

**26<sup>th</sup> ALL INDIA MOOT COURT COMPETITION 2015  
FOR THE KERALA LAW ACADEMY TROPHY**

**MOOT PROPOSITION**

**Suman & Anr. v. State of Dhanyasthan & Anr.**

Dhanyasthan is a State in the Indian Union. Population of the State is 6,05,67,190 and literacy is 70%. In 2009 Government declared the new Tourism Policy of the State. Paragraph 13 of the Policy states that “The Government will grant permission to 250 Beer and Wine Parlours in Cities having more than 30 lakhs population and places of tourist importance”. In 2009 itself the government issued licence to 220 Beer and Wine Parlours spreading over 7 cities and 20 places of Tourist importance. This initiative caused to change the life style of younger generation. In January 2014, leading News Papers and TV Channels published a research study report of Dhanyasthan Sociological Institute regarding the changing life style of college students of 7 cities of the State having more than 30 lakhs population. According to the report before 2009, the number of Wine and Beer Parlours (**Parlour**) in these cities were 22. In 2009 there was not even a single incident of visit of girls to the Parlour and only 1540 boys visited Parlours. But in 2013 nearly 14000 girl students visited parlours with their boyfriends. Quiet often they are engaged in kissing both inside and outside the Parlours. The report highlighted the adverse effect of Beer and Wine consumption as follows:

Annual Prevalence of Adverse Consequences Associated With Beer and Wine Use  
Among College Students in 2013

Adverse Consequences	Percentage
Had a hangover	64.5
Got nauseated or vomited	55.5
Did something they later regretted ( like kissing at public place)	40.5
Missed attendance	34.1
Drove under the influence of alcohol	29.0
Got into an argument or fight	31.8
Were criticized by someone they know	32.3

Poor performance in test or other project	24.4
Had trouble with police or other authorities	16.5

On 4-2-2014 the President of the Dhanyasthan Dharma Samathi (DDS) issued the statement that they had established moral police to prevent girl students from visiting Parlours. In March itself DDS started moral policing in an aggressive manner. In March itself there were 800 incidents of violence by DDS against girls who had visited Parlours. The police did not take any serious action against persons involved in violence. But the Government decided to cancel the licence given to Parlours after 2009. In May, 2014 DDS started violence against lovers who are sitting in public places. Their main target was kissing lovers. On 5-6-2014 the Home Minister of the State declared that the Government will take action against violence under the grab of moral policing. He added that police will register cases against persons engaged in public kissing since it is a criminal offence under Section 294 of IPC. On 6-6-2014, the President of an organization named 'Lovers in Action' (LOVIA), countered this statement, pointing out that the statement is against the decision of the Delhi High Court in *A & B v. State Thr. N.C.T. of Delhi & Anr* (CRL.M.C. 283/2009, dated 25 May, 2009). LOVIA declared that they will start '*Kiss of Love protest*', which is a non-violent protest in the form of kissing at public places, against moral policing. Through a Facebook page called 'Kiss of love', LOVIA asked the youth across the State to participate in a protest against moral policing on July 6, 2014, at Big Square in the Capital City of Thushar Nagar. The movement received widespread support with more than 1,83,000 'Likes' for the Facebook page. Nearly 7000 persons participated in the *Kiss of Love protest* of 6<sup>th</sup> July, 2014.

On July 14, 2014 the Home Minister of Dhanyasthan stated that the police had registered 245 cases against the participants of '*Kiss of Love protest*'.

Suman and Samiya were the students of Management Institute of Dhanyasthan University. They had entered into a contract for marriage on 19-3-2014. Both of them participated in the '*Kiss of Love protest*' and the police registered a case against them as CC 147/14. On 17-8-2014 both of them appeared in the class room wearing the Badge with the inscription "Stop Violence against Lovers; Right to Kiss is a

Fundamental Right”. Dhanyasthan University decided to take disciplinary action against Suman and Samiya .The President of LOVIA issued a statement against the said move to take disciplinary proceedings sating that the act of Suman and Samiya is nothing but the exercise of their right to protest recognized through the land mark US decision. The Professor of Law Dr.Sham Mohan was appointed as the Enquiry Officer. Six students and the Class teacher had given statement before the Enquiry Officer. When Suman and Samiya demanded the right to cross examination, the enquiry officer allowed them to ask five questions to each witness. On the basis of the enquiry report, Suman and Samiya were dismissed from the Institute through the University Order No Ad. Dis.3/2014 dated 20-10-2014.

On 10-12-2014, Suman and Samiya filed a petition before the High Court of Dhanyasthan under Section 482 of Code of Criminal Procedure for quashing the FIR of the case CC147/14 on the ground that public kissing does not attract Section 294 of IPC .On 11-12-2014 they filed another petition before the High Court challenging the University Order dated 20-10-2014 on the grounds of violation of fundamental right to dissent and protest under Articles 19 and 21 of the Constitution and denial of right to fair hearing. The High Court heard the two petitions together. The Advocate General of the State represented both Government and University. Through the Order dated 15-12- 2014, the High Court through a single judgement dismissed both the petitions. Against the decision of the High Court Suman and Samiya approached the Supreme Court under Art 136 of the Constitution. The Supreme Court granted leave to file appeal and the case is posted to February 2015 for final hearing. In addition to the grounds mentioned in the petitions filed before the High Court the new ground of the procedural irregularity on the part of the High court was also raised before the Supreme Court. Advocate General of the State refuted all contentions.