

1st NATIONAL JUDGMENT WRITING COMPETITION

Frame the charge(s) and write a judgment on the basis of the facts, allegations and evidence given here under by analyzing the evidence, keeping in mind the relevant provisions of the concerned law. Participants are required to frame arguments/contentions on behalf of both the parties from the facts.

FACTS

The “Indian School of Education” is an Educational Institution in Delhi. This is a multi faculty institution with strength of 3000 students at its campus. There was great enthusiasm in the Students’ Organizations to contest elections in the College General Body Elections. The main contest was between Samjhauta Party (SP) and Milan Party (MP). Both the groups worked hard to secure students’ support and their votes. Dilbag Singh was the candidate for the Presidentship from the SP. He was also having the support of a Hum Sabki Party. Therefore, that Party’s prestige was also involved in the success of this candidate. Dilbag spent a lot on throwing parties and also adopted other means and methods to garnish the support of the students. The candidate from MP, Shankar Pandey was quite popular amongst the students for his honesty, integrity and always been working for students’ welfare. After a month long campaign, the elections were held on 30.09.2017. Casting of vote went on peacefully. The result was declared on 1.10.2017 and Dilbag Singh won the elections by a margin of just two votes. Wave of joy went around in the Samjhauta Party. Milan Party was disappointed and was sensing that victory of Dilbag was only due to money flow and unfair practices adopted by Dilbag.

On 02.10.2017, at about 7:00 PM at the College cafeteria Dilbag invited Shankar to his dinner party. Shankar flatly refused the invitation by saying that he will never attend a party hosted by a forged person. Dilbag insisted by explaining to him, “Let us forget our past animosities and work for the welfare of the students together” but Shankar again said “No! I do not wish to join your dinner party as I know how you have won the elections by fraudulent means. I will not go to the party of a scoundrel.” At this Dilbag got annoyed and felt insulted in the public. He told Shankar “You know that I can adopt any means for what I want”. Shankar left the cafeteria by saying, “Hell with you!” Shankar left the cafeteria and went away with his friend Ram Kumar. At about 8.30 PM Ram drove out in his Jeep from the parking area with Shankar seated in the jeep beside him. When their jeep was passing through the main gate of the college, Dilbag and his friend Ganesh were standing in wait for

them. Now Dilbag was having a pistol in his hand. Dilbag signaled Ram to stop the vehicle but Shankar told him not to stop there. Then, Dilbag fired in the air. Shankar asked Ram to drive fast. Dilbag and Ganesh chased the jeep on their bike with Ganesh driving and Dilbag riding the pillion. Dilbag fired indiscriminately while chasing the jeep. One bullet hit Ram in his right upper arm. Shankar asked Ram to stop the vehicle and got down from the jeep. Ganesh stopped the bike where Shankar was standing. Dilbag got off the bike tried to shoot at Shankar. But he could not as there was no cartridge in the pistol. Then Shankar took out an iron rod out of the jeep and aimed a hit at Dilbag. But Dilbag ducked and the rod fell on the head of Ganesh who was sitting on his bike just next to Dilbag. Ganesh started bleeding profusely and fell unconscious. Both Shankar and Ram left the scene immediately. Dilbag took Ganesh to hospital. Ganesh died after 12 hours in the hospital.

EVIDENCE FOR PROSECUTION

PW-1: **Dilbag Singh** deposed that as I had contested the election for the welfare of the students and for the same I wanted to join the hand with Shankar. Shankar wanted to take revenge of his defeat and came with an iron rod to kill me.

In cross examination, it was extracted by the defence that PW-1 was carrying a gun that day but refused that he shot Ram.

PW-2: **Naresh**, a friend of Dilbag and Ganesh, deposed that I was present in the cafeteria when the altercation between Shankar and Dilbag took place but was not aware of what happened after Shankar left as I busy in eating delicious Donuts.

PW-2 was declared hostile as he deviated from his statement given to police. In cross examination, he stated that he was not present at the gate of the college as he went home.

PW-3: Dr. Mahesh

Dr. Mahesh conducted the post-mortem examination of the deceased on 03.10.2017. On examination of the deceased, he noticed the following injuries on the body of the deceased-

1. Penetrating craniocerebral injury over the Occipital Region measuring 2 x 2 inches.
2. Linear abrasion over the arms and neck measuring 2 x 0.5 inches.

PW-3 has deposed that the death of the deceased was due to head injuries and the injury was *ante mortem* in nature. Death of Ganesh was homicidal in nature. He has deposed that the injuries on Ganesh may be caused by the iron rod marked as MO.1. The viscera of the

deceased had smell of alcohol.

In cross examination by the defence, he stated that the time of death was within 4 hours from the time of autopsy conducted by him.

DEFENCE PLEA

It was submitted by the Defence that the accused acted in private defence, grave and sudden provocation and accident in a manner so as to protect his own life as well as the life of his friend from imminent danger shown by the deceased and the complainant. The Defence also contends that the act of the accused was proportional to the harm that was intended. It is also contended that the accused is unaware as to the injuries on arms and neck of the deceased.

EVIDENCE FOR DEFENCE

DW-1: **Shankar Pandey** deposed that he refused to come in the dinner party of Dilbag because he knew about the illegal practices Dilbag adopted to win the elections. Dilbag got annoyed and tried to kill him. He just picked up the iron rod in his self defence. He also stated that it was Dilbag who tried to kill him and his friend and just to save himself he picked up the rod.

In cross examination, it was extracted by the prosecution that Shankar saw for a moment that the pistol was not working when he got off the jeep.

DW-2: **Ram Kumar** stated that Dilbag had fired a gun shot upon him and also tried to kill Shankar; in pursuance of this Shankar tried to defend us and just picked up the iron rod. He also stated that he was in very much pain and couldn't see the entire incident and was trying to manage to flee from the place of incident.

Cross Examination: Nil.

DW-3: Dr. Harsh

The defence witness DW3 has been brought forward in the capacity of the doctor who examined DW-2. The witness claims that Ram had several wound marks on his body when he was brought for examination and the same marks were also treated by a doctor. The wound certificate herein placed and marked as Exhibit 1 has been attached as Annexure III.

FIRST INFORMATION REPORT

1. General:

- a) FIR Number: 58/2017
- b) Police Station: Rithala PS
- c) District and State: North-West, Delhi
- d) FIR Date: 02/10/2017
- e) Information received at police station: 21:30 hours, 02/10/2017
- f) General diary reference entry number: 5825/2017
- g) Direction and Distance from Police Station: 2 km East of the PS

2. Occurrence of Crime:

- a) Date of Occurrence: 02/10/ 2017
- b) Time of occurrence: Around 21:00 hours.

3. Place of occurrence: Pitampura, Delhi.

4. Complainant/Informant:

- a) Name: Dilbag Singh
- b) Father's Name: Lakhan Singh
- c) DOB: 05/08/1985
- d) Nationality: Indian
- e) Passport Number: N/A
- f) Occupation: Student

5. Reasons for delay in reporting by the complainant/informant: N/A

6. Details of the accused:

- a) Name of the accused: Shankar Pandey
- b) Father's name: Jitender Pandey
- c) DOB: 25/01/1986
- d) Nationality: Indian
- e) Passport Number: N/A
- f) Occupation: Student

7. Complaint given by the Complainant/Informant:

I reside in Delhi and study in same college where Shankar also studies. Today, at about 8:30 PM, I along with Ganesh was waiting for Shankar at the college gate as I wanted to talk to him about his rude behavior towards me after he lost the college elections. Ram drove out in his Jeep from the parking area with Shankar seated in the jeep beside him. He didn't stop the jeep even after I signaled him. We chased them on Ganesh's bike and they stopped the car

after driving some distance in a secluded area and Shankar got out of the jeep and threw an iron rod towards me. I ducked to save my life and the rod hit Ganesh.

R.O.A.C

Name: Mohan Singh

Rank: Station House Officer (SHO) Police Station: Rithala PS

Signature of the Officer-in-charge: Sd/-

8. Signature/Thumb Impression of the complainant/ Informant: Sd/-

ANNEXURE II

RELEVANT EXTRACTS FROM THE POLICE CASE DIARY

Since the above information reveals commission of offence under Sections 302, 301, 352 r/w 326 and 201 of the Indian Penal Code, 1860. The investigation has been taken over by Sub-Inspector Kamal. The accused was arrested on 03.10.2017. On the information given by him an iron rod was recovered from a pond near where crime took place and marked as M.O.1.

ANNEXURE III

MEDICAL EXAMINATION REPORT OF RAM

1. An already treated wound on the upper right arm of the person. The wound seems to be caused by a bullet.
2. A scar on the left thigh was observed on examination. The wound seems to be a few months old.
3. No burn marks were observed on the body of the person when he was examined.

During cross examination of the doctor it was established by the prosecution that the wounds were not fatal in nature and could not have possibly caused any sort of serious injuries to the accused.