

Moot Court Proposition

Moot Problem

The Union of Tianzhu was a prosperous Country in Asia having a rich culture, legacy and civilization dating back to thousands of years. The Citizens of Tianzhu respected women from time immemorial. The Republic Party of Tianzhu came to power in the Union. The Republic Party of Tianzhu, prior to the election impressed on the masses to vote for them with a manifesto that Women entrepreneurs would be given grant/s and loans with minimal levy of interest with due encouragement of a single window system titled as "Tianzhu Women Leader-2021".

Sangamitra, who became a leading entrepreneur after pursuing her Master in Business Administration and Law in reputed Universities proposed to avail the said scheme floated by the Union of Tianzhu in terms of its promises to Women of Tianzhu in relation to "Tianzhu Women Leader-2021". The main attribute of the said scheme was grant of Rs.1,00,00,000/- to deserving businesswomen. Sangamitra who was engaged in the business of ethnic clothes having Pan-Tianzhu presence proposed to reach out to the World with her brand "Sangi".

Sangamitra meticulously submitted all paperwork to the competent authority to seek a grant. The competent authority sanctioned the grant in terms of its policies and procedures.

It dawned on the Republic Party of Tianzhu that in order to keep up with its election manifesto's promise in relation to "Tianzhu Women Leader-2021," it needed thousands of crores. To sustain the same which was a burden on the exchequer as well as causing embargo on the development of the Union of Tianzhu, the said Union sought for grant from the World Bank.

Meanwhile, post-dated cheques were given to various applicants who had been granted aids including Sangamitra, being confident that the said cheques would be honored on the due dates sought to purchase various linens, etc., on credit running to lakhs of rupees with a fond hope that she would be able to make good the payments based on the cheques in relation to "Tianzhu Women Leader-2021" scheme by purchasing the said goods from Ms. Devapriya.

Sangamitra tendered a post-dated cheque to Ms. Devapriya for the purpose of discharge of the payments in relation to purchase of goods amounting to Rs.50,00,000/-. The Union of Tianzhu was unable to keep its promise of grants, various negotiable instruments given to grantees including Sangamitra were not honored due to "Insufficient Funds" as aid at the hands of World Bank failed to materialize.

Meanwhile, the cheque given by Sangamitra to Ms. Devapriya was also not honored due to "Insufficient Funds" in Sangamitra's account. Independent of the said grant, Sangamitra also had corpus and funds to sustain her business. Well in time prior to tendering the cheques unto Ms. Devapriya, Sangamitra proposed to deposit Rs.75,00,000/- into fixed deposit in her name and conduct her business in terms of the grant only.

Albeit, the business of Ms. Devapriya suffered losses as Vendors were not paid and insolvency proceedings were filed, the business of Devapriya was closed in order to pay all the Vendors.

Ms. Devapriya being lost and frustrated filed complaint in terms of section 138 of the Negotiable Instruments (NI) Act, 1881 and another under the auspices of sections 406 and 420 of the Penal Code, 1860.

After due trial as per the Due Process of Law and procedure established by law, Sangamitra was convicted under section 138 NI Act, 1881 and was ordered to pay Rs.75,00,000/- in terms of the said law including compensation and in default to undergo imprisonment for two years. Sangamitra failed to comply with the said order and underwent imprisonment for two years.

Upon her release, the trial in so far as sections 406 and 420 of the Penal Code, 1860 after due participation of Sangamitra concluded, the Jurisdictional Court taking into consideration amongst others including the earlier conviction of Sangamitra and other facts, found Sangamitra guilty of contravention of sections 406 and 420 of the Penal Code, 1860. She was convicted accordingly and ordered to undergo imprisonment for seven years. Both the Court Proceedings were conducted as per Due Process of Law and Procedure established by law.

Sangamitra aggrieved by the said order of conviction in the case of sections 406 and 420 of the Penal Code, 1860 preferred a Writ Petition to the High Court of Siliconnagara pressing that the order of conviction under the Penal Code 1860 was “Double Jeopardy”, and the entire judicial proceedings was not sustainable as the basic tenets of Law privy to Double Jeopardy had been violated. The said matter was argued by Sangamitra as she was well qualified in law.

The High Court of Siliconnagara, after a marathon of arguments, came to the conclusion that the conviction of Sangamitra didn't satisfy the subjective and objective preamble to come under “Double Jeopardy”. The applicable laws independent of the Constitution of Tianzhu were also appreciated, the order of conviction was upheld.

Sangamitra aggrieved by the said orders, preferred a Special Leave Petition to the Supreme Court of Tianzhu seeking for Justice highlighting that she was a victim of circumstances after espousing the material facts for dishonor of the Negotiable Instrument, the conviction was based on order in sec 138 NI proceedings, the evidence of the earlier proceedings was considered by the Trial Court and order of conviction was passed in violation of Article 20 of the Constitution of Tianzhu. “**Non bis in idem**” and various other legal enactments applicable to Union of Tianzhu were part of the Petition.

Hon'ble Supreme Court of Tianzhu, appreciating in the protem applicability and operation of Article 20 of the Constitution of Tianzhu, and various other legal enactments applicable, granted leave and admitted the matter and granted protem stay on the order of conviction with consequential orders to meet ends of Justice.

At the time of filing the said Special Leave Petition, Sangamitra had also filed a Writ Petition under Article 32 of the Constitution of Tianzhu for violation of Articles 14 and 20 of the Constitution of Tianzhu and also claiming damages and compensation in relation to vexation due to “Tianzhu Women Leader-2021” and in relation to her order of conviction, sought consequential relief against the Union of Tianzhu. The Hon'ble Supreme Court of Tianzhu admitted the same and has issued notice to the Union of Tianzhu and other necessary parties including Ms. Devapriya.

Both the matters are set-out for final arguments before the Hon'ble Supreme Court of Tianzhu.

NOTE:

The participants may, at their discretion, frame up to two or more issues.

The Laws applicable to Union of Tianzhu shall be construed to be laws applicable in the Union of India i.e. Bharat.

Moot Problem has been drafted by Dr. M. Sunil Sastry, LL.M, M.Phil., PhD., Advocate, High Court of Karnataka and Guest Faculty in Law. We kindly request that participants refrain from attempting to contact Dr. M. Sunil Sastry in any manner about the moot problem, as this will lead to immediate disqualification from the competition.