagina. Also from examination of Internal Organs; it was found that repetitive sexual intercourse has been committed over deceased. At the time of examination, the girl stated that she was raped.*

## **Prosecution Witness 5 – Dr. Radhika**

**Occupation – Pathologist**

**Age – 48**

**Sex – Female**

### **Statement:**

*I have conducted the post mortem on the body of the victim; it was found from the body that rigorous rape has been committed over deceased. Date of the Death was 09.01.2021. Also from examination of Internal Organs, it was found that repetitive sexual intercourse has been committed over deceased. It was found that around 15 severe injuries were inflicted on the body. The death is mainly the joint result of injuries no. 1 and 2. She opined clearly that the first injury “Lacerated wound with a surrounding abraded contusion on right side of forehead just above eyebrow and contusion of left temporalis muscle, involving its whole thickness. The left orbital margin showed a fissured fracture. The floor of left side of anterior cranial fossa also showed fracture. There is traumatic disruption of stem of pituitary gland and left frontal lobe of brain showed multiple areas of hemorrhage”, is out of hitting of her head from a concrete place more likely a floor or stone.*

*It was also found that there was bleeding from vulva and the legs were also stained with blood. It was observed in the post mortem that there were pieces of wood and some grass inside the vagina of the deceased. Cut mark (sharp) over right labia present A tag of vagina (6 cm in length) hanging outside the introitus. There was profuse bleeding from vagina Per vaginal examination: A posterior vaginal wall tear of about 7 to 8 cm Per rectal examination: Rectal tear of about 4 to 5 cm., communicating with the vaginal tear.*

*These injuries inclusively led to the death of the deceased in the Hospital.*



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## ANNEXURE – 4 DEFENCE WITNESS

**Defense Witness 1 – Mustakh (Accused)**

**Occupation – Student**

**Age – 16**

**Sex - Male**

**Statement:**

*I am Mustakh, a student at JPG Sr. Sec. School and I am of age 16 yrs and resident of BIASPUR BOYS PG, NEW DELHI. ON 6TH OF JANUARY, 2021 I WASN'T PRESENT IN THE AREA AS I WAS TRAVELLING TO MY HOME TOWN.*

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## ANNEXURE – 5 AADHAR CARD

