



SREE NARAYANA LAW COLLEGE, KOCHI
(OWNED AND MANAGED BY SNDP YOGAM, BR NO: 1103)

1st ALL INDIA
VIRTUAL MOOT COURT
COMPETITION
2020

MOOT PROPOSITION

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Maitristan is a South Asian nation with a rich cultural heritage. Due to its geographical features, it has been an important hub for trade and commerce since times immemorial. Due to considerable migration and invasion during different periods, people of different faiths have settled and intermingled with each other in different parts of the country. Maitristan has always been considered as an icon of religious tolerance and acceptance. The Constitution of Maitristan specifies its secular character emphasising on ‘fraternity’ and ‘unity in diversity’.

However, there has been considerable tension in some states between various religious groups based on historical claims to a particular territory. These incidents, though isolated, happen in an atmosphere of fear and violence. In 2015, there was an incident in the State of Kaithara, where a group of individuals attacked shops owned by members of a particular community based on a speech given by member of a regional political party alleging black-marketing by members of a community. Such incidents happened across the country, accompanied by loss of life and property. It was observed by leading columnists in newspapers that though the Constitution guarantees free speech, it is being misused to promote violence.

It was also pointed by several persons and organisations that the laws were insufficient to deter persons from making statements aimed at fostering disharmony. A group of citizens started a campaign demanding stronger laws against what they considered as ‘hate speech’. There was also a strong resistance to such laws by civil society organisations as they were apprehensive of its potential to stifle free speech.

Based on a study by the Law Commission of Maitristan, the central government enacted Criminal Law(Amendment) Act, 2018. It came into force on August 15, 2018. It amended the Maitristanian Penal Code(“MPC”) by inserting the following provisions:

“153C Incitement of hatred - Whoever, on grounds of religion, race, sex, disability, gender identity, place of birth, residence, language or sexual orientation,

(i) uses words, signs or visible representation in a threatening manner with an intention to cause fear or alarm or

(ii) uses words to incite physical or other kinds of violence

Shall be punished with simple imprisonment of maximum two years duration or a fine of maximum INR 10000 or both and if committed in a public place, with simple imprisonment extending upto four years and fine of maximum INR 25000.”

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The Criminal Procedure Code was also amended to include s. 153C as a scheduled offence in non-bailable, cognizable category.

State of Kaithara witnessed several demonstrations against the amendment. On September 10, 2018, Chorinchu Saba, leader of a popular religious cult known as Kaa'nis, during the occasion of Kaa'ni new year, made a statement that there is only one truth and those who do not believe in it should not be allowed to prosper. He made the statement when he was on a stage erected on the main road, 1.5 kms away from a busy market area. He gave a direction to all his followers to stop buying goods from members of another community called Fowad, who were in majority in some other states. Many Fowadi's were successful businessmen across Maitristan. He told that one day, entire Maitristan will be ruled by Kaa'ni's and for that, the economic dominance of Fowadi's must be stopped. The followers of Chorinchu had gathered from different parts of the country. After the meeting was over, the followers went on a rampage looting and burning eleven shops owned by Fowadis. There were no casualties reported. On September 11, 2018, Chorinchu was arrested under s.153C of MPC.

It created an uproar in other states. The general secretary of Kaa'ni Brotherhood Foundation (KBF), Ms. Vaki Vilayila tweeted the following - "This is a dark day for Kaa'nis. We will fight the case till Supreme Court. But, don't expect anything sensible from the judges sitting there."

On September 15, 2018, Pran TV, a news channel owned by KBF released the trailer of an upcoming investigative series titled 'Paisa Wadi Fowadi? -Economic manipulation by Fowadis'. The anchor disclosed that the show is about how Fowadis in automobile industry collude with each other to inflate prices and manipulate consumers.

'Citizens for Peace', an NGO filed a petition before the Supreme Court for preventing the broadcast of the television series as it is offensive and not in good taste.

The trial court and High Court of Kaithara found Chorinchu guilty of the offences. Chorinchu filed an appeal before the Supreme Court of Maitristan challenging the constitutionality of section 153C. He further argued that he cannot be considered guilty.

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Meanwhile, Supreme Court initiated suo motu contempt proceedings against Ms. Vaki based on her tweet. Ms. Vaki filed a writ petition challenging the constitutionality of Contempt of Courts Act.

On _____, all the petitions were consolidated for hearing.

Notes:

1. Constitution of India and Indian laws are to be considered as *in pari materia*.
2. It must be presumed that all matters have been admitted. Issues relating to maintainability and clubbing of petitions are not to be raised.

References:

<http://lawcommissionofindia.nic.in/reports/Report267.pdf>

For Queries:

snlcvmmcqueries@gmail.com

Swathi Guptha : +91 94460 13939

Tanya Tom : +91 90377 53705

