

Shri N J Yaraswy 7th Memorial National Virtual Moot Court Competition, 2022

ICFAI Law School, Hyderabad

Moot Proposition

Released on 11th March, 2022

1. Bharat was a small farmer earning his income from agricultural land of 4 acres and his small grocery shop in the same village. He along with his wife Bhuvana and three girl-children Rekha, Reshmi, and Rasmi aged about 14 years, 11 years, and 9 years respectively, lived in the village of Zanskar in Haflong State, VinathDesh.
2. Bharat and Bhuvana are very religious and do not miss any opportunity to visit temples and pilgrimage. One day upon receiving information from the local people that a five-day tour of pilgrimage is organized by the local people for elders, they immediately gave their consent to go on a pilgrimage in a bus arranged by them. Bhuvana left her three children at her brother, Bhusan's place who lived in the same village. Bhusan was married to Bhavishya, ten years ago and they are the maternal uncle and aunt of Bhuvana's children. They are childless.
3. The entire group of pilgrims while returning, unfortunately, met with an accident and even Bharath and Bhuvana also suffered severe injuries which were very greivous and were admitted to ICU. The treatment continued for one month in ICU but eventually, they succumbed to their injuries.
4. During this period of hospitalization, all the money which was earned and saved by Bharat was completely exhausted for their treatment. Even Bhusan also spent the money available with him for their recovery, but could not save them.
5. Bhusan, brother of Bhuvana being the lone relative of his nieces has taken the responsibility of the parenthood and upbringing of these three children after the death of their parents.
6. Bhusan was a small farmer and his source of income is mainly from agriculture. Bhusan is a well-known person and popular for helping people in need in the village and has a very good reputation but since he is now into tough times and is unable to meet the regular expenses for maintaining the house, it has led to his ill health. Of late, Bhusan's wife Bhavishya was also diagnosed with chronic illness and had to get treated and the treatment continued for a longer time coupled with huge medical expenses which resulted in more financial stress on him. Moreover, Bhusan does not have any other alternate source of income.
7. Rekha, who is 19 years old now, pursuing her graduation, was helping her sisters and simultaneously was doing a part-time job to support her uncle and the family. Society criticized Bhusan for his inefficiency to earn and run the family. Moreover, Rekha is of marriageable age as per the societal standard and instead of getting her married, he was taking a risk by sending her to earn. Rekha also felt humiliated from this view of the

society and realized that it may not be good and proper for her and her uncle's reputation to remain unmarried, so she decided to marry.

8. Bhusan being the maternal uncle, having good faith to give a prosperous future and security to Rekha proposed her to get married into a rich family of Rehan, who is 23 years old, well settled, and is a native of Nubra town. As she was pursuing her graduation and exams were scheduled, marriage dates were postponed from March to June 2018.
9. Bhusan was promised by Rehan's Family to allow Rekha for her further education and also to extend cooperation to her if she is willing to get better employment. As Bhusan had a lot of love and affection towards his niece and was under the compelling economic situation, he agreed for the marriage. Rehan has shown his full faith and willingness to marry Rekha and support Bhusan in all aspects. So, he has proposed to his niece Rekha to get her married into a family which is well settled and has ethical values for the protection of her interests.
10. In the meanwhile, the Child Marriage (Prohibition) Act, 2006 has been amended where the marriageable age of girls was increased from 18 to 21 years. The Child Marriage (Prohibition) Act, 2006 has been enacted with the objective that unless women progress on all fronts including their physical, mental and reproductive health, the nation cannot claim progress. The other objective is to have a check on typical paternalism and to provide access to opportunities to girls concerning education, employment, health etc.
11. The Constitution of VinathDesh guarantees gender equality as part of the fundamental rights and also guarantees the prohibition of discrimination on the grounds of sex. Hence the law was amended in 2018 and the objective of the 2018 Amendment is to give equality of rights to marriage to all irrespective of gender difference. This amendment also aimed at lowering the maternal mortality rate by improving the nutritional level of a prospective mother. It is also important to bring down the incidence of teenage pregnancies, which are not only harmful to women's overall health but also result in more miscarriages and stillbirths. Further, it aims to lessen the financial burden of parents/guardians by providing a scope of employment to have financial security for the girl child.
12. While this being so, a social worker of Zanskar informed regarding the marriage of Rekha to an NGO named Prakriti which is an organization concerned with the concept of "Beti Suraksha". The NGO Prakriti is a non-profit organization working exclusively for the welfare of girl children (Daughter).
13. The NGO Prakriti, accordingly informed the said matter to the Child Marriage Prohibition Officers (CMPO) and upon receiving this information, the CMPO has approached the Judicial Magistrate of the First Class (JMFC) and the JMFC has issued a notice to prevent the solemnization of child marriage under the Child Marriage (Prohibition) Act, 2006.
14. Despite the notice being served to Bhusan and Rehan, they continued to make necessary arrangements to solemnize the marriage between Rehan and Rekha. On receiving the said information of preparation of marriage the JMFC directed to arrest Rehan and Bhusan.

15. Aggrieved by the action of the police and recently amended law, they have approached the High Court of Haflong State. However, the High Court of Haflong State has dismissed their plea by stating the action of the police is legal and the amendment is not violating any rights of them.
16. Aggrieved by the judgment of the High Court of Haflong State, Bhusan and Rehan have approached the Hon'ble Apex Court of VinathDesh.

Note: For the purpose of this moot problem –

1. The Constitution of VinathDesh adopts the Constitution of India verbatim and all the provisions of the Constitution of India are incorporated as the provisions of VinathDesh Constitution.
2. The powers and the jurisdiction of the Supreme Court of VinathDesh are the same as the powers and the jurisdiction of the Supreme Court of India.
3. The rest of the laws of VinathDesh, are in *parimateria* with the legislation of the Republic of India.

Disclaimer:

The facts stated in the present case are fictitious and have been drafted solely for the purpose of the competition. The facts, names, locations and dates bear no resemblance to any person, event or happening whether dead or alive. Any resemblance, if any, is purely coincidental. This problem does not intend to hurt the feelings of any section of society or to offend any person.

The moot teams are expected to draft their pleadings on behalf of both the petitioner and the respondents by framing the issues.

The teams can also submit their compendium along with their pleadings.