

31st All India Inter-University
Moot Court Competition – 2015

Moot Proposition



तेजस्वि नावधीतमस्तु
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Corrigendum

MOOT PROBLEM – NO.1 (FOR PRELIMINARY ROUND)

1) Para 8 (3rd Line) reads "Shankara further states that after the death of his wife, her two children are living with him and his family."

The word "wife" in the above sentence has been replaced by the word "sister".

Corrected Sentence: "Shankara further states that after the death of his sister, her two children are living with him and his family"

2) Para 15 (1st Line) reads "He testifies that the victim was in a fit condition to make a statement till 12 around 4 am".

The numerical "12" in the above sentence has been omitted.

Corrected Sentence: "He testifies that the victim was in a fit condition to make a statement till around 4 am"

Bar Council of India & FIMT School of Law

MOOT PROBLEM - NO. 1

(FOR PRELIMINARY ROUND)

1. In the trial before the Principal District & Sessions Judge, Bangalore Rural District, Bangalore, the prosecution alleged that on 26.07.2008 at about 1:15 am, the accused committed the murder of his wife, Sheela, in his house in Varthur by stabbing her with a knife. The prosecution alleged that the motive of the crime was that the accused doubted the chastity of his wife.
2. The case of the prosecution is that on the night of the incident, the deceased, the accused along with their two sons, were sleeping inside their house in Varthur in the same room. At about 1:15 am, the accused started stabbing the deceased Sheela and when she cried out for help, both the children got up and saw that the accused was there and that their mother had already been stabbed.
3. The prosecution has alleged that on being stabbed, the deceased started moving toward the front door but she could not go out of the house. The prosecution case is that the children rushed to the house of their maternal uncle, Shankara, who is the complainant and resides in the immediate vicinity of the house of the accused.
4. However, the children also stated in their testimony that one of them had gone directly to the beat police stationed around 500 metres away from their house and alerted them. The complainant, along with other relatives, came to the scene and saw the deceased lying in a pool of blood in front of the neighbour's house. The beat police were also present at the scene by the time the complainant came there. The deceased was shifted by the complainant and the police in an injured condition to the hospital, where she died at 6:20 am while undergoing treatment.
5. The statement of Shankara was recorded by the police at the hospital on the basis of which the first information report was prepared at 5:30 am. The accused was arrested and investigation was conducted by the police into the said incident. The police completed investigation and submitted the charge sheet with 42 witnesses.
6. The accused was charged with the offence punishable u/s 302 IPC. The accused pleaded not guilty and claimed to be tried. The appellant was tried before the court of the learned Principal District & Sessions Judge, Bangalore Rural District, Bangalore.
7. Recording of evidence started exactly two years after the occurrence of the crime.
8. Shankara was examined as PW1 and stated that the accused had stabbed the deceased thereby killing her. He also testified that the FIR was registered upon his complaint given at the hospital where his sister was undergoing treatment. Shankara further states that after the death of his wife, her two children are living with him and his family. He further states that on the night of the murder, the two children came running to his house at around 1:30 am and said that their mother had been murdered.
9. The prosecution examined the two children as PW2 and PW3. At the time of examination in court, the two children were aged 9 and 11 years respectively. PW3 was questioned by the judge prior to his evidence being recorded. The judge asked him as follows, "Do you understand the difference between truth and false?" PW3 replied that he did. Thereafter, his testimony was recorded without the administration of the oath. The witness stated that his father and mother used to live harmoniously. However, the witness also stated that the accused murdered the victim.

10. PW2 was questioned by the judge prior to his evidence being recorded as follows, "Do you know why Jana Gana Mana is sung in the school every day?" PW2 replied that he did not. Thereafter his testimony was recorded by the judge without the administration of the oath. The witness stated that his father and mother used to live harmoniously. However, the witness also stated that the accused murdered the victim.

11. It is also seen from the records that just before the cross examination of the witnesses PW2 and PW3, the judge administered the oath to them.

12. The prosecution got marked MO6 and MO7 which are two knives recovered from the house of the accused. Prosecution introduced these as the murder weapon. At the time the police seized MO6 and MO7 from the scene of the crime, a seizure mahazar Ex P4 was drawn up. One of the witnesses to the seizure, PW11, who also signed the mahazar, on his cross examination, states that he did not read the contents of the mahazar. He also stated that he was illiterate and only knew how to write his name (signature).

13. PW7 is the driver of the police jeep which was parked at the beat police check post 500 metres away from the scene of the crime. He testifies that one child aged around 6 years came running to him on the night of the murder. He said that the child was crying and managed to tell him to come to his house because his mother had been murdered. Thereafter, PW7 immediately left with the child to reach the scene of the crime, where some people had already assembled. He states that the murder victim was lying in a pool of blood in front of a house. Thereafter, he immediately contacted the jurisdictional police station, Varthur and informed the SHO on duty of the occurrence of a cognisable offence within the police station limits. This was around 1:45 am.

14. PW8 is the SHO on duty at the time the murder was committed. He admits to having received the wireless communication from PW7 and states that he immediately despatched 2 police constables and another police jeep to go to the murder scene and guard the area. Thereafter, at around 4:30 am, he himself proceeded to the hospital to record the dying declaration of the victim and the complaint.

15. PW12 is the treating doctor at the hospital who treated the victim, He testifies that the victim was in a fit condition to make a statement till 12 around 4 am and after that she lost consciousness until she died at around 6:20 am. He states that the cause of the death was excessive haemorrhage and trauma due to lacerated cuts which had penetrated portions of the colon, stomach and liver of the victim. His version is verified by the post mortem report, Ex P3.

16. No evidence is produced on behalf of the defence. Accused was examined under S.313 Cr.P.C. and his defence was one of total denial to the offences alleged against him.

17. Based on the above information only, and assuming that the recording of the evidence has been completed, argue for the defence and the prosecution.

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