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STUDIES**
(DEPARTMENT OF LAW)

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Presents

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MOOT PROBLEM

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MOOT PROBLEM

1) Himal is a country having rich tradition and culture with unity in diversity as its motto. The Country is blessed with abundant flora and fauna and has been catering to a high growth level despite a global slowdown.

2) Himal has a State called Arya in which there is a district known as Pelikan. In Pelikan, on an unfortunate night of 12.06.2021, the victim was at a friend's place and the light in the district went out. Victim X was studying with her male friend who was in the same 10th standard as her. Her friend Master Lamy had an elder brother Mr. Bloom who was also present and told his brother to go and check the electrical points outside. In the meanwhile, it is alleged that Mr. Bloom had touched Victim X inappropriately and tried furthermore sexual advances. Mr. Bloom had bolted the door from within and on even repeated knocking by Master Lamy he did not open the door. After five minutes Mr. Bloom stepped out and there was an altercation that happened between the brothers. Post which Master Lamy entered the room and he found his friend Victim X be in a state of shock and crying. Victim X was too uncomfortable to speak and embarrassed to mention it to Master Lamy so she left the house and went to her house.

3) Victim X did not inform her parents about the alleged night and internalized the pain, thinking that who would believe her and as it was too traumatic to recall the said incident. However, Mr. Bloom on 14.08.2021 day confronted Victim X that he had a video clip of her where she was semi-naked and if she did not comply with the same he would show it and upload it on various websites. To her shock and horror, she was threatened with it being leaked and she duly complied with non-consensual and unwarranted sexual advances. Mr. Bloom exploited her for more than a month on the same ground.

4) On the morning of 18.09.2021, Victim X informed her mother and father about the said incident as she was mentally ill and tortured by such sexual advances by Mr. Bloom. Her parents being enraged and filled with anger visited the nearest Police Station and reported the alleged incident to the S.H.O. Mr. Bloom got to know that there has been a complaint being lodged against him and started to threaten Victim X. Despite repeated threats, Victim X did not attend his calls or communicate with Mr. Bloom. Mr. Bloom was left with no option and to malign and abuse Victim X one last time released the compromising video clip. In the video clip, primarily featured Victim X and for a moment the camera also faced Mr. Bloom and his eyes were visible in the same.

5) The Police in their investigation found that the alleged clip was leaked but the IP address to be traced was that of another Country Corpo which was a neighbouring country of Himal. The police upon further investigation found the clip and captured a frame wherein the palm of the alleged leaker was visible. They utilized the latest technology from forensic labs and recreated the palm print digitally.

6) The parents of Victim X mentioned Mr. Bloom and the police immediately arrested him and took the measurements as per THE CRIMINAL PROCEDURE (IDENTIFICATION) ACT, 2022. The accused Mr. Bloom resisted and complained that this violated his fundamental right to dignity and body dignity is being violated. Mr. Bloom moved to the Supreme Court of Himal to enforce his right to privacy and also petitioned for the right to be forgotten for certain media pieces against him on the search engine "Katy". Petitioner is the prime accused in Criminal Case 421/2013 before ASJ, SOC Court Pelikan. He faces prosecution for offences punishable under sections 3, 4, 5, 12 and 14 of the Sexual Offences against Children Act, 2012 (for short, "SOC Act").

7) After investigation, the final report was laid. According to the petitioner, he is absolutely innocent of the crime, that some friend of the accused was present at home and not Mr Blooms and he has rather never interacted with Victim X directly. Petitioner challenges his prosecution, mainly on the ground that sections 29 and 30 of the "SOC Act" Act are unconstitutional, infringe his valuable right of defence and are violative of Articles 14, 19, 20(3) and Article 21 of the Constitution of India. He prayed for striking down sections 29 and 30 of the "SOC Act" Act as arbitrary and infringing Constitutional provisions before the Supreme Court of Himal.

8) Meanwhile, a sitting MLA in the District Mr. Sarvesh went to visit the victim and their family. He offered financial support to them and announced the same to the media persons when he came out of their house. The victim's family was touched by this gesture stating that at least someone cares for us. In the video clip, he also mentions the name of the victim stating that there should be schemes in her name to support such young children who are victims of such heinous offences and stated that he gave Rs 5 lakhs to Victim X. While on the footsteps of their house, he points to the party symbol placed on his car and reminded them of the upcoming elections and where is one of the candidates. He further announced his re-election campaign and promised that he will give money to all those victims who come out with their victim stories.

The video clip went viral and the opposing MLA candidate Mr Waterman from the same district lodged a complaint to EC for violation of the Representation of People's Act, 1951 wherein it is alleged that the financial support seems like a bribe and freebie which is violative of the statute as well as the constitutional scheme. The same was also filed before the Supreme Court of Himachal Pradesh as a form of PIL.

9) In the meanwhile, Supreme Court clubbed these petitions and ordered take-down notices for the leaked video clip on various porn websites. The petitioner Victim X moved before the Court for victim compensation as well on both accounts of the offences as well as the breach of privacy. Supreme Court has given notice in the instant case for final arguments.

Note: Himachal Pradesh has adopted the Constitution of India verbatim, and all the laws and regulations, including the prevailing circumstances as in India, shall be squarely applicable to Himachal Pradesh verbatim. All the statutes cited for Himachal Pradesh may be read and applied verbatim as per the Indian statutes. All the sections of every law in India are open inter alia ambit of the question of law. Participants can further come up with additional issues.

Issues

- Whether the doctrine of reverse burden is constitutionally valid under "SOC Act"?
- Whether the accused Mr. Bloom have a right to privacy and more specifically right to be forgotten with respect to the Criminal Identification Act, 2022.
- Whether Mr. Sarvesh should be held guilty of a violation of the Representation of People Act, 1951 for supporting the victim?
- Whether the victim has a right to privacy? Whether the victim is entitled to compensation considering breach if admitted?

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