



AMITY UNIVERSITY
— UTAR PRADESH —

10TH NATIONAL MOOT COURT COMPETITION, 2017

MOOT PROBLEM

Disclaimer: The contents of this moot problem are entirely fictional and do not in any way aim to hurt the sentiments or degrade the values and ideologies of any group of people, religion or individual. This problem is drafted for the purpose of National Moot Court Competition to be held at the Amity Law School, Lucknow Campus of Amity University Uttar Pradesh.

Moot proposition:

1. Krishna is the resident of Awadh in the State of Indistan. He is a student studying law at Awadh University, a renowned University in Indistan offering diverse courses. He is an active member of student political body known as Awadh University Vidyarthi Parishad(AUVP) and has been elected as its President in the recently conducted elections. Waseem who is resident of Kashmirpur, a State of Indistan, actively involved in the University politics, has been elected as its Vice-President. He is also an active member of Kashmirpur Azadi Sangh (KAS), a youth organisation formed in 1948, professing ideology that Kashmirpur should not be an integral part of Indistan and should be separated as an independent sovereign state.
2. A cultural evening was organised by the Cultural Committee of the University, in which various competitions were held including debate competition. In view of the atrocities taking place across the country against the Dalit community, Krishna and Waseem on the eve of the event gathered around 3000 students and started giving a speech on the atrocities against the Dalits and blamed the present Government for the same.
3. Krishna, who was a Dalit, in his speech said, *“We’ve elected a Government full of donkeys and they won’t do anything to protect us. All the leaders are corrupt and are interested only in filling money in their pockets rather than working for the people. All these government leaders should be shot publicly.”* He got a massive response and as a result next day Krishna with his four friends namely Anindya, Raghav, Waseem and Sukarma decided to conduct a rally at a bigger scale and almost ten thousand people including the students of Awadh University participated in the rally, which culminated near the Vidhan Sabha. They shouted slogans like *“Azadi Chaiye Punjivad Se, Brahmanvad Se, Azadi Chaiye Bhrashtachar Se, Bhukmari Se, Azadi Hmara Haq Hai Ham Lekar Rahenge. Nahi Milegi Azadi jab tak ye Sarkar hai.”*¹ On the spur of the moment, even Waseem stood

¹Azadi is the expression understood here to connote the freedom of the lower communities against the atrocities imposed by the higher community.

up and shouted slogans for a free Kashmirpur, like “*Kashmirpur ki Azadi tak, Jang rahegi jari*” and ran to one student who was holding Indistan National flag, lowered it down and unfurled the flag of Pokistan ,although Krishna immediately handled the situation and took the flag from his hand but News Channels covered it and constantly displayed the same. Krishna mentioned in his speech “*We should revolt against the Government and destroy their fake policies until full attention is given to our community & our security is guaranteed, otherwise we will wage war against this Government.*” He also said that, “*Reservation policies for our community are less than what we actually require for appropriate representation in all the fields, Government should increase the reservation. But this government is doing nothing and we are treated like second class citizens. Thus we should boycott all the policies and choose our leaders wisely next time.*”

4. Krishna did not stop here and next day with the help of his friend Omar, who is a student of Awadh University and also a cartoonist in *Times of Indistan*, printed a cartoon allegedly degrading the image of the Prime Minister, Parliament and the National Flag of Indistan. After the copies of *Times of Indistan* were sold the next day, Krantikari Yuva Morcha, youth wing of the Krantikari Janta Party, which is the ruling party, started protesting in front of Vidhan Sabha and shouted that AUVP is an anti-national organisation and such student body should be banned. Due to wide media coverage this issue gained a lot of publicity and led to social disorder as students came out on roads.
5. Police lodged an FIR due to public unrest against Krishna, Waseem and their three other friends and slapped charges against them under Sections 124A, 121, 120B, 34,153, 505 of Indian Penal Code and also Section 2 of The Prevention of Insults to National Honour Act, 1971. One separate FIR was also filed against Omar charging him under Sections 499 and 124A of IPC and also Section 2 of The Prevention of Insults to National Honour Act, 1971. Soon the police reached the Awadh University to arrest Krishna, Waseem and their three friends but weren't allowed to enter the campus by the student political body and there was clash between both the sides. Students started shouting slogans against the Government and made allegations that it is trying to suppress the voices of the students belonging lower caste. Thereafter police conducted lathi charge to disperse and control the unruly mob and arrested Krishna, Waseem, Omar and three other accused. They were subsequently released on conditional bail, and criminal proceedings against them are still pending. A ban has also been imposed on the *Times of Indistan* on publishing such cartoons. The ban gave rise to major unrest in the media against the Government. However, AUVP is continuously conducting student rallies in order to defend their freedom of speech and expression.
6. The case came for hearing before the Sessions Court, but due to wide media coverage and public outrage, High court of Awadh took cognizance of the matter and heard the case. The High Court of Awadh decided the case in favour of the state, and held that the law under Section 124A of the IPC puts reasonable restrictions on the freedom of speech and expression and also held that the petitioners

were involved in seditious activities and also upheld the charge against them. The High Court also ordered for continuing the ban on *Times of Indistan* against the publication of such cartoons. After this decision of the High Court, the petitioners were again arrested by the police.

7. One public spirited advocate agreed to represent the students' body, AUVP, and filed an appeal in the Supreme Court of Indistan against the order of the Awadh High Court challenging the arrest of Krishna, Waseem, Omar and three others claiming violation of their fundamental rights guaranteed under Articles 14,19&21 of Constitution of Indistan and also challenging the constitutionality of the Section 124A of the IPC, arguing that it puts unreasonable restrictions on the fundamental right to freedom of speech and expression enshrined in Article 19(1)(a). In appeal the ban against *Times of Indistan* is also challenged for its being violative of the freedom of Press flowing from the aforesaid freedom. The appeal is presented before the Chief Justice of Supreme Court on an urgent basis, and it has been listed for hearing on 23rd March 2017, in front of the Constitutional bench of five judges. Attorney General of Indistan will be representing the state.
8. The petitioners claim that Section 124A is unconstitutional for imposing unreasonable restrictions on the fundamental right under Article 19(1)(a) read with Article 19 (2) & violative of other fundamental rights enshrined in the Constitution of Indistan and thus the charges under different Sections as filed in the FIR fall apart. If the aforesaid Section is saved from unconstitutionality their plea is that this case does not come within the Section 124 A as requisite intention to commit the crime of Sedition is wanting. The action of the state in restraining the media is also violative of freedom of Press implicit in Article 19(1) (a).
9. The respondents claim that the nature of the slogans, utterances, criticism and publication of the cartoon made by the accused all along intended to bring the Government into hatred, contempt and to excite the feeling of disloyalty to a degree that it is seditious and punishable under Section 124A which has been held by the Apex Court to be consistent with the constitutional mandate in the form of fundamental right to freedom of speech and expression.

Note:

- The Constitution and all other laws of Indistan should be interpreted in pari materia with the Constitution and other laws of India.
- Awadh is a province in the State of Indistan.
- Position of Kashmirpur in Indistan is same as that of Kashmir in India & relations of Pokistan and Indistan are similar to that of Pakistan and India.

Taking into account various aspects of case matrix, arguments are to be put forward from the sides of both the petitioner and the respondents. Arguments can be made on creative lines.