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THE K.K. LUTHRA MEMORIAL MOOT COURT, 2023

Februray 17, 2023 to February 19, 2023

Before

THE HON'BLE SUPREME COURT OF STAN

In the matter of

VARSHA T. PETITIONER

v.

REPUBLIC OF STAN RESPONDENT

UNDER ARTICLE 136 OF THE CONSTITUTION OF THE REPUBLIC OF STAN

UPON SUBMISSION

TO THE HON'BLE JUSTICES OF THE HON'BLE SUPREME COURT OF STAN

- MEMORANDUM ON BEHALF OF THE PETITIONER -

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LIST OF ABBREVIATIONS

<i>Abbreviations</i>	<i>Expansions</i>
&	And
AIR	All India Reporter
All ER	All England Reports
Art.	Article
Anr.	Another
Bom	Bombay
Cal.	Calcutta
Del.	Delhi
Gau	Guwahati
Int'l	International
Ors.	Others
Prop.	Proposition
Reg.	Registration/Registered
SC	Supreme Court
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CONSTITUTION AND STATUTES

1. Constitution of India
 2. The Extradition Act, 1962
 3. The India Penal Code, 1960
-

TREATIES AND CONVENTIONS

1. The Geneva Conventions of 1949 and Its Additional Protocols
 2. The India -UK Extradition Treaty, 1992
 3. United Nations Model Law on Extradition, 1990
 4. United Nations Model Treaty on Extradition, 2004
-

BOOKS

1. BM GANDHI, INDIAN PENAL CODE (2008)
 2. DR. S.R. MYNENI, LAW OF CRIMES (2019)
 3. GURDIP SINGH, INTERNATIONAL LAW (3rd Ed., 2021)
 4. KD GAUR, TEXTBOOK ON INDIAN PENAL CODE (7th Ed., 2020)
 5. RATANLAL & DHIRAJLAL, INDIAN PENAL CODE (2017)
-

RESEARCH ARTICLES

1. Colin Warbrick, *Extradition*, 38 Int'l and Comp. L. Quart. 424 (1989)
 2. Colm Campbell, *Extradition: The Facts*, 257 F.N. 11 (1987)
-

3. Dwight F. Henderson, *Treason, Sedition and Fries' Rebellion*, 14 American J. Legal H. 308 (1970)
 4. Geoff Gilbert, *Extradition*, 42 Int'l and Comp. L. Quart. 442 (1993)
 5. John Dugard & Christine Van, *Reconciling Extradition with Human Rights*, 92 American J. Int'l L. 187 (1998)
 6. John Hopkins, *Extradition. Jurisdiction*, 61 Camb. L. J. 239 (2002)
 7. L.W. Maher, *Modernizing the Crime of Sedition*, 90 L.H. 201(2006)
 8. M.G. Wallace, *Constitutionality of Sedition Laws*, 6 Virginia L. Rvw. 385 (1920)
 9. Mark P. Leone & Barbara J. Little, *Seeds of Sedition*, 43 Arch. 36 (1990)
 10. Tom Hadden, *The Extradition Problem*, 76 F.N. 5 (1974)
-

CASE LIST

INDIA

- | | |
|---|-------------------|
| 1. Abu Salem v. State of Maharashtra | (2011) 11 SCC 578 |
| 2. Annie Besant v. Attorney General of Madras | AIR 1942 FC 22 |
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| 4. Bennet Coleman and Co. v. Union of India | AIR 1973 SC 106 |
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-

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15. Indian Express v. Union of India	(1985) 1 SCC 641
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23. Pragnesh Desai v. Union of India	(2004) SCC OnLine Del. 68
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25. Ramesh Thapper v. State of Madras	AIR 1950 SC 124
26. Ramjilal Modi v. State	AIR 1957 SC 620
27. Ram Babu Saksena v. State	AIR 1950 SCC 155
28. Ram Nandan v. State	AIR 1959 All 101
29. Ram Par Gas v. Emperor	AIR 1948 All 129
30. Sakal Papers (P) Ltd. & Ors. v. Union of India	AIR 1962 SC 305
31. Santabir v. Emperor	AIR 1935 Cal. 122
32. Sarabjit Rick Singh v. Union of India	(2008) 2 SCC 417
33. Satyanarayan Bakshi v. Emperor	AIR 1927 Cal 698

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| 37. Union of India v. Association for Democratic Reforms | (2002) 5 SCR 294 |
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| 39. Vishambhar Dayal v. Emperor | AIR 1941 Oudh 33 |
| 40. Zakir Hussain v. U.T. of Ladakh | 2021 Cri L.J. 1560 |

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| 42. Kindler v. Canada | CCPR/C/48/D/470/1991
(1993) |
| 43. Minister of Home Affairs of the Commonwealth v. Zentai | 2012 HCA 28 |
| 44. Ng v. Canada | CCPR/C/49/D/469/1991
(1994) |

EUROPEAN COURT

- | | |
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| 45. Abu Hamza v. Secy. for State for the Home Deptt | [2012] EWHC 2736 |
| 46. Assange v. Swedish Prosecution Authority | [2011] EWHC 2849 |
| 47. Navinder Sarao v. Government of the United States | [2016] EWHC 2737 |

UNITED KINGDOM

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| 48. Government of Denmark v. Nielsen | [1984] 2 All ER 81 |
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| 49. R v. Dean of St. Asaph | (1784) 3 TR 428 |
| 50. R Castillo v. King of Spain | [2005] 1 WLR 1043 |
| 51. Re Castoni Case | [1891] 1 QB 149 |
| 52. Re Evans | 1994 (3) All ER 449 |
| 53. Re Meunier's Case | [1894] 2 Q.B. 415 |
| 54. Troka v. Albania | [2020] 1 WLUK 79 |
| 55. United States Government v. McCaffery | [1984] 2 All ER 570 |

UNITED STATES OF AMERICA

- | | |
|-----------------------|---------------------|
| 56. Terlinden v. Ames | 184 U.S. 270 (1902) |
|-----------------------|---------------------|

LEXICONS

1. Aiyar, P Ramanatha, *The Law Lexicon*, (2nd ed. 2006)
2. Briyan A. Garner, *Black's Law Dictionary* (11th ed 2019)
3. Merriam- Webster's Law Dictionary

STATEMENT OF JURISDICTION

The petitioner has approached this Hon'ble Court, invoking the *extraordinary jurisdiction* of the Hon'ble Supreme Court of The Republic of Stan under Art. 136 of the Constitution of Stan.

Art.136 of the Constitution are reproduced hereunder:

“136. Special leave to appeal by the Supreme Court

- (1) *Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.*¹
- (2) *Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.*”²
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¹ INDIA CONSTI, Art. 136 (1)

² *Id.* at 136 (2)

STATEMENT OF FACTS

ACCESSION AGREEMENT B/W EASTERN PROVINCE & REPUBLIC OF STAN – 1950	The Eastern Province acceded to the Republic of Stan ten years after Stan's independence. Eastern Province is dependent on Stan for daily fresh water supplies owing to a unique concentration of salts near its coast.
EXPLORATORY TALKS OF 2015	The relationship of the Eastern Province with the Continent and the Stan's large untapped market and Eastern Province's world-beating ports has permitted unique exploratory talks for the Republic of Stan to join the Continental Market; the talks however were inclined to the want of Eastern Province than the whole of Stan.
MARCH 2020 PUBLISHMENT OF THE 'SEDITION NOVELS'	Varsha, a 47 years old journalist from Stan published a trilogy of controversial fiction novels popularly k/as Sediton Novels with <i>Shavar</i> as the titular character. The novels gained popularity over the years. Varsha has dual nationality of Stan & Brittany.
APRIL 2021 VARSHA SOLD THE NOVELS' RIGHTS TO A POPULAR FILM PRODUCTION COMPANY	The novels had sparked a debate in Stan over the Accession Agreement and the Old Fee; old disputes over whether Stan needed Eastern Province or whether the Eastern Province need Stan were reignited.
JUNE 2021	Singswell, one of the greatest singers of the Eastern province recorded a particularly rousing monologue as a song at Varsha's request for her personal use which was soon bootlegged, released on the Internet & went viral
OCTOBER 2021	Many politicians from the Provinces A, B and E demanded public apology from Varsha; the politicians from Eastern

	<p>Province fearing the riots in Province A & E may lead to disruption in water supplies, demanded an explanation from Varsha.</p>
<p>DECEMBER 2021</p>	<p>Under public pressure, Varsha released a press statement.</p>
<p>FEBRUARY 2022</p>	<p>A mammoth film production entitled ‘The Chronicles of Shavar’ was announced. It was being financed by a consortium of businessmen from Brittany.</p>
<p>APRIL & MAY 2022</p>	<p>Varsha had spent most of April & May 2022 in Brittany City and had reportedly met the Continental Negotiating Team responsible for the talks with the Republic of Stan.</p>
<p>23rd – 24th JUNE 2022</p>	<p>Snoopy is a publicly listed chemicals company run by Varsha’s husband Surya; Varsha has 11% interest in the company & Surya has 10% while the rest 79% is held by a pension fund linked to Brittany State Pension Fund. Snoopy made a public announcement that it had found a commercially viable way to desalinate the sea water off the coast of the Eastern Province & the first city serving desalination plants could come online in six months; the stock price of Snoopy hit the upper circuit at the Brittany City Stock Exchange within two hours of announcement and ratings for Stan Sovereign Bonds began to plummet. On 24th June 2022, the Continent made a statement that it was unilaterally suspending talks with Stan for six months. The Central Bank of Stan announced that it was defending the Stan Banama from currency short sellers & market speculators. In Brittany, on 24th itself, Snoopy announced that it was about to approach the Stock Exchange for a fresh listing of shares.</p>

<p>RIOTS & UNREST 25th JUNE 2022 – 17th JULY 2022 FIR U/Sec 124-A REG. AGAINST VARSHA</p>	<p>The first show of ‘The Chronicles of Shavar’ was scheduled on 25th June 2022 following which the riots broke out in the provinces of Stan & the Eastern Province causing political unrest. An FIR U/Sec 124-A was registered against Varsha on 25th June 2022.</p>
<p>1ST AUGUST 2022</p>	<p>Stan made a request to Brittany for Varsha’s extradition to answer charges under FIR 17/2022.</p>
<p>14TH AUGUST 2022</p>	<p>Extradition agreement allowed for Varsha to be extradited to Stan.</p>
<p>INSTANT LITIGATION</p>	<p>Varsha held guilty U/Sec 124-A by the Provincial Court. Hence, the instant Appeal.</p>

STATEMENT OF ISSUES

ISSUE I

[1] Whether Varsha is guilty of the offence punishable under section 124-A of the Stan Penal Code?

- 1.1 No reasonable anticipation or likelihood of 'Public Disorder' vested with the 'Sedition Novels'*
- 1.2 Screenplay of the Storyline was "tweaked" post purchase of Copyright of Novels from Varsha T.*
- 1.3 Absence of 'Intentional Element' to cause Sedition*
- 1.4 'Sedition Novels' only sparked Debate & Discourse protected U/ Art. 19(1)(a) of the Constitution of The Republic of Stan*

ISSUE II

[2] Whether the Extradition of Varsha from Brittany was Illegal and can the order of keeping her extradition to Brittany be kept in abeyance?

- 2.1 Due procedure of Law was not followed for Extraditing Varsha from Brittany following the allegations levelled against her.*
- 2.2 Extradition is based on the concept of dual criminality*
- 2.3 Extradition, being based on the principle of State Cooperation should also balance individual interests with it.*
- 2.4 The order of extradition of Varsha from Republic of Stan to Brittany cannot be kept at abeyance.*

SUMMARY OF ARGUMENTS

[1] Whether Varsha is guilty of the offence punishable under section 124-A of the Stan Penal Code?

It is most humbly submitted before this worthy bench that the judgment of the Court in Province B holding Varsha guilty of the offence punishable under **Section 124-A** of the Stan Penal Code is invalid. That the facts and circumstances of *riots* and *unrest* from **25th June 2022** till **20th July 2022** following the broadcast of the film '*Chronicles of Shavar*' cannot be attributed to Varsha's '*Sedition Novels*' as though, the film was adapted from her novels, but was the product of an independent script-writing process. It is further submitted that prior to selling of the rights of '*Sedition Novels*' by Varsha T., in **April 2021** to the popular film production company, the '*Sedition Novels*' had already been remade into movies, serials and graphic novels in several languages in **2020** and gained popularity over the years. Given that the **Copyright** of the novels stand '**sold**' to the film production company, it becomes all the more easy and legal for the film production company to 'tweak' the intellectual property in a way which suits their script the best, for which, no liability can be imposed on Varsha T. There is no intention to cause sedition as announcement of the desalination technology was merely to drive up the share price of Snoopy. '*The Chronicles of Shavar*' and the announcements of the desalination technology were both attempts to drive up the share price of Snoopy. The debate & discourse sparked by the novels is protected under **Article 19(1)(a)** of the Constitution of Stan.

[2] Whether the Extradition of Varsha from Brittany was Illegal and can the order of keeping her extradition to Brittany be kept in abeyance?

It is most humbly submitted that the Extradition of Varsha (herein the petitioner) is illegal. Moreover, the order of keeping her extradition to Brittany from Stan cannot be kept in abeyance. It is to be noted that due procedure of law was not followed for extraditing Varsha from Brittany following the allegations levelled against her. Furthermore, extradition is based on the concept of dual criminality. Since, sedition is not an offence in Brittany, Varsha cannot be extradited for the said offence. It is to be noted that extradition, being based on the principle of state cooperation should also balance individual interests with it.

ARGUMENTS ADVANCED

[1] Whether Varsha is guilty of the offence punishable under section 124-A of the Stan Penal Code?

1. It is most humbly submitted before this worthy bench that the judgment of the Court in Province B holding Varsha guilty of the offence punishable under **Section 124-A** of the Stan Penal Code is invalid; there is gross insufficiency of material on record against Varsha which constitutes sedition within the meaning of **Section 124-A** of the Stan Penal Code. Rather, there is sufficient material which suggests the scenario otherwise.

1.1 No reasonable anticipation or likelihood of ‘Public Disorder’ vested with the ‘Sedition Novels’

2. That the Counsel for Petitioner humbly submits that for any hateful speech or words loaded with criticism against the Government established by law to qualify as ‘*Sedition*’ within the meaning of **Section 124-A** of the Stan Penal Code,³ the want of a tendency to incite ‘*Public Disorder*’ is the condition precedent. While ‘*dissent*’ and ‘*criticism*’ are the hallmarks of a truly alive and compassionate democracy, the call for ‘*violence*’ is that thin line which distinguishes ‘*criticism*’ from ‘*sedition*’. That the facts and circumstances of *riots* and *unrest* from **25th June 2022** till **20th July 2022** following the broadcast of the film ‘*Chronicles of Shavar*’⁴ cannot be attributed to Varsha’s ‘*Sedition Novels*’ as though, the film was adapted from her novels, but was the product of an independent script-writing process.⁵
3. It is further submitted that prior to selling of the rights of ‘*Sedition Novels*’ by Varsha T., in **April 2021** to the popular film production company, the ‘*Sedition Novels*’ had already been remade into movies, serials and graphic novels in several languages in **2020** and gained popularity over the years.⁶ The novels spawned many remakes and Varsha routinely spent time with her lawyers to defend the novels from copyright infringement.⁷ Therefore, before the selling of the copyright of the novels, they had

³ India Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India), *section 124 A*

⁴ Moot Prop., para. 31 & 36

⁵ *Id* at para. 44

⁶ *Id* at para 15

⁷ *Id* at para 15

already been remade into movies, serials and graphic novels which did not cause any *public unrest* or *disorder* whatsoever on release. In fact, the novels were listed as bestsellers across Continental Capitals and Varsha T. spent most of the summer of 2020, travelling across the Continent capitals.⁸ There was also talk that Varsha might be in line for a Nobel nomination and was celebrated as a visionary and a future leader of the Eastern Province.⁹ In light of the facts stated hitherto above, it is sufficiently manifested that no such *tendency* to incite public disorder existed in the ‘*Sedition Novels*’ or its adaptation in movies & graphic novels.

4. Even in the cases of *Ram Nandan v. State*¹⁰ and *Ramjilal Modi v. State*,¹¹ it was observed that only those speech or actions that disrupt public order comes under the category of sedition and thus, needs to be restricted.
5. Similar kind of dictum was also observed in the cases of *Kedarnath v. State of Bihar*¹² and *Vinod Dua v. Union of India*,¹³ where it was observed that as long as the words used by a person do not lead to people feeling enmity and disloyalty towards the Government and public disorder or use of violence, it is not an act of sedition.

1.2 ‘Screenplay of the Storyline was “tweaked” post purchase of Copyright of Novels from Varsha T.

6. It is an undisputed fact on record that in **April 2021**, Varsha T. had ***sold the rights of the novels*** to a popular film production company and in one of her interviews in 2022, she claimed that she would ***not directly financially benefit*** from the release of ‘*The Chronicles of Shavar*’.¹⁴ Given that the ***Copyright*** of the novels stand ‘**sold**’ to the film production company, it becomes all the more easy and legal for the film production company to tweak the intellectual property in a way which suits their script the best, for which, no liability can be imposed on Varsha T. Furthermore, the riots followed post

⁸ *Id* at para. 15

⁹ *Id* at para. 15

¹⁰ AIR 1959 All 101

¹¹ AIR 1957 SC 620; *see also*: Zakir Hussain v. U.T. of Ladakh, 2021 Cri L.J. 1560; Patit Parban Haldar v. State of West Bengal, 2019 SCC OnLine Cal 2162; RATANLAL & DHIRAJLAL, INDIAN PENAL CODE (2017)

¹² 1962 AIR 955; *see also*: Govt. of A.P. v. P. Lakshmi Devi, (2008) 4 SCC 720; Annie Besant v. Attorney General of Madras, AIR 1942 FC 22; Indra Das v. State of Assam, (2011) 3 SCC 380; Mark P. Leone & Barbara J. Little, *Seeds of Sedition*, 43 Arch. 36, 37 (1990)

¹³ 2021 SCC OnLine SC 414; *see also*: Shikha Sharma v. State of Assam, 2021 SCC OnLine Gau 1070; KD GAUR, TEXTBOOK ON INDIAN PENAL CODE (7th Ed., 2020), M.G. Wallace, *Constitutionality of Sedition Laws*, 6 Virginia L. Rvw. 385, 386 (1920)

¹⁴ Moot, *supra* note 4 at para 22

the broadcast of the film '*Chronicles of Shavar*' in **June 2022** & not after the publication of the '*Sedition Novels*' in **March 2020**.¹⁵

7. It is also submitted that prior to the release of 'The Chronicles of Shavar', the film's producers successfully blocked all attempts by the Central Government and several Provincial Governments (including the Eastern Province) to preview the film- over and above all censorship requirements.¹⁶ The film had passed the Stan censors and there was no challenge to the fairness of the process that was followed by the censors, who were all qualified and well-known film critics.¹⁷ It is also a fact on record that unbeknownst to almost everyone, *save the film crew*, the screenplay had changed the storyline and had made Shavar into a school teacher, who began the movement in the Far Northern Province by speaking to groups of children.¹⁸ The Kingdom of Nod was now on Earth and the success of the war between the fictional provinces and the Far Northern Province hinged on the supply of water from the fictional provinces to the Far Northern Province.¹⁹ All other plot points remained roughly similar.²⁰ Therefore, it is submitted that the storyline was changed/ tweaked by the film crew independently.

1.3 Absence of 'Intentional Element' to cause Sedition

8. It is submitted before this Hon'ble bench that Varsha's purpose behind publication of the *Sedition Novels*, the film '*Chronicles of Shavar*' and the well-timed announcement of the desalination technology was merely to drive up the share price of Snoopy.²¹ '*The Chronicles of Shavar*' and the announcements of the desalination technology were both attempts to drive up the share price of Snoopy.²² It is further submitted that 79% of the shares in Snoopy is held by a pension fund linked to a Brittany State pension fund.²³ It is also a fact on record that '*The Chronicles of Shavar*' was financed by a consortium of businessmen from Brittany.²⁴ On **24th June 2022**, the stock price of Snoopy hit the upper circuit at the Brittany City Stock Exchange within two hours of the announcement of desalination technology and the ratings for the Stan Sovereign Bonds began to

¹⁵ Moot, *supra* note 4 at para 12

¹⁶ Moot, *supra* note 4 at para 23

¹⁷ Moot, *supra* note 4 at para 23

¹⁸ Moot, *supra* note 4 at para 24

¹⁹ Moot, *supra* note 4 at para 24

²⁰ Moot, *supra* note 4 at para 24

²¹ Moot, *supra* note 4 at para 44

²² Moot, *supra* note 4 at para 44

²³ Moot, *supra* note 4 at para 11

²⁴ Moot, *supra* note 4 at para 21

plummet.²⁵ On the same day, the Central Bank of Stan announced that it was defending the Stan Banama (1 Stan Banama = 1 US Dollar in June 2022) from currency short sellers and market speculators²⁶, a fact indicative of the fall in Stan's currency. Meanwhile, the first show of *'The Chronicles of Shavar'* was scheduled on **25th June 2022 at 11:00 am** at the largest B City theatre.²⁷

9. That on **24th June 2021** itself, in Brittany, the Snoopy announced that it was about to approach the stock exchange for a fresh listing of shares.²⁸ It is submitted that by releasing the shares in Market against the fallen currency of Stan, it is not far-fetched to calculate that this was a move for the shares to be bought at a low price in Stan and sold/ held at a valuation against the Brittany's currency price gaining profit. Therefore, *'Chronicles of Shavar'* was a marketing stunt to supply the problem against the solution propagated by Snoopy in form of the *'Desalination Technology.'* Furthermore, the announcement of the *'Desalination Technology'* by Snoopy was timed with the ***release of a peer-reviewed scientific paper that confirmed the science behind the announcement.*** Snoopy also announced that it was in talk with several governments and municipalities around the world for the immediate implementation of its innovative technology.²⁹
10. Even in the cases of *Hanumanthaiya v. Govt. of Mysore*³⁰ and *Ramchandra v. Emepror*,³¹ it was observed that the essence of Section 124A lies in the intention by which a speech is given and for the same language of the speech has to be judged primarily to check if the intention was mala fide or not.³² Similar kind of dictum was also observed in the cases of *Kidar Nath Sehgal v. Emperor*³³ and *Vishambhar Dayal v. Emperor*.³⁴

²⁵ Moot, *supra* note 4 at para 26

²⁶ Moot, *supra* note 4 at para 28

²⁷ Moot, *supra* note 4 at para 30

²⁸ Moot, *supra* note 4 at para 29

²⁹ Moot, *supra* note 4 at para 25

³⁰ (1948) 52 Mys HCR 265; *see also*: L.W. Maher, *Modernizing the Crime of Sedition*, 90 L.H. 201, 203 (2006)

³¹ 29 Cr LJ 381 (Lah); *see also*: DR. S.R. MYNENI, *LAW OF CRIMES* (2019); BM GANDHI, *INDIAN PENAL CODE* (2008); Dwight F. Henderson, *Treason, Sedition and Fries' Rebellion*, 14 American J. Legal H. 308, 310 (1970)

³² *Ibid.* *See also*: Satyanarayan Bakshi v. Emperor, AIR 1927 Cal 698

³³ AIR 1929 Lah 817

³⁴ AIR 1941 Oudh 33

1.4 ‘Sedition Novels’ only sparked Debate & Discourse protected U/ Art. 19(1)(a) of the Constitution of The Republic of Stan

11. It is submitted that riots and public disorder from **25th June 2022** till **20th July 2022** was the aftermath of the screenplay of ‘*The Chronicles of Shavar*’ which is part of an independent script writing process post the purchase of **Copyright** from Varsha T., as contended hitherto above. Varsha T.’s ‘*Sedition Novels*’ neither had any tendency to incite public disorder, nor the riots of **25th June 2022** till **20th July 2022** were caused by them. It is also on record that the team of sappers from the Stan Navy, arrested on **17th July 2022** made statements during investigation that they had been inspired by ‘*Chronicles of Shavar*’ and by the excesses committed by the Stan Army in the Eastern Province, over the past few days.³⁵
12. That in the ‘Sedition Novels’, the Far Northern Province is guided by Shavar into opening a **dialogue** with the kingdom of Nod over more autonomy being granted to the Far Northern Province.³⁶ Furthermore, in 2021, the popularity of the novels had sparked a **debate** in the Republic of Stan over the Accession Agreement and the Old Fee.³⁷ Old disputes over whether the Republic of Stan needed the Eastern Province or whether the Eastern Province needed the Republic of Stan were reignited.³⁸ It is submitted that the debate and discourse is protected under **Article 19(1)(a)** of the Constitution of The Republic of Stan.
13. It is also a fact on record that in December 2021, Varsha released a press statement *inter alia* saying that, ‘...*the Sedition Novels were a work of fiction and any attempt to draw parallels, while a welcome exercise of the freedom of thought, is just a hypothetical exercise...Stan is not Nod and Eastern Province is not the Far Northern Province... Shavar is a fictional heroine living 10,000 years in the future! While I am proud of her and what she believed in, I do not hold any of her beliefs and I do not condone any of the methods of violence used in the Novels. All speculations around the Novels is unwarranted...Ethereum is not water!.. I only hope people have actually read the Novels, before running to the Press for their hot takes...*’³⁹

³⁵ Moot, *supra* note 4 at para 39

³⁶ Moot, *supra* note 4 at para 13

³⁷ Moot, *supra* note 4 at para 18

³⁸ Moot, *supra* note 4 at para 18

³⁹ Moot, *supra* note 4 at para 20

14. Even in the cases of *Ramesh Thapper v. State of Madras*⁴⁰ and *Brij Bhushan v. State of Delhi*,⁴¹ it was observed that freedom to publish or to engage in discourse forms the essential part of the freedom of speech and expression. This observation was also reaffirmed in the cases of *Bennet Coleman and Co. v. Union of India*⁴² and *Sakal Papers (P) Ltd. & Ors. v. Union of India*.⁴³

⁴⁰ AIR 1950 SC 124; *see also*: *Arnold v. King Emperor*, AIR 1914 PC 116

⁴¹ AIR 1950 SC 129; *see also*: *Union of India v. Association for Democratic Reforms*, (2002) 5 SCR 294

⁴² AIR 1973 SC 106; *see also*: *Indian Express v. Union of India*, (1985) 1 SCC 641

⁴³ AIR 1962 SC 305; *see also*: *R v. Dean of St. Asaph*, (1784) 3 TR 428

[2] Whether the Extradition of Varsha from Brittany was Illegal and can the order of keeping her extradition to Brittany be kept in abeyance?

1. The Counsel for the petitioner most humbly pleads before this Hon'ble court that the Extradition of Varsha (herein the petitioner) is illegal. Moreover, the order of keeping her extradition to Brittany from Stan cannot be kept in abeyance.
2. Notwithstanding any claim of the respondent, it is the established understanding of law, as per the case of *Terlinden v. Ames*,⁴⁴ that extradition is the surrender by one nation to another of *an individual accused* or convicted of an offence *outside of its own territory* and *within the territorial jurisdiction* of the other which, being *competent to try* and punish him *demand the surrender*.⁴⁵
3. It is to be noted that irrespective of the allegations levelled against Varsha (herein the petitioner),⁴⁶ there are set parameters of law that needs to be strictly complied with before taking action against any person accused of committing any offence. In the present case, procedures of law, as has been duly established under 'UN Model Treaty of Extradition'⁴⁷ and Customary International Law, were not followed before extraditing the petitioner from Brittany to Stan.

2.1 Due procedure of Law was not followed for Extraditing Varsha from Brittany following the allegations levelled against her.

4. The Counsel for the petitioner most humbly submits that following the allegations levelled against Varsha (herein the petitioner), due procedure of law was not followed for extraditing the petitioner from Brittany to Republic of Stan.
5. Notwithstanding any claim of the respondent, there are established provisions of law which must be followed before a person can be extradited from the requested country to the requesting country.
6. Not going into the merits of the allegations but taking note of the alleged offences for which the petitioner was accused of, Varsha was accused of Sedition, Waging War and Criminal Conspiracy as per the Stan Penal Code in the territorial Jurisdiction of Republic of Stan.⁴⁸

⁴⁴ 184 U.S. 270 (1902)

⁴⁵ *Ibid.* see also: Geoff Gilbert, *Extradition*, 42 Int'l and Comp. L. Quart. 442, 442 (1993); Colin Warbrick, *Extradition*, 38 Int'l and Comp. L. Quart. 424, 424 (1989)

⁴⁶ Moot, *supra* note 4 at para. 37

⁴⁷ United Nations Model Treaty on Extradition, 1990

⁴⁸ Moot, *supra* note at para. 37

7. Following which the Government of Republic of Stan sought extradition of the petitioner from Brittany as when the allegations were levelled against her,⁴⁹ the petitioner was residing in Brittany.⁵⁰
8. As per *Art. 11* of the India-UK Extradition Treaty,⁵¹ the person for whom the extradition is sought must first be provisionally arrested before extraditing the person to the requesting State. This is done so that the competent authority in the requested state can go through the genuineness of the request and check whether the person can actually be extradited for the alleged offence levelled by the requesting state.⁵²
9. Furthermore, Section 22 and 23 provides for the extraditing hearing for the person for whom the extradition is sought by the requesting state, under which the competent authority in the requesting state checks the merits of the request of extradition and decides whether the person should be extradited or such request by the requesting country should be denied.⁵³
10. It has also been categorically held in the cases of *Pragnesh Desai v. Union of India*⁵⁴ and *Jose Inacio Cota v. Union of India*,⁵⁵ that before extraditing the person, the court has to reach at the conclusion as to whether there is *prima facie* evidence to suggest that an extraditable offence have been committed or not.⁵⁶
11. Furthermore, in the cases of *H.K. Lodhi v. Shyam Lal*⁵⁷ and *Ram Par Gas v. Emperor*,⁵⁸ it is observed that it is a valuable right of a citizen that he should not be sent out to a foreign jurisdiction without the law relating to extradition being strictly complied with.⁵⁹
12. It is pertinent point to be observed here, that in the name of expeditious extradition, Varsha (herein the petitioner) was denied of her right to present her case before the competent authorities in the requesting state as all the above-mentioned procedures of law which are required be followed before extraditing the person were blatantly ignored by the Government of Brittany.

⁴⁹ Moot, *supra* note 4 at para. 37

⁵⁰ Moot, *supra* note 4 at para. 37

⁵¹ India-UK Extradition Treaty, 1992, article 11

⁵² United Nations Model Treaty on Extradition, 2004

⁵³ *Id* at Ss. 22 & 23

⁵⁴ (2004) SCC OnLine Del. 68

⁵⁵ (2022) SCC OnLine Del. 1417

⁵⁶ *Ibid*. See also: In Re: K.R.P.L. Chokalingam v. Unknown, (1960) 2 MLJ 425

⁵⁷ AIR 1950 All 100

⁵⁸ AIR 1948 All 129

⁵⁹ *Ibid*. See also: Emperor v. Guilt, AIR 1914 Cal. 22; Santabir v. Emperor, AIR 1935 Cal. 122

2.2 Extradition is based on the concept of dual criminality

13. The counsel for the petitioner most humbly pleads that the concept of extradition is based on the principle of dual criminality, hereby, meaning that a person can only be extradited if the alleged offence in the requesting state also forms the part of the offence under the law of the requested state.
14. Notwithstanding any claim of the respondent, it is an established principle of law that for seeking extradition, the alleged offence by the requesting state should also be an offence under the legal system of the requesting state.
15. Even **Art. 2**⁶⁰ of the India-UK Extradition Treaty states that an extradition offence is the one which is constituted by conducted which under the laws of each contracting state is punishable by a term of imprisonment for a period of at least one year. Similar kind of provision can also be found under **Art. 2** of the Model UN Treaty on Extradition of 2004.⁶¹
16. Even in the cases of *Navinder Sarao v. Government of the United States*⁶² and *R Castillo v. King of Spain*,⁶³ it was observed that the person should not be extradited to the requesting nation on the basis of the offence which does not exist under the criminal laws of the requested country.⁶⁴ Similar kind of dictum was also observed in the cases of *Kindler v. Canada*⁶⁵ and *Ng v. Canada*.⁶⁶
17. Furthermore, the cases of *Government of Denmark v. Nielsen*⁶⁷ and *United States Government v. McCaffery*,⁶⁸ noted that double criminality requirement has become general principle of the extradition, derived from the treaty law.
18. It is pertinent to note, here, that the Brittany has abolished the offence of Sedition, for which extradition is sought by the government of Republic of Stan, from their municipal law in 2009 and since, the offence of sedition which is a crime in Stan is not an offence under the laws of Brittany, the extradition of Varsha, despite the absence of the principle of *dual criminality*, is unlawful and goes against the foundational principles of extradition law.

⁶⁰ India-UK Extradition Treaty, 1992, article 2

⁶¹ UN, *supra* note 52 at art. 2

⁶² [2016] EWHC 2737

⁶³ [2005] 1 WLR 1043

⁶⁴ *Ibid.* See also: *Assange v. Swedish Prosecution Authority*, [2011] EWHC 2849; *Troka v. Albania*, [2020] 1 WLUK 79

⁶⁵ CCPR/C/48/D/470/1991 (1993),

⁶⁶ CCPR/C/49/D/469/1991 (1994); See also: *Cox v. Canada*, CCPR/C/52/D/539/1993 (1994)

⁶⁷ [1984] 2 AIJ ER 81

⁶⁸ [1984] 2 AIJ ER 570

2.3 Extradition, being based on the principle of State Cooperation should also balance individual interests with it.

19. It is most humbly submitted before this Hon'ble Court that despite the fact, extradition is based on the principle of state cooperation, extradition process should also balance individual interest with it.
20. The 'Model UN Treaty on Extradition'⁶⁹, indeed, provides for the state cooperation in the matter of extraditions but it also casts duty upon both the requested and the requesting state that in the course of state cooperation, the individual rights of the person should also be maintained.⁷⁰
21. It is pertinent point to be noted that there are certain rights granted to the person, under extradition law, whose extradition is being sought by the requesting state.
22. Even in the cases of *Bhavesh Jayanti Lakhani v. State of Maharashtra*⁷¹ and *Manjit Singh v. CBI*,⁷² it was observed that the person whose extradition is sought have certain rights upon which he/she can challenge the validity of the extradition request and these rights casts certain duties upon the authorities. The person can only be extradited if those duties are fulfilled and the individual rights granted in the form of procedure of law are duly taken care of.⁷³
23. Thus, in the name of the expeditious extradition,⁷⁴ extraditing Varsha, without a proper judicial enquiry and in this way, denying her right of defence to challenge the extradition request of the Government of Republic of Stan, results into violation of her rights provided to her by the extradition laws and the customary practices.
24. Based on the above-mentioned legal principles and precedents, it can affirmatively be concluded that the extradition of Varsha (herein the petitioner) from Brittany to Republic of Stan is illegal.

⁶⁹ United Nations Model Law on Extradition, 1990, *section 2*

⁷⁰ United Nations Model Treaty on Extradition, 2004; *see also*: GURDIP SINGH, INTERNATIONAL LAW (3rd Ed., 2021)

⁷¹ (2009) 9 SCC 551; *See also*: Ram Babu Saksena v. State, AIR 1950 SCC 155; State of Madras v. CG Menon, AIR 1954 SC 517; Hans Muller of Nuremberg v. Supt, Presidency Jail, AIR 1955 SC 367

⁷² (2011) 11 SCC 578; *See also*: State of West Bengal v. Jugal Kishore More, (1969) 1 SCC 440; Daya Singh Lahoria v. Union of India, (2001) 4 SCC 516; John Hopkins, *Extradition. Jurisdiction*, 61 Camb. L. J. 239, 239 (2002); Colm Campbell, *Extradition: The Facts*, 257 F.N. 11, 11 (1987)

⁷³ *Ibid.* *See also*: Abu Salem v. State of Maharashtra, (2011) 11 SCC 214; Mobarik Ali Ahmad v. State of Bombay, AIR 1957 SC 857; Sarbjit Rick Singh v. Union of India, (2008) 2 SCC 417

⁷⁴ Moot, *supra* note 4 at para. 41

2.4 The order of extradition of Varsha from Republic of Stan to Brittany cannot be kept at abeyance.

25. It is most humbly pleaded before this Hon'ble Court that the order of extradition of the petitioner from Republic of Stan to Brittany cannot be kept at abeyance since the allegations of economic offences has been levelled against Varsha in Brittany.
26. Notwithstanding any claim of the respondent, it is an established fact that the allegations levelled against the petitioner in Republic of Stan has already been adjudicated upon by the Hon'ble Provincial Court of B below.⁷⁵ Furthermore, allegations of economic offences have also been surfaced against Varsha in Brittany for which extradition is also sought by the Government of Brittany from Republic of Stan.
27. It is pertinent point to be noted that the required procedure of law for extraditing the petitioner to Brittany has already been fulfilled,⁷⁶ but her extradition is being kept on abeyance by the Government of Republic of Syan.
28. Since the concept of Extradition is based on the principle of State Cooperation,⁷⁷ the order of abeyance by Brittany over the extradition of Varsha violated this basic principle of extradition. Furthermore, it is also important for Varsha to be allowed to go to Brittany so as to defend against the allegations levelled against her in Brittany.
29. Even in the case of *Re Evans*,⁷⁸ Lord Templeman held that extradition treaties and legislations are designed to combine speed and justice.
30. Furthermore, in the cases of *Abu Hamza v. Secy. for State for the Home Dept.*,⁷⁹ it was observed that the extradition of the person should be allowed without any delay so as to serve the interest of justice. This was also observed in the cases of *Minister of Home Affairs of the Commonwealth v. Zentai*,⁸⁰ *Re Castoni Case*⁸¹ and *Re Meunier's Case*.⁸²
31. Thus, Based on the above-mentioned legal principles and precedents, it can affirmatively be held that the order of extradition of the petitioner cannot be kept at abeyance.

⁷⁵ Moot, *supra* note 4 at para. 47

⁷⁶ Moot, *supra* note 4 at para. 45

⁷⁷ The Geneva Conventions of 1949 and Its Additional Protocols, *article 88*; see also: Tom Hadden, *The Extradition Problem*, 76 F.N. 5,6 (1974); John Dugard, Christine Van, *Reconciling Extradition with Human Rights*, 92 American J. Int'l L. 187, 188 (1998)

⁷⁸ 1994 (3) All ER 449

⁷⁹ [2012] EWHC 2736.

⁸⁰ 2012 HCA 28.

⁸¹ [1891] 1 QB 149; see also: *India v. Badesha*, 2017 SCC 44

⁸² [1894] 2 Q.B. 415

PRAYER

WHEREFORE IN LIGHT OF THE FACTS STATED, ISSUES RAISED, ARGUMENTS ADVANCED, AUTHORITIES CITED, SUBMISSIONS MADE HERETO ABOVE AND THOSE TO BE URGED AT THE TIME OF HEARING,

IT IS HUMBLY PRAYED THAT THIS HON'BLE COURT MAY BE PLEASED

1. To **set aside**, the judgement of the Provincial Court of Stan holding Varsha guilty for offence punishable under section 124-A of the Stan Penal Code.
2. To **declare**, the extradition of Varsha from Brittany to Stan as well as the order of keeping her extradition to Brittany from Stan in abeyance invalid in the eyes of law.

AND PASS ANY OTHER ORDER, DIRECTION, OR RELIEF THAT THIS HON'BLE COURT MAY DEEM FIT AND APPROPRIATE IN THE INTERESTS OF *justice, equity and good conscience*.

All of which is humbly prayed,

URN: 1993

COUNSELS FOR THE PETITIONER