

## **B.K. PAL V. STATE OF TRANCOMAL**

(Hypothetical Problem created by **Prof. A. Manoj Krishna**, Government Law College,  
Thiruvananthapuram)

"Trancomal" is a state in Indian Union. Located in the southern tip of India, the state is densely populated, economically developed and stable. 'Trancomal' women are highly educated in comparison to those of other states. Percentage of working women is slightly higher than that of men in both government and private jobs. The number of influential women in political leadership is meager even though they form a sizable chunk of party cadres of all parties.

In spite of the welfare and progress the Trancomal women had their own social problems and grievances. Until 2005, mobility of women in the state was much restricted especially at night. Revolutions of Information Technology and consequent blooming and mushrooming of several IT hubs throughout the state radically changed the nature of women's mobility. After these changes, women were seen moving alone even at late hours of night in "Trancomal cities". Other than cases of occasional aberrations, social environment of Trancomal was one in which women were safe and secure.

"Queencia" the biggest city in Trancomal, was the commercial capital as well as the major centre of film industry of the state. Majority of the film studios of Trancomal were located in this city and 70% of the films made in the state was shot in this port town "Queencia". Most of the famous superstars and film artists had their residence at Queencia.

Trancomal from the year 2006 to year 2016 November was ruled by the "Nationalist Democratic Party" (NDP) and the "Revolutionary Progressive Party" (RPP) was the opposition. In the assembly elections held in December 2016 the "Revolutionary Party" (RPP) registered a thumping victory over NDP and thereby put an end to the ten year old NDP rule. The new government of RPP under 'Jaysingh Kattar' came to power on Dec 15, 2016. The new government was apprehensive and suspicious about the majority of the Governmental heads, including the IAS officers and the IPS officers who were in command during the earlier government. The new government transferred many of its senior officers in the government department who were in key positions to comparatively insignificant posts.

## 13th All India Moot Court Competition 2018

---

Brijesh Kumar Pal IPS was the D.G.P (law and order) during the years of 2015 and 2016. He was believed to be an officer having definite political inclinations to NDP. Mr. Pal had very intimate relationships with many NDP leaders and popularly believed as being an activist of NDP during his college days. Mr. Pal was well known as a poet, columnist and social activist having his own definite views and visions regarding the society and its problems. Being a much sort of a speaker, his presence could be seen in all sorts of seminars throughout the length and breadth of Trancomal. Being a gifted speaker, in many of the seminars he used to leave the podium and interacts with the audience on the floor. Mrs. Manoranjini Pal, wife of Mr. Pal was a firebrand women activist who was in the forefront of all feminist movements fighting for women's cause. Mr. Pal was against these extremist ideas of Mrs. Pal.

In January 2017 the RPP government removed Mr. Pal from the post of DGP (law and order) and appointed him as the M.D of a public sector undertaking. Mr. Pal through a Supreme Court decision quashed the government order and continued to hold his position as D.G.P until his retirement in March 2017.

'Monica Bedi' is one of the leading female stars of Trancomal film industry. She is unmarried and lives with her mother in 'Queencia'. Trancomal film industry was controlled by a handful of male superstars and female superstars had a very little space and say in the industry. The heroines of the industry always played the second fiddles to their counterparts and none of them dared to voice against this male dominance and unhealthy trends like sexual exploitation of female artists at work place. 'Monica' however was different and always spoke and fought against exploitation of female artists of the industry. Along with another high spirited leading artist 'Raveena Tandon', Monica formed an association of female artists called 'Celluloid Sisters Collection' (CSC). In a monthly meeting of CSC, 'Monica' vehemently criticized the dominant behaviour of male super stars of the industry especially, 'Madan Mohan Verma' the uncrowned king of Trancomal film industry.

One month after this incident, while being driven back from a production unit where Monica was working, to her home, Monica was alleged to be molested by the driver of caravan and some other miscreants who entered the van *en route*. It is alleged that the miscreants took the pictures of assault and recorded it on video camera. The caravan was provided by the producer of the cinema and the incident had happened on the highway at 10 'o' clock of January 3rd 2017. Based

## 13th All India Moot Court Competition 2018

---

on the complaint given by Monica, an FIR was registered against the driver 'Toofan Tony' and his friends who participated in the criminal act. The miscreants were charge sheeted with offences under sec 376,354,342,360 and sec 34 of the Indian Penal Code along with provisions of IT Act.

While investigation was going on, the 'Celluloid Sisters' campaigned against the apathy and indifference of police in investigating this case. It was alleged by them that a superstar is the master brain behind this attack and hence his name should also be included among the accused. On 16/02/2017 the Celluloid Sisters held a meeting at 'Queencia Convention Centre' to declare their solidarity for Monica. Raveena who spoke at this meeting made a scathing attack on the male superstars of the industry. In the course of her speech Raveena made the following comment.

"Dear sister Monica, in this hour of grief and shame, we pledge our solidarity to your cause. Every pain and molestation you have suffered is really an attack on dignity and self respect to all of us. Dear Monica, it's not you alone who has been raped, each one of us has been raped and assaulted in the streets."

Some social activists who were present as the audience in the meeting complained to the police against Raveena for disclosing the identity of the victim of rape and sexual assault in public. The police took cognizance of the case and charge sheeted Raveena under Sec. 228A of IPC.

When this incident occurred, Monica was in Dubai for a shoot. After her return when the incident of "Raveena's offence" came to her notice, Monica issued a statement that she has no complaints against 'Raveena' and that she had herself prompted them to organize a meeting. Based on this statement, the police initiated steps to wind up the investigation and subsequent proceedings against 'Raveena'.

On 5<sup>th</sup> May 2017, Mr. B.K.Pal was invited to give a lecture on the theme "police protection of the marginalized people" while addressing the audience, as his usual practice, Mr Pal left the podium and started interacting with the audience on the floor. Mr. Pal was speaking through a collar mike and was totally immersed in the delivery of his speech. At this point of time, a call came to his cell phone and it was from Mrs Manoranjini Pal. Asking the audience to excuse, Mr.

## 13th All India Moot Court Competition 2018

---

Pal took the call. Unfortunately, Mr Pal forgot to switch off his collar mike. The communication between Mr. and Mrs. Pal went as follows.

Mrs. Pal- Brijesh this is me Mano, will you come for our meeting in solidarity of the outraged actress, I have promised my friends that you will come. I have to give a final word.

Mr Pal- "Are you talking about 'Monica', if so, count me out. I have doubts about dubious characters like Monica. If something happened to her she alone has to be blamed, no one else. Mano I am in a meeting call me later."

With that, the call came to an end. As the collar mike was on, the whole audience heard the conversation. Some of the audience who were recording the speech recorded the telephonic conversations also. This bit of telephonic conversation was uploaded by unknown persons in "WatsApp" and it became viral.

On May 25, the police initiated action against Mr. Pal IPS on the basis of reports regarding public disclosure and publication of statement disclosing the identity of victim of rape case. Mr. Pal was charge sheeted under sec 228A of Indian Penal Code and initiated investigation.

When Monica was asked about this incident by journalists, she replied that she has no personal complaints against Mr. Pal and let law take its own course.

Mr. Pal requested the police to drop the investigation against him in the light of Monica's statement. The police however rejected his appeal and went on with the investigation on the basis of FIR filed against him. The police also initiated steps to question Mr. Pal and to get him in custody. At this juncture, Mr. Pal moves to the Hon'ble High Court of Trancomal to quash the FIR and to end the investigation against him.

Mr. Pal IPS claims that the police action is discriminatory, malicious and violative of his fundamental right to equality. He further claims that sec 228A of IPC is unconstitutional as it is violative of Articles 14, 19 and 21. Moreover, there is no offence under section 228A in the instant case and the police action is based on privileged communication and is violative of his right to privacy.

The case is posted for hearing.

# 13th All India Moot Court Competition 2018

---

*(Disclaimer: All the characters in the problem are fictitious and have no resemblance to any situations, factors and persons.)*

