

URN: 1993

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 RESPONDENT -

TABLE OF CONTENTS

LIST OF ABBREVIATIONS _____ **III**

INDEX OF AUTHORITIES _____ **IV**

STATEMENT OF JURISDICTION _____ **IX**

STATEMENT OF FACTS _____ **X**

STATEMENT OF ISSUES _____ **XIII**

SUMMARY OF ARGUMENTS _____ **XIV**

ARGUMENTS ADVANCED _____ **1**

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

 1.1 *Tendency to incite ‘Public Disorder’ is qualifying ingredient of Sedition* _____ **1**

 1.2 *‘Sedition Novels’ & ‘Chronicles of Shavar’ served as a source of Modern Warfare*
 2

 1.3 *Varsha criminally conspired to cause Sedition & Wage War against the Government* _____ **3**

 1.4 *Impact of the speech/ visual representation to be assessed from a perception of ‘ordinary prudence’* _____ **5**

[2] Whether the Extradition of Varsha from Brittany was Illegal and can the order of keeping her extradition to Brittany be kept in abeyance? _____ **7**

 2.1 *Varsha has been accused of Sedition, Waging War & Criminal Conspiracy as per the Stan Penal Code in the territorial Jurisdiction of Republic of Stan* _____ **7**

 2.2 *Extradition is based on the concept of State Cooperation and Expeditious Extradition was in the Best Interest of Justice* _____ **8**

 2.3 *The provisions with regards to Inquiry is only an enabling provision and are not mandatory in nature.* _____ **10**

 2.4 *Extradition of Varsha to Brittany could be Kept at Abeyance Pending Legal Proceedings within the Territorial Jurisdiction of Republic of Stan.* _____ **11**

PRAYER _____ **12**

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
SCC	Supreme Court Cases
UK	United Kingdom
QB	Queen's Bench

INDEX OF AUTHORITIES

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
 3. Balwant Singh v. State of Punjab 1995 (1) SCR 411
 4. Bhavesh Jayanti Lakhani v. State of Maharashtra (2009) 9 SCC 551
 5. Bilal Ahmed Kaloo v. State of Andhra Pradesh (1997) 7 SCC 431
 6. Brij Bhushan and Anr. v. State of Delhi 1950 SCR 605
 7. Common Cause v. Union of India (2018) 5 SCC 1
 8. Darshan Kumar v. UOI 73 (1998) DLT 113
 9. Dr. Vijay Mallya v. State Bank of India (2020) 20 SCC 100
 10. Dr. Vinayak Binayak Sen. v. State of Chhattisgarh 2011 SCC OnLine Chh 30
 11. Emperor v. Hari Moreshwar Joshi 1932 Cri LJ 262
-

12. Emperor v. Ganesh Damodar Savarkar	1909 SCC OnLine Bom 709
13. Emperor v. Shankar Shrikrishna Dev	1910 Cri LJ 546
14. Emperor v. Vinayak D. Savarkar	(1911) ILR 35 Bom 225
15. Govt. of A.P. v. P. Lakshmi Devi	(2008) 4 SCC 720
16. India v. Badesha	2017 SCC 44
17. Indra Das v. State of Assam	(2011) 3 SCC 380
18. Joseph Palanivel Jeyapaul v. Union of India	2014 SCC OnLine 2424
19. Kamlesh Babulal Aggarwal v. Union of India	2008 (104) DRJ 78
20. Kedarnath v. State of Bihar	1962 AIR 955
21. King- Emperor v. Sadashiv Narayan Bhalerao	74 IA 89
22. Maninder Pal Singh Kohli v. Union of India and Ors.	142 (2007) DLT 209
23. Manjit Singh v. CBI	AIR 2011 SC 806
24. Mobarik Ali Ahmad v. State of Bombay	AIR 1957 SC 857
25. Nazir Khan and Ors. v. State of Delhi	(2003) 8 SCC 461
26. Niharendu Majumdar v. Emperor	AIR 1942 FC 22 (26)
27. Nina Ranjan Pillai and Ors. v. Union of India	1997 Cri. L.J. 2359
28. Niranjan Patel v. Union of India	2012 IV AD (Delhi) 221
29. Pankaj Butalia v. Central Board of Film Certification and Ors	(2015) 221 DLT 29
30. Patit Parban Haldar v. State of West Bengal	2019 SCC OnLine Cal 2162
31. Queen Empress v. Bal Gangadhar Tilak	(1898) 22 Bom 112
32. Romesh Thapar v. State of Madras	1950 AIR 124
33. Sarabjit Rick Singh v. Union of India	(2008) 2 SCC 417

34. Sikha Sarma v. State of Assam	2021 SCC OnLine Gau 1070
35. State (N.C.T. Delhi) v. Navjot Sandhu	AIR 2005 Cr LJ 3950 SC
36. State of Himachal Pradesh v. Gian Chand	(2001) 6 SCC 71
37. State of M.P. v. Babulal	(2008) 1 SCC 234
38. State of Rajasthan v. N.K (Accused)	AIR 2000 SC 1812
39. Vinod Dua v. Union of India	2021 SCC OnLine SC 414
40. Zakir Hussain v. UT of Ladakh	2021 Cri L.J. 1560

CANADA

41. Canada v. Schmidt	(1987) 1 SCR 500
42. Minister of Home Affairs of the Commonwealth v. Zentai	2012 HCA 28

EUROPEAN COURT

43. Abu Hamza v. Secy. for State for the Home Deptt	[2012] EWHC 2736
---	------------------

UNITED KINGDOM

44. R. v. Burns	(1886) 16 Cox 335
45. R. v. Sullivan	(1868) 11 Cox CC 44
46. Re Castoni Case	[1891] 1 QB 149
47. Re Evans	1994 (3) All ER 449
48. Re Meunier's Case	[1894] 2 Q.B. 415
49. Soering v. United Kingdom	1989 (11) EHRR 439

UNITED STATES OF AMERICA

50. 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 respondent humbly submits to 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

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

	Province fearing the riots in Province A & E may lead to disruption in water supplies, demanded an explanation from Varsha.
DECEMBER 2021	Under public pressure, Varsha released a press statement.
FEBRUARY 2022	A mammoth film production entitled ‘The Chronicles of Shavar’ was announced. It was being financed by a consortium of businessmen from Brittany.
APRIL & MAY 2022	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.
23rd – 24th JUNE 2022	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 24 th 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 24 th itself, Snoopy announced that it was about to approach the Stock Exchange for a fresh listing of shares.

<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 Tendency to incite 'Public Disorder' is qualifying ingredient of Sedition

1.2 'Sedition Novels' & 'Chronicles of Shavar' served as a source of Modern Warfare

1.3 Varsha criminally conspired to cause Sedition & Wage War against the Government

1.4 Impact of the speech/ visual representation to be assessed from a perception of 'ordinary prudence'

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 Varsha has been accused of Sedition, Waging War & Criminal Conspiracy as per the Stan Penal Code in the territorial Jurisdiction of Republic of Stan

2.2 Extradition is based on the concept of State Cooperation and Expeditious Extradition was in the Best Interest of Justice

2.3 The provisions with regards to Inquiry is only an enabling provision and are not mandatory in nature.

2.4 Extradition of Varsha to Brittany could be Kept at Abeyance Pending Legal Proceedings within the Territorial Jurisdiction of Republic of Stan

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 valid; there is sufficient material on record against Varsha which constitutes sedition within the meaning of Section 124-A of the Stan Penal Code. That the glaring facts and circumstances of riots and unrest from 25th June 2022 till 20th July 2022 following the broadcast of the film ‘Chronicles of Shavar’ themed on ‘Sedition Novels’ authored by Varsha sufficiently manifests the existence of tendency to incite ‘Public Disorder’ given that ‘Public Disorder’ is the actual outcome in the instant case; the depiction was a clear call for violence and modern warfare, thereby, seditious in its very character. The film ‘Chronicles of Shavar’ and the well-timed announcement of the desalination technology was not merely to drive up the share price of Snoopy but majorly to cause the Government of Stan to topple and free the Eastern Province; Therefore, Section 120-A r/w Section 120-B r/w Section 124-A r/w Section 109 holds Varsha punishable under Section 124-A of the Stan Penal Code.

[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) was not illegal. Moreover, the order of keeping her extradition to Brittany from Stan can also be very well kept in abeyance. This is so as Varsha has been accused of Sedition, Waging War & Criminal Conspiracy as per the Stan Penal Code in the territorial Jurisdiction of Republic of Stan and Extradition is based on the concept of State Cooperation and Expeditious Extradition was in the Best Interest of Justice. Moreover, the provisions with regards to Inquiry is only an enabling provision and are not mandatory in nature. Furthermore, Extradition of Varsha to Brittany could be Kept at Abeyance Pending Legal Proceedings within the Territorial Jurisdiction of Republic of Stan.

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 valid; there is sufficient material on record against Varsha which constitutes sedition within the meaning of **Section 124-A** of the Stan Penal Code.

1.1 Tendency to incite 'Public Disorder' is qualifying ingredient of Sedition

2. That the Counsel for Respondent 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.⁴ 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 glaring facts and circumstances of *riots* and *unrest* from **25th June 2022** till **20th July 2022** following the broadcast of the film '*Chronicles of Shavar*' themed on '*Sedition Novels*' authored by Varsha⁵ sufficiently manifests the existence of this tendency given that '*Public Disorder*' is the actual outcome in the instant case.
3. That Varsha's '*Sedition Novels*' published in **March 2022**⁶ ventured beyond fiction and mere criticism of the Government established by Law and *in fact* had the tendency to incite '*Public Disorder*' is writ large in the fact that towards **October 2021**, many political leaders from Province A, B and E demanded that the sedition novels be banned and Varsha be forced to make a public apology;⁷ politicians from the Eastern Province, fearing that *riots* in province A and E may lead to disruption in water supplies during a particularly hot summer also began demanding an explanation from Varsha.⁸

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

⁴ *Kedarnath v. State of Bihar*, 1962 AIR 955; *see also*: KD GAUR, TEXTBOOK ON INDIAN PENAL CODE (7th Ed., 2020), M.G. Wallace, *Constitutionality of Sedition Laws*, 6 Virginia L. Rvw. 385, 386 (1920)

⁵ Moot Prop., Para. 30

⁶ *Id* at para. 12

⁷ *Id* . at para. 19

⁸ *Id* . at para. 19

4. As has been remarkably held in the case of *Kedarnath v. State of Bihar*⁹ that words or representations that have the intention or tendency to disrupt public order or disturbance or law and order would amount to sedition.¹⁰
5. Even in the case of *Vinod Dua v. Union of India*,¹¹ the Hon'ble Supreme Court held that activities and words that are intended or have the potential to cause disruption or disturbance of public peace by resorting to violence are to be criminalized. Similar kind of dictum was also observed in the case of *Sikha Sarma v. State of Assam*.¹²
6. Furthermore, in the case of *Zakir Hussain v. UT of Ladakh*,¹³ it was held that if the words, written or said, as well as signs or visual representation have the tendency or intention of causing public commotion or disruption of public peace by incitement to offence, the same would amount to sedition under section 124 A of the code.¹⁴

1.2 'Sedition Novels' & 'Chronicles of Shavar' served as a source of Modern Warfare

7. That '*Violence*' is behavior which harms or damages somebody/ something physically; the story line of the novels and its visual representation by way of the film '*Chronicles of Shavar*' served as a part of the modern warfare. The novels served as reflection of the Stan society with repeated calls for *violence* in the form of stopping the flow of Ethereum (depicted as a life-giving resource) from the provinces to the Far Northern province and convincing of the docile populace of the Far Northern Province by *Shavar* to initiate an *economic blockade* of the remaining provinces causing war.¹⁵
8. That against Varsha's defense that production of the film '*Chronicles of Shavar*' themed on '*Sedition Novels*' and the announcement of '*Desalination Technology*' by Snoopy was merely an attempt to increase the share price of Snoopy Company,¹⁶ it is submitted that the novel and the film not only depicted a way found by *Shavar* to release the Far Northern Province from the need for Ethereum (herein water) by manufacturing it from the methane seas that bordered the province, but *Shavar* also contaminated the source of Ethereum in Province Three,¹⁷ rendering it poisonous for the next 10,000

⁹ 1962 AIR 955; see also: Govt. of A.P. v. P. Lakshmi Devi, (2008) 4 SCC 720

¹⁰ *Ibid.* See also: 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)

¹¹ 2021 SCC OnLine SC 414

¹² 2021 SCC OnLine Gau 1070

¹³ 2021 Cri L.J. 1560

¹⁴ *Ibid.* See also: Patit Parban Haldar v. State of West Bengal, 2019 SCC OnLine Cal 2162

¹⁵ Moot, *supra* note 5 at para. 14

¹⁶ Moot, *supra* note 5 at para. 44

¹⁷ Moot, *supra* note 5 at para. 14

years; she also ensured economic destruction of the Kingdom of Nod.¹⁸ It is submitted that such depiction was a clear *call for violence* and *modern warfare*, thereby, seditious in its very character.

9. That even in the case of *Romesh Thapar v. State of Madras*,¹⁹ Hon'ble Supreme Court held that criticism or words exciting dissatisfaction and are of such nature as to undermine the security of or tend to overthrow the state would amount to sedition.²⁰
10. That Varsha in her press statement of **December 2021** categorically stated that '*Ethereum is not Water*', however, the '*The Chronicles of Shavar*' depicted that 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.²¹ Furthermore, Varsha gave several interviews during the production of the film where she had told a prominent film critic that from what she knew, '*The Chronicles of Shavar*' was the closest that any film had come to the philosophy of her novels.²² And from what she stated in defense, she herself offered information that '*The Chronicles of Shavar*' and the announcements of the desalination technology centering '*water*' were both attempts to drive up the share price of Snoopy,²³ her claim that the 'film was adapted from her novel but was the product of an independent script writing process'²⁴ falls flat against the sequence of events stated hitherto above.

1.3 Varsha criminally conspired to cause Sedition & Wage War against the Government

11. 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 not merely to drive up the share price of Snoopy but majorly to cause the Government of Stan to topple and free the Eastern Province; this ulterior motive is writ large in the story line of the novels and the screenplay of the film '*The Chronicles of Shavar*'. Given that the Republic of Stan has a huge military against

¹⁸ Moot, *supra* note 5 at para. 14

¹⁹ 1950 AIR 124. See also: Bilal Ahmed Kaloo v. State of Andhra Pradesh, (1997) 7 SCC 431; Common Cause v. Union of India, (2018) 5 SCC 1; RATANLAL & DHIRAJLAL, INDIAN PENAL CODE (2017)

²⁰ *Ibid.* see also: Dr. Vinayak Binayak Sen. v. State of Chhattisgarh, 2011 SCC OnLine Chh 30; Balwant Singh v. State of Punjab, 1995 (1) SCR 411

²¹ Moot, *supra* note 5 at para. 24

²² Moot, *supra* note 5 at para. 22

²³ Moot, *supra* note 5 at para. 44

²⁴ Moot, *supra* note 5 at para. 44

the low population density of the Eastern Province,²⁵ this object to have it free from the Republic of Stan was attempted to be achieved by way of adopting the strategies in the modern warfare. There were exploratory talks for the Republic of Stan to join the Continental Market which was majorly inclined towards the want of Eastern Province than the whole Stan;²⁶ this fact was capitalized upon by Varsha to achieve her desired end of Eastern Province's freedom by a circuitous process. The fact of her reported meetings with the Continental Negotiating team responsible for the talks with the Republic of Stan speak volumes.²⁷

12. That though not accepting, even assuming that *'The Chronicles of Shavar'* and the announcements of the desalination technology were both attempts to drive up the share price of Snoopy,²⁸ it is submitted that this act of *causing* to drive up the share price of Snoopy was achieved through illegal means that is by *sedition* in pursuit to cause the market in Stan to *fall* in the riots and the unrest. It is further submitted that 79% of the shares in Snoopy is held by a pension fund linked to a Brittany State pension fund.²⁹ It is also a fact on record that *'The Chronicles of Shavar'* was financed by a consortium of businessmen from Brittany.³⁰ 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 plummet.³¹ 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 speculators, a fact indicative of the fall in Stan's currency.³² 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 following which the riots broke out across Province B, C and the Eastern Province by **2:00 pm** causing the fall in the market.³³
13. That this fall in the market owing to the riots on **25th June 2021** was so anticipated that on **24th June 2021** itself, in Brittany, the Snoopy announced that it was about to

²⁵ Moot, *supra* note 5 at para. 5

²⁶ Moot, *supra* note 5 at para. 8

²⁷ Moot, *supra* note 5 at para. 22

²⁸ Moot, *supra* note 5 at para. 44

²⁹ Moot, *supra* note 5 at para. 11

³⁰ Moot, *supra* note 5 at para. 21

³¹ Moot, *supra* note 5 at para. 26

³² Moot, *supra* note 5 at para. 28

³³ Moot, *supra* note 5 at para. 31

approach the stock exchange for a fresh listing of shares.³⁴ 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; the market in Stan was conspired to *fall* by destabilizing Stan with riots and unrest and also by pumping the market with supply of shares against the fallen currency of Stan. Varsha caused to be done an act, i.e. driving up the share price of Snoopy by means of sedition, thereby, criminally conspired within the meaning of '**Section 120-A**'³⁵ of the Stan Penal Code. As the explanation to the section quotes, 'it is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.'³⁶ Therefore, **Section 120-A** r/w **Section 120-B** r/w **Section 124-A** r/w **Section 109** holds Varsha punishable under **Section 124-A** of the Stan Penal Code.

14. That it has also been held in the case of *State (N.C.T. Delhi) v. Navjot Sandhu*³⁷ that nationals entering Indian Territory with a view of subverting functions of the Government and de-stabilizing society can be held guilty of waging war under the code.
15. Furthermore, in the case of *Queen Empress v. Bal Gangadhar Tilak*,³⁸ it was held that a person must not make or try to make others feel enmity of any kind towards the government.

1.4 Impact of the speech/ visual representation to be assessed from a perception of 'ordinary prudence'

16. That the impact of the impugned speech/ words/ visual representation is not to be assessed from a perception of a radical or bearing a potential to incite a few anti-social elements in a given society; it is to be seen as to what impact it creates on a man of ordinary prudence or in general estimation of the society. There is sufficient material on record suggesting the inciteful character of the novels and the film from the perspective of an ordinarily prudent man.
17. That in **October 2021**, politicians from the Eastern Province fearing that the *riots* in Province A and E may lead to disruption in water supplies during a particularly hot

³⁴ Moot, *supra* note 5 at para. 29

³⁵ India Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India), *section 120 A*

³⁶ *Ibid.*

³⁷ AIR 2005 Cr LJ 3950 SC; see also: Nazir Khan and Ors. v. State of Delhi, (2003) 8 SCC 461

³⁸ (1898) 22 Bom 112; *see also*: Pankaj Butalia v. Central Board of Film Certification and Ors., (2015) 221 DLT 29

summer demanded an explanation from Varsha.³⁹ In furtherance, the impact of the film ‘*Chronicles of Shavar*’ themed on ‘*Sedition Novels*’ was such that on **12th July 2022**, despite the Prime Minister’s order, the Stan Navy refused to stand down at the ports of the Eastern Province.⁴⁰ That on **17th July 2022**, a team of sappers from the Stan Navy was arrested by the provincial police of Province B from the foothills of the high mountains of Province A and E.⁴¹ They were armed with radioactive pellets and with plans that suggested that they were about to pollute the various sources of potable water for all of Stan by making the water radioactive.⁴² On **18th July 2022**, the sappers made the statements during the investigation that they had been inspired by ‘*The Chronicles of Shavar*’ and by the excesses committed by the Stan army in the Eastern Province, over the past few days.⁴³

18. That it has also been affirmed in the case of *Niharendu Majumdar v. Emperor*⁴⁴ words, deeds or writings constitute sedition, if they have this intention or tendency; and it is easy to see why they may also constitute sedition, if they seek, as the phrase is, to bring government into contempt.⁴⁵

³⁹ Moot, *supra* note 5 at para. 19

⁴⁰ Moot, *supra* note 5 at para. 34

⁴¹ Moot, *supra* note 5 at para. 39

⁴² Moot, *supra* note 5 at para. 39

⁴³ Moot, *supra* note 5 at para. 39

⁴⁴ AIR 1942 FC 22 (26); *see also*: R. v. Sullivan, (1868) 11 Cox CC 44; Emperor v. Ganesh Damodar Savarkar, 1909 SCC OnLine Bom 709; Emperor v. Shankar Shrikrishna Dev, 1910 Cri LJ 546; 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)

⁴⁵ *Ibid.* *see also*: Brij Bhushan and Anr. v. State of Delhi, 1950 SCR 605; R. v. Burns, (1886) 16 Cox 335; King-Emperor v. Sadashiv Narayan Bhalerao, 74 IA 89; Emperor v. Hari Moreshwar Joshi, 1932 Cri LJ 262; L.W. Maher, *Modernizing the Crime of Sedition*, 90 L.H. 201, 203 (2006)

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

19. The Counsel for the respondent most humbly pleads before this Hon'ble court that the Extradition of Varsha (herein the petitioner) was not illegal. Moreover, the order of keeping her extradition to Brittany from Stan can also be very well kept in abeyance.
20. Notwithstanding any claims of the petitioner, it is the established understanding of law, as per the case of *Terlinden v. Ames*,⁴⁶ 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*.⁴⁷
21. It is the established fact that Varsha was accused of sedition, waging war and criminal conspiracy⁴⁸ within the territorial jurisdiction of the courts of Republic of Stan, for which she was extradited to Stan from Brittany as per the 'UN Model Treaty on Extradition'⁴⁹ and Customary International Law of State Cooperation.

2.1 Varsha has been accused of Sedition, Waging War & Criminal Conspiracy as per the Stan Penal Code in the territorial Jurisdiction of Republic of Stan

22. It is most humbly submitted that Varsha (herein the petitioner) has been accused of Sedition, Waging War and Criminal Conspiracy as per the Stan Penal Code in the territorial Jurisdiction of Republic of Stan.
23. Notwithstanding any claims of the petitioner, Varsha (herein the petitioner) herself in several interviews during the production of '*Chronicles of Shavar*' accepted that the film was the closest that any film had come to the philosophy of her novels.⁵⁰ Moreover, in April 2021, she also sold the rights of her novel to the film production company.⁵¹
24. Furthermore, prior to the release of '*The Chronicles of Shavar*', the film producers successfully blocked all attempts of the central government and several Provincial Governments (including the Eastern Province) to preview the film- over and above all

⁴⁶ 184 U.S. 270 (1902)

⁴⁷ *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)

⁴⁸ Moot, *supra* note 5 at para. 37

⁴⁹ United Nations Model Treaty on Extradition, 1990

⁵⁰ Moot, *supra* note 5 at para. 22

⁵¹ Moot, *supra* note 5 at para. 22

ensorship requirements.⁵² On 25th June, 2022, based on the social media messages trickling out of the theaters across Stan, riots has broken out across Province B and Province C, and also in the Eastern Province resulting into the deaths and injury of more than 1500 persons, including women and children in the Province B alone.⁵³

25. Later, when the State of Emergency was declared in the Eastern Province by the Prime Minister of Stan on July 10, 2022,⁵⁴ and Stan Navy ported at Eastern Province was ordered to stand down, the navy refused to follow this order⁵⁵ and subsequently on July 15, 2022, the Chief Minister of Eastern Province declared the Eastern Province to be free and sovereign state and demanded the immediate recognition of the continent.⁵⁶

26. It is fair to infer that all these circumstances took place after the release of ‘*Chronicals of Shavar*’ which was based on the novel written by Varsha (herein the petitioner) which not only resulted in spreading dissatisfaction among the people against the government of Stan but also endangered the territorial sovereignty of the Republic of Stan and thus, constituting the offence of sedition, waging war and criminal conspiracy as per the Stan Penal Code.

27. As per the above-mentioned case of *Terlinden v. Ames*,⁵⁷ extradition can be demanded of a person who is accused of an offence in the territorial jurisdiction of the requesting state who is competent to try and punish the accused.

2.2 Extradition is based on the concept of State Cooperation and Expeditious Extradition was in the Best Interest of Justice

28. It is most humbly pleaded before this Hon’ble Court that the practice of extradition is based on the concept of state cooperation and Expeditious and expeditious extradition of Varsha (herein the petitioner) was in the best interest of justice.

29. As per *section 2 of the Model law on Extradition*,⁵⁸ extradition may be granted by virtue of comity or where, on the *basis of assurances* given by the competent authorities of the requesting State, it can be anticipated that this State would comply with a

⁵² Moot, *supra* note 5 at para. 23

⁵³ Moot, *supra* note 5 at para. 31

⁵⁴ Moot, *supra* note 5 at para. 33

⁵⁵ Moot, *supra* note 5 at para. 34

⁵⁶ Moot, *supra* note 5 at para. 34

⁵⁷ 184 U.S. 270 (1902); see also: John Hopkins, *Extradition. Jurisdiction*, 61 Camb. L. J. 239, 239 (2002); Colm Campbell, *Extradition: The Facts*, 257 F.N. 11, 11 (1987)

⁵⁸ United Nations Model Law on Extradition, 1990, *section 2*

comparable request of [country adopting the law], or where it is otherwise deemed in *the interests of justice* to do so.⁵⁹

30. Notwithstanding any claims of petitioner, the ambassador of Stan to Brittany, on behalf of the Stan Government, stated that Stan is willing to unconditionally undertake that Varsha would not be given death penalty, if found guilty.⁶⁰ Such assurance was as per UN Model Treaty on Extradition,⁶¹ for which Brittany government, themselves, expedited the extradition process of Varsha as a matter of national security⁶² and in the interest of Justice.

31. Moreover, *article 88 of The Geneva Conventions of 1949 and its additional protocols*⁶³ categorically establishes that the *high contracting parties shall co-operate* in the matter of extradition. They shall give due consideration to the request of the state in whose territory the alleged offence has occurred. Even *article 1 of the India – UK extradition treaty*⁶⁴ states that extradition shall be available if the offence is committed in the requested state and the offence in that state carries a minimum sentence of one year. Additionally, *article 4*⁶⁵ of the same treaty gives unequivocal right to contracting state of extradite its nationals for the offences committed in the territorial jurisdiction of the requesting state.

32. Furthermore, as per the case of *Abu Hamza v. Secy. for State for the Home Deptt.*,⁶⁶ the principle of expeditious extradition has been categorically laid down where their lordships observed that where there is overwhelming public interest involved, claimants should be extradited and tried as quickly as possible to be consistent with the interest of justice.⁶⁷ Similar kind of observation was also made in the case of *Minister of Home Affairs of the Commonwealth v. Zentai*,⁶⁸ *Re Castoni Case*⁶⁹ and *Re Meunier's Case*.⁷⁰

⁵⁹ *Ibid.* 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)

⁶⁰ Moot, *supra* note 5 at para. 41

⁶¹ United Nations Model Treaty on Extradition, 2004, *section 2*

⁶² Moot, *supra* note 5 at para. 41

⁶³ The Geneva Conventions of 1949 and Its Additional Protocols, *article 88*

⁶⁴ India-UK Extradition Treaty, 1992, *article 2*

⁶⁵ *Id* at *article 4*

⁶⁶ [2012] EWHC 2736. see also: *Abu Salem v. State of Maharashtra*, (2011) 11 SCC 578

⁶⁷ *Ibid.* see also: *Mobarik Ali Ahmad v. State of Bombay*, AIR 1957 SC 857; *Bhavesh Jayanti Lakhani v. State of Maharashtra*, (2009) 9 SCC 551; *Emperor v. Vinayak D. Savarkar*; (1911) ILR 35 Bom 225

⁶⁸ 2012 HCA 28. See also: *Manjit Singh v. CBI*, AIR 2011 SC 806

⁶⁹ [1891] 1 QB 149; see also: *India v. Badesha*, 2017 SCC 44

⁷⁰ [1894] 2 Q.B. 415

33. Even in the case of *Re Evans*,⁷¹ Lord Templeman held that extradition treaties and legislations are designed to combine speed and justice. Furthermore, the case of *Canada v. Schmidt*⁷² observed that there is nothing wrong in the expeditious extradition of an offender to the requesting state even though the legal system of the other country is different than ours. The judicial and constitutional process of the other country should not be subjected to finicky evaluations against the rules and laws of this country.

2.3 The provisions with regards to Inquiry is only an enabling provision and are not mandatory in nature.

34. The counsel for the respondent most humbly pleads that the provision with regards to inquiry before extradition is only an enabling provision and is not mandatory in nature.

35. As per the case of *Sarabjit Rick Singh v. Union of India*,⁷³ and *Nina Ranjan Pillai and Ors. v. Union of India*,⁷⁴ it was held that holding of an inquiry and related procedures are only an enabling provision and does not cast an obligation on the government of the requested state to order an inquiry in every case of a request to extradite a person.⁷⁵ Thus, the request of extradition could be honored without a judicial scrutiny of the same. The same observation was also upheld in the case of *Joseph Palanivel Jeyapaul v. Union of India*.⁷⁶

36. Furthermore, in the case of *Soering v. United Kingdom*,⁷⁷ it was observed that long procedures and delay in extradition of a person would act as a safe harbor of the accused in the requested state and such establishment of safe harbor for fugitives would not only result in the danger for the state obliged to harbor the protected person but also tend to undermine the foundations of extradition.⁷⁸

⁷¹ 1994 (3) All ER 449

⁷² (1987) 1 SCR 500; see also: GURDIP SINGH, INTERNATIONAL LAW (3rd Ed., 2021)

⁷³ (2008) 2 SCC 417; see also: State of Rajasthan v. N.K (Accused), AIR 2000 SC 1812

⁷⁴ 1997 Cri. L.J. 2359; see also: Niranjan Patel v. Union of India, 2012 IV AD (Delhi) 221

⁷⁵ *Ibid.* See also: Kamlesh Babulal Aggarwal v. Union of India, 2008 (104) DRJ 78; State of Himachal Pradesh v. Gian Chand, (2001) 6 SCC 71; State of M.P. v. Babulal, (2008) 1 SCC 234; Maninder Pal Singh Kohli v. Union of India and Ors., 142 (2007) DLT 209

⁷⁶ 2014 SCC OnLine 2424. see also: Darshan Kumar v. UOI, 73 (1998) DLT 113

⁷⁷ 1989 (11) EHRR 439

⁷⁸ *Ibid.* see also: Abu Salem v. State of Maharashtra, (2011) 11 SCC 214

2.4 Extradition of Varsha to Brittany could be Kept at Abeyance Pending Legal Proceedings within the Territorial Jurisdiction of Republic of Stan.

37. It is most humbly pleaded before this Hon'ble Supreme Court of Stan that extradition of Varsha (herein the petitioner) to Brittany could be kept at abeyance pending legal proceedings of the charge of sedition, waging war and criminal conspiracy as per the Stan Penal Code within the territorial jurisdiction of Republic of Stan.
38. Notwithstanding any claims of the petitioner, it is an established fact that Varsha is facing the charges under Stan Penal Code for which not only her sentencing is also pending by the Hon'ble High Court⁷⁹ but this Hon'ble Court itself will determine the final liability in this ongoing legal proceeding against the charges framed on the petitioner.
39. Since these legal proceedings against Varsha (herein the petitioner) are pending in the territorial jurisdiction of Republic of Stan, the government of Stan is well within its rights to keep the extradition of Varsha to Brittany in abeyance.
40. As per the inference of *section 18 of the Extradition Act, 1962*,⁸⁰ central government can keep an extradition of the person on abeyance as the said provision empowers the central government of Republic of Stan to choose the appropriate time for the extradition of the accused.
41. Moreover, as per the case of *Dr. Vijay Mallya v. State Bank of India*,⁸¹ the extradition of the accused was sought by India in 2017 and his case was laid before the Westminster's Court of London. In 2018, the court ordered his extradition to India and his appeal at High Court of London was also rejected; however, he has not been brought to India yet due to ongoing legal proceedings in the Superior Court.
42. Thus, based on the above-mentioned legal provisions and precedents, it can affirmatively be concluded that the extradition of Varsha (herein the petitioner) was not illegal. Moreover, the order of keeping her extradition to Brittany from Stan can also be very well kept in abeyance

⁷⁹ Moot, *supra* note 5 at para. 47

⁸⁰ Extradition Act, 1962, No. 34, Acts of Parliament, 1962 (India), *section 18*

⁸¹ (2020) 20 SCC 100

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 **uphold**, 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 valid 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 RESPONDENT