

SAVEETHA SCHOOL OF LAW SAVEETHA UNIVERSITY

4th JUS AMICUS NATIONAL MOOT COURT COMPETITION, 2016

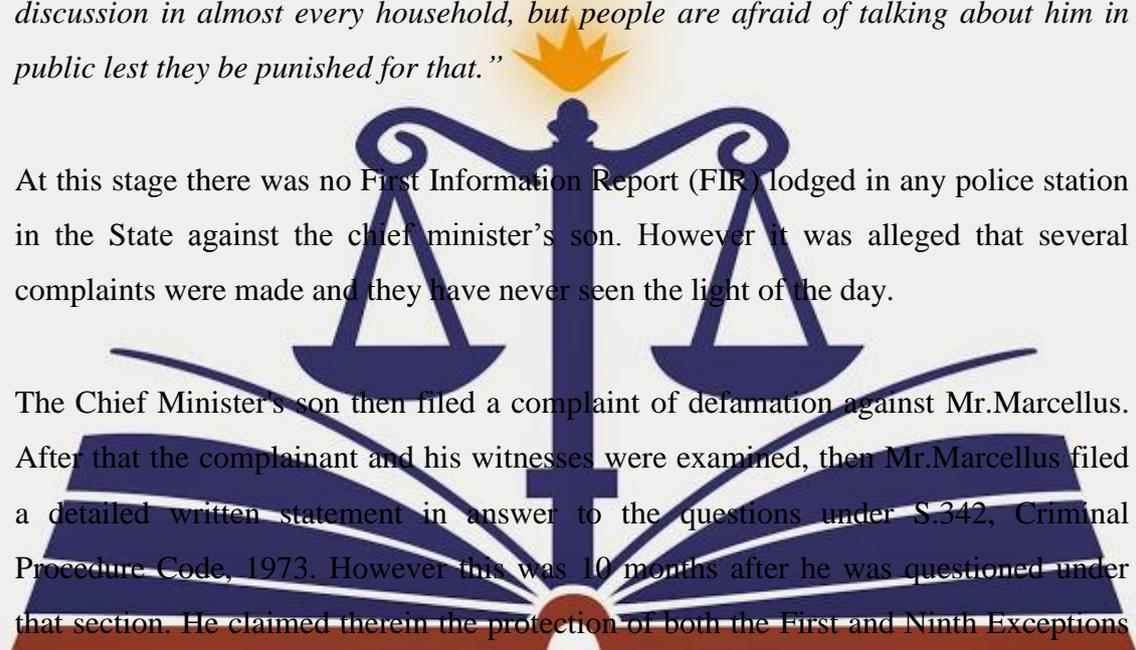
MOOT PROPOSITION

- The State of Valeria is a part of the country of Crotina which is a Secular, Socialist, Democratic, Republic that assures an array of fundamental rights to its citizens through its constitution. The structure of functioning between the Central and State governments is quasi federal in nature.
- The Government in the State of Valeria and The National Government in Crotina belonged to the same party the Crotina People's Front (CPF). The CPF is an upcoming party in the country known for its forward thinking ideals.
- The State Government of Valeria issued a press note stating that certain dailies in the State were publishing false reports alleging the complicity of a Minister's son in smuggling to malign the Government, and that the name of the son should not be openly mentioned. In response to that challenge, Mr. Marcellus, who is a social worker, published a statement in the press, naming the Chief Minister's son who is also a member of the legislative assembly of the State of Valeria as the leader of the smugglers, and is also responsible for a large number of crimes. He further requested the Govt. to appoint a committee of independent judges to inquire into the matter.

- The statement as follows:

“My attention has been drawn to a Press Note given by the Valeria Government categorically denying the complicity of a Minister's son in smuggling. That Press Note also throws a challenge to some Urdu Dailies “to come out openly with the name of the son of the Minister. I don't know whether the newspapers concerned will take this up as a challenge of the Valeria Government or not, but as one among those who have been alleging that person (son of the Minister) as one of the leaders of the smugglers in Public platform, I hereby name that person to be

Surinder Singh Kairon son of S. Partap Singh Kairon, Chief Minister. And I do so determined to face the consequences of the charge being openly levelled by me. I further allege that the son of our Chief Minister is not only a leader of smugglers but is responsible for a large number of crimes being committed in the Valeria. But because he happens to be Chief Minister's son the cases are always shelved. I challenge the Govt. of Valeria to appoint an enquiry committee of independent committee of impartial Judges from outside the Valeria and then let us see who has to face the consequences. If the Valeria Government dare not do so, I would not mind serving a term in Jail for having had the courage to come out with the truth. I further bring to the notice of Valeria Government that the Chief Minister's son is a point of discussion in almost every household, but people are afraid of talking about him in public lest they be punished for that.”



- At this stage there was no First Information Report (FIR) lodged in any police station in the State against the chief minister's son. However it was alleged that several complaints were made and they have never seen the light of the day.
- The Chief Minister's son then filed a complaint of defamation against Mr.Marcellus. After that the complainant and his witnesses were examined, then Mr.Marcellus filed a detailed written statement in answer to the questions under S.342, Criminal Procedure Code, 1973. However this was 10 months after he was questioned under that section. He claimed therein the protection of both the First and Ninth Exceptions to S.499 of the Criminal Penal Code, 1860.

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- At the very commencement of the proceedings, he gave a list of 28 witnesses to be examined on his behalf. He was allowed to summon only 5 and eventually he examined 4 defense witnesses. He also produced several documents. After considering the oral and documentary evidence, the Trial Court convicted Mr.Marcellus. He preferred an appeal before the Hon'ble High Court against the Order passed by the Trial Court and in the said appeal, he claimed only the protection of the Ninth Exception ie. he published the statement in good faith and for public

good. The Hon'ble High Court dismissed the appeal, with a modification in the sentence.

- Mr. Marcellus preferred an appeal to the Hon'ble Supreme Court of the Country and in the Appeal, Mr. Marcellus contended that, in appreciating his evidence in respect of good faith, the Hon'ble High Court had misdirected itself between the Ninth exception and other exceptions provided under S.499 of the Criminal Code, 1860.
- In the meantime, the popular print and broadcast media all over the Country of Cortina took this chain of events as their top story. They further encouraged the broadcast debates of various kinds involving speakers and participants from various walks of lives showcasing their views on the alleged actions of the Chief Minister's son and the action taken against the appellant. The popularity of these debates rose to epic levels resulting in a widespread discontent with the Chief Minister's party losing much of its credibility with the public over this singled out issue. This media glare became all the more pressing for the CPF's National high command as elections were approaching for several states.
- In the wake of this background, the Union Government of Cortina promulgated an Ordinance No.16/2016. The Ordinance would operate in preventing any or all publications, broadcasts whether visual or oral, or any other form of opinion driven journalism or advertisement etc., that dealt with matters that are *subjudice* before the High Courts of various States as well as the Supreme Court of Cortina. The Ordinance did not bar any accurate reporting of proceedings before the said Courts.
- Aggrieved by the Ordinance, various members of the media and press filed Writ Petitions before various High Courts challenging the Constitutional validity of the ordinance as it was said to violate Freedom of Press, Freedom of Speech, and Freedom of Profession among other Fundamental rights guaranteed under the Constitution of Cortina.

- The Leader of the opposition party addressed students of Theobroma University (T.U), which is a reputed University having its campus in the National Capital, during the University's Annual Cultural Function on 20.02.2016. In his address to the students, he made critical remarks on the actions of the ruling party and their party men for abusing power. On 22.02.2016, to the shock and surprise of the staffs of the University, the gates and classrooms were locked and students blocked the entrances to the University. There was a throng of students who had gathered and were raising slogans against the Government. The students were having charts and signs with slogans against the Chief Minister and the ruling Government, dubbing them as handlers and protectors of smugglers. The slogans went on to say that "the Government should rumble in dust in the hands of this revolution". The whole scene was telecasted on all major news channels.

- The headlines of a popular News Channel read as follows:

"Students of T.U raise slogans against the Government. T.U Students express their hatred towards the Government and Calling it crime ridden at its core. T.U. students are calling out for students all over the country to rise to the occasion and scourge the Corrupt and Maligned Government".

- To bring the situation under control and to prevent any further damage, the State Police arrested the Student Union Leader and 55 other students who were found shouting slogans. They were arrested and charged them under Section 124A of the

Indian Penal Code, 1860. Within three days of registering the FIR against the 56 students, charge sheets were filed before the appropriate court. The trial took off at record pace and the students were convicted in three months from the date of filing of charge sheet and were sentenced to 3 years imprisonment and fine of Rs. 5,000/- each.

Aggrieved by the order, the students filed an appeal before the High Court of Valeria and the appeal was disposed in one month from the date of numbering, confirming the trial court order and reducing the sentence to one year imprisonment and fine of Rs. 3,000/- each.

- The students filed a SLP before the Supreme Court of Crotina assailing the order of the High Court convicting them. They further raised a larger issue stating that the action of the Government of Valeria in crushing student ideology under the draconian provision of Sec. 124A, which is violative of the fundamental rights including freedom of speech and expression and that the Police are colluding with the Government in furthering this undemocratic cause.

- Taking into account the gravity of the events, The Supreme Court of Crotina, by Order dated 25.02.2016 tagged the appeal filed by Mr. Marcellus along with the writ petition filed by various members of print and television media against the Ordinance, as well as the charges framed against the 56 students. The matters have been posted and listed for final disposal.

NOTE:

- The laws of Union of Crotina are *in pari materia* with the laws of Republic of India.
- The matters have been posted before the Full Bench of the Hon'ble Supreme Court of Crotina
- The participants are requested to use and cite references dated before and up to 15th February 2016 only
- The participants are free to raise any number of issues in the Memorials.
- Use of precedents and authorities from other jurisdictions are also encouraged.

CREDITS:

This proposition was drafted for Saveetha school of law by:

MR. HARSHA RAJ
(ADVOCATE MADRAS HIGH COURT)