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**THE K.K. LUTHRA MEMORIAL MOOT COURT, 2025**

*February 21, 2025 to February 23, 2025*

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**BEFORE THE HON'BLE HIGH COURT OF MODA AT DELPHI**

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**In the matter of**

**CRIMINAL APPEAL NO. 634/2024**

**Mr. Yaraa Mixol**

**.....APPELLANT**

**v.**

**State of Moda**

**....RESPONDENT**

**And**

**CRIMINAL APPEAL NO. 1214/2024**

**State of Moda**

**.....APPELLANT**

**v.**

**Mr. Yaraa Mixol**

**....RESPONDENT**

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**UNDER SECTION 415 OF THE IONIAN CRIMINAL PROCEDURE CODE**

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**MEMORANDUM *on* BEHALF *of* APPELLANT**

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**STATEMENT OF FACTS****BACKGROUND**

The Democratic Republic of Ionia, comprising three major states, has notable economic and historical divisions. Moda, an economically advanced state with a majority Ionian ethnic population, contrasts starkly with the underdeveloped Mixolydia, populated by the minority Mixo ethnic group. Political tensions escalated under Prime Minister Ms. Melody Moore of the Ionian People's Party, whose government marginalized Mixolydia, leading to growing pro-independence sentiment.

**THE INCIDENT**

On June 4, 2024, during an election campaign by the Prime Minister Ms. Melody Moore in Ionian's capital, Delphi, a black paintball pellet narrowly missed Prime Minister Melody but struck a commando who later succumbed to injuries from the ensuing stampede. Five individuals in Mixolydian-flag T-shirts were detained, and Mr. Yaara Mixol, a Mixolydian historian and activist, became the prime suspect based on an AI-driven Crime 360 report.

**THE INVESTIGATION**

The Digital Police force employed the Crime 360 Suite, which identified Mr. Yaara Mixol as a 92% likely perpetrator using facial recognition and predictive analytics. Other shreds of evidence included a recovered paintball gun, social media activity, seizure from the residence of Mr. Yaara Mixol statements linking him to the pro-independence Neo-MPR group. However, no direct eyewitnesses confirmed seeing Mr. Yaara commit the act.

**TRIAL**

Mr. Yaara Mixol faced trial under multiple sections of the IPC, primarily supported by the Crime 360 analysis. Despite objections over the AI's reliability and the denial of access to its source code and datasets, Ld. Trial court admitted the evidence, convicting Mr. Yaara Mixol u/s 61, 102 read with sec.105 and 189(4). He was sentenced to seven years of rigorous imprisonment, along with an additional two years for the offence u/s 189(4). His appeal and the state's counter-appeal remain pending before the Hon'ble High Court of Moda.



**SUMMARY OF ARGUMENTS****1. WHETHER THE CRIME 360 REPORT IS INADMISSIBLE AS EVIDENCE?**

It is humbly submitted before this Hon'ble Court that the Crime 360 report is inadmissible as evidence. The report was prepared against Mr. Yaara Mixol using material collected in violation of his fundamental rights. Additionally, the denial for datasets and source code prevented the defence from challenging the reliability and accuracy of the evidence, violating the principles of a fair trial. The Crime 360 report lacks independent validation and may be biased due to undisclosed training data.

**2. WHETHER THE CONVICTION OF THE APPELLANT UNDER SECTION 61, 102 READ WITH SECTION 105 OF THE IPC IS BAD IN LAW?**

It is most humbly submitted before this Hon'ble Court that the conviction u/s 61, 102 read with Section 105 of I.P.C is *per incurium* as the prosecution failed to establish the essential elements of the offence i.e., *actus reus* and *mens rea* of the accused. Also, the shreds of evidence on record cannot form a firm basis for the conviction. The statement to the police by Mr. Yaara was inadmissible and the prosecution failed to establish a reasonable hypothesis. Moreover, faulty investigation may result in the prima facie exoneration of the accused.

**3. WHETHER THE APPELLANT IS LIABLE FOR CONVICTION UNDER SECTION 103(1) IPC?**

It is humbly submitted that the appellant is not liable for the conviction u/s 103(1) as the prosecution has not provided sufficient evidence to prove the accused's *actus reus* and *mens rea*. The appellant emphasizes that the charge u/s 103(1) imposes a higher burden of proof, which the prosecution has not met, and any enhancement of the conviction would be unjust and unsupported by evidence.

**4. WHETHER THE CONVICTION OF THE APPELLANT UNDER SECTION 189(4) IPC IS BAD IN LAW?**

It is humbly submitted that the order of the Ld. Trial court convicting Mr. Yaara u/s 189(4) is *per incurium* as the prosecution has failed to prove that Yaara Mixol was part of the unlawful assembly. Additionally, there is no other evidence to conclusively prove that Mr. Yaara was carrying the deadly weapon with him. Thus, his conviction should be set aside.

## WRITTEN PLEADINGS

**1. WHETHER THE CRIME 360 REPORT IS INADMISSIBLE AS EVIDENCE?**

¶ 1. The government of Ionia implemented Crime 360 which was rolled out by April 2024,<sup>1</sup> to facilitate an effective investigation and it was used for the very first time during the investigation of offence Report No. 67/2024 which was registered at Delphi Central on 04.06.2024 against Mr. Yaara Mixol and five others for the commission of offence u/s 189/190/191/61/49/103/109 of the Ionian Penal Code (*hereinafter "IPC"*).<sup>2</sup> Based on the said report, the police officers arrested Mr. Yaara Mixol which was relied on as a primary piece of evidence in the chargesheet.<sup>3</sup> Subsequently, he was convicted u/s 102 read with sections 105 and 189(4) of the IPC by the Ld. Trial Court.<sup>4</sup> The Appellant by way of the present appeal challenges the final order and judgment passed by Ld. Trial Court convicting Mr. Yaara Mixol and further reiterates his innocence.

¶ 2. It is humbly submitted before this Hon'ble Court that the Crime 360 report is inadmissible in the court of law. The Crime 360 report was prepared based on data collected which has been procured by [1.1.] *infringing the fundamental rights and the same is inadmissible. [1.2.] Also, the trial was not conducted in a fair manner, thus warranting the acquittal of Mr. Yaara Mixol.*

**1.1.THE CRIME 360 REPORT IS IN CONTRAVENTION OF PART-III OF THE CONSTITUTION OF IONIA.**

¶ 3. Crime 360 is an advanced AI policing tool that gives results by analysing data collected by integrating government databases and records as well as the collection of measurements of the accused in pursuance of the Ionian Criminal Identification Act, 2024 (*hereinafter "ICIA"*).<sup>5</sup> [1.1.1] *It is submitted that the integration of government databases & records and measurements collected violates the Right to Privacy guaranteed under Article 21 of the Constitution. [1.1.2] Further, the collection of measurements under ICIA is in violation of Article 20 of the Constitution.*

<sup>1</sup> Moot Proposition, at 2, ¶ 6.

<sup>2</sup> *Id.* at 3, ¶ 09.

<sup>3</sup> *Id.* at 4, ¶ 13.

<sup>4</sup> *Id.* at 5, ¶ 20.

<sup>5</sup> *Id.* at 2, ¶ 06.

***1.1.1 The integration of government databases & records and measurements collected violates Right to Privacy.***

¶ 4. It is submitted that the methodology employed in the integration of data and collection of measurements according to sec.1(a) & 2 of ICIA raises significant concerns regarding the violation of the right to privacy.<sup>6</sup> The operation of Crime 360, demonstrates systemic partiality and necessitates the integration of all government databases and records without the free consent to formulate comprehensive 360-degree profiles of citizens.<sup>7</sup> Subsequently, sec.2 of the ICIA gives power to the Digital Police Force (*hereinafter “DPF”*) to collect and store records and as per Section 1(1)(c), the DPF is a specialised police unit for computerised and artificial intelligence-based investigations,<sup>8</sup> which collects and analyzes sensitive personal data, including faceprint, geolocation data, behavioural patterns, and social media activity, without obtaining informed consent. The infringement of privacy arises from the invasive and surveillance nature and the lack of safeguards in the integration of databases, and the unregulated use of artificial intelligence in criminal investigations.<sup>9</sup>

¶ 5. The invasive nature of this surveillance contravenes the principles of autonomy and data protection, both essential components of the right to privacy established in *Justice K.S. Puttaswamy v. Union of India* (2017).<sup>10</sup> The Hon’ble Court reiterated the inclusion of informational privacy (including biometric and other personal data) is well within the right to privacy. Additionally, the collection and use of sensitive personal information under provisions of ICIA are unconstitutional as they fail to satisfy the four-fold test of proportionality laid down in *KS Puttaswamy v. Union of India* (2019)<sup>11</sup> which are mentioned hereunder:

***i. Restriction on the right must be with a reasonable objective.***

¶ 6. While the ICIA’s objective was to address legal gaps in using Crime 360 and facilitate the collection of measurements for criminal investigations,<sup>12</sup> it fails to achieve this purpose in a constitutionally valid manner. The Act’s overbroad scope, encompassing individuals without clear links to criminal activity, coupled with its reliance on unverified and opaque Crime 360 software, undermines its effectiveness and proportionality.

<sup>6</sup> Ionian Criminal Identification Act, §§ 1(1)(a), 2, Moot Proposition, at 14.

<sup>7</sup> Moot Proposition, at 2, ¶¶ 5, 6.

<sup>8</sup> Ionian Criminal Identification Act, §§ 1(1)(c), 2(1)(a), Moot Proposition, at 14.

<sup>9</sup> Ramanpreet Kaur, Dušan Gabrijelečić & Tomaž Klobučar, Artificial Intelligence for Cybersecurity: Literature Review and Future Research Directions, 97 Info. Fusion 101804 (2023).

<sup>10</sup> K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 S.C.C. 1.

<sup>11</sup> K.S. Puttaswamy (Aadhaar-5J.) v. Union of India, (2019) 1 S.C.C. 1; *see also*; Modern Dental College & Research Centre v. State of M.P., (2016) 7 S.C.C. 353.

<sup>12</sup> Moot Proposition, at 2, ¶ 6.

***ii. Absence of rational connection between means and ends of the ICIA.***

¶ 7. In the present case, there is no rational nexus between the likelihood of future or past crimes and the broad categories of individuals compelled to provide measurements under sec. 2, 4 & 5 of the ICIA.<sup>13</sup> The Act indiscriminately includes convicts of all offences, detainees, arrestees, and even those merely involved in criminal investigations, without demonstrating a concrete link to the necessity of biometric data collection. This overbroad approach fails to distinguish between individuals likely to pose a threat and those who do not, thereby casting an unreasonably wide net.

***iii. It does not pass the test of necessity.***

¶ 8. The extent of infringement of the right to privacy is not necessary for attaining the legitimate aim. Taking and storing of data of those person who are mere suspects of investigation is against the test of necessity. The Act does limit the duration for storage of the measurements as well as the record of measurements for 75 years,<sup>14</sup> however, the duration of storage is equivalent to almost the life expectancy of individuals in the country.<sup>15</sup> Thus, the Act would be violating rights of individuals almost for their whole life.

***iv. There is a disproportionate impact on the right holder.***

¶ 9. The Act disproportionately collects data and impacts the right to privacy. The inclusion of measurements, the extension of the Magistrate's powers to compel anyone, and not mentioning any specific uses of measurements and their database records, raises the question of whether the 'measurements' are to be used as evidence or for obtaining evidence. Additionally, sections 2 & 4 allow for blanket collection, storage, processing, use and sharing of measurements without any gradation based on guilt, degree of criminality, and the nature of the offence. The ICIA gives excessive powers to collect and retain measurements, without distinguishing between convicts and suspects, and fails to strike a fair balance between individual rights and the legitimate aim.

***1.1.2 Violation of the right against self-incrimination***

¶ 10. It is submitted before the Hon'ble Bench that the ICIA and Crime 360 violate Article 20(3) of the Constitution which guarantees protection against self-incrimination.<sup>16</sup> This article states that no person accused of any offence shall be compelled to be a witness against himself,

<sup>13</sup> Ionian Criminal Identification Act, §§§ 2, 4, 5, Moot Proposition, at 14, 15.

<sup>14</sup> Ionian Criminal Identification Act, § 2(2), Moot Proposition, at 14.

<sup>15</sup> World Health Organization, India [Country Overview], data.who.int (2024), available at <https://data.who.int>. (Last accessed Dec. 19, 2024).

<sup>16</sup> INDIA CONST. art. 21, cl. 3 (1949).

encompassing protection against coercive self-incrimination methods in criminal investigations.<sup>17</sup>

¶ 11. The Hon'ble Supreme Court of India has interpreted the scope of Article 20(3) expansively to include not only testimonial evidence but also physical evidence obtained through coercive or involuntary means. The leading case on self-incrimination is the *State of Bombay v. Kathi Kalu Oghad*,<sup>18</sup> where the Court distinguished between “testimonial compulsion” protected under Article 20(3) and the collection of physical evidence. Evidence that is procured by any improper and unfair means or by violating fundamental rights should be inadmissible in the eyes of the law.<sup>19</sup>

¶ 12. In the instant case, the ICIA sec. 2, 4 and 6 authorize the DPF to collect a wide array of measurement data.<sup>20</sup> All such data was obtained without consent and after compelling Mr. Yaara Mixol.<sup>21</sup> Thus, it should be viewed as coerced self-incrimination, especially when this data directly connects an individual to alleged criminal activity, as it did with the Crime 360 report integrating it with all government records and taking forced consent from the appellant.<sup>22</sup> Collecting biometric data like faceprints and iris scans without the individual's consent falls within the scope of coerced testimonial evidence, as this data is then used to establish direct links to criminal acts. Since the appellant's faceprint was obtained against his will, it constitutes compelled evidence, violating Article 20(3).

### **1.2.THE PRINCIPLE OF FAIR TRIAL HAS BEEN VIOLATED.**

¶ 13. The source code of the Crime 360 report and its data sets were denied to the accused by the prosecutor which created uncertainty regarding the potential biases and discriminated targeting that the Crime 360 application might possess as it barred the counsel for the accused from examining the expert witness about the reliability of the same.<sup>23</sup> It is submitted before this Hon'ble bench that the [1.2.1] *denial of the essential documents to be supplied to the accused violates the principles of fair trial*. Additionally, [1.2.2] *The reliance on the Crime 360 report which possesses potential biases violates the principle of fair trial*.

<sup>17</sup> Balkishan A. Devidayal v. State of Maharashtra, (1980) 4 S.C.C. 600.

<sup>18</sup> State of Bombay v. Kathi Kalu Oghad, 1961 SCC OnLine SC 74; *see also*; Ritesh Sinha v. State of U.P., (2019) 8 S.C.C. 1.

<sup>19</sup> R.M. Malkani v. State of Maharashtra, (1973) 1 S.C.C. 471.

<sup>20</sup> Ionian Criminal Identification Act, §§§ 2, 4, 6, Moot Proposition, at 14, 15.

<sup>21</sup> Moot Proposition, at 4, ¶ 12.

<sup>22</sup> *Id.* at 2, ¶ 06.

<sup>23</sup> Moot Proposition, at 4, ¶ 14.

*1.2.1 Denial of relevant documents to the accused violates the principle of fair trial.*

¶ 14. The investigation, prosecution and sentencing of Mr. Mixol were all done based on the Crime 360 report and the Ld. trial court convicted him while admitting the same report which made identification of him as the perpetrator.<sup>24</sup> The denial of access to the same in the trial stage is a significant violation of the appellant's right to a fair trial, as it impedes the ability to effectively cross-examine and challenge the reliability of the evidence presented against him.<sup>25</sup> A conviction resulting from an unfair trial is contrary to the concept of Justice.<sup>26</sup> The Failure to hear material witnesses and examine the evidence is certainly a denial of fair trial.<sup>27</sup>

¶ 15. The lawyers of Mr. Mixol filed an application u/S 230 of the CRPC<sup>28</sup> which mandates the supply of relevant documents to the accused, seeking a copy to the source code of the Crime 360 application, which consists of the programmer's instructions for the program to execute specific tasks,<sup>29</sup> along with the datasets on which the application is trained to work upon and renders results,<sup>30</sup> to which the prosecutor had refused stating that the same was not relied upon. On the contrary, in the course of the Trial, the Crime 360 report was tendered as a primary piece of evidence,<sup>31</sup> by the PW/34 Inspector David Dhawan of Digital Police Force along with a Section 63 certificate of Indian Evidence Act.<sup>32</sup>

¶ 16. He deposed in his cross-examination that the algorithms of the Crime 360 application work with absolute precision based on the inputs available in its dataset and accordingly render results, and that this was the first case in which the suspect was identified from a Crime360 report and therefore any potential problems with this tool may not be unearthed and conviction on the basis of such report is bas in the eyes of law.<sup>33</sup>

¶ 17. A fair trial entails the right to information necessary for mounting an effective defence.<sup>34</sup> Crime 360 application is based on machine learning algorithms,<sup>35</sup> and datasets that remain undisclosed and lack good data, or poor quality, incomplete, or biased datasets can

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<sup>24</sup> *Id.* at 5, ¶ 20.

<sup>25</sup> *Id.* at 6, ¶ 21.

<sup>26</sup> *Ajay Kumar Choudhary v. Union of India*, (2015) 7 S.C.C. 291.

<sup>27</sup> *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 S.C.C. 158.

<sup>28</sup> *Bhartiya Nyay Sanhita*, § 230 (2023).

<sup>29</sup> Andrew D. Mitchell, Dominic Let & Lingxi Tang, *AI Regulation and the Protection of Source Code*, 31 *Int'l J. L. Info. Tech.* 283, 283-301 (2023), <https://doi.org/10.1093/ijlit/eaad026>.

<sup>30</sup> Moot Proposition, at 4, ¶ 14.

<sup>31</sup> *Id.* at 4, ¶ 13.

<sup>32</sup> *Id.* at 4, ¶ 15.

<sup>33</sup> *Id.* at 4, ¶ 16.

<sup>34</sup> *Natasha Singh v. CBI*, (2013) 5 S.C.C. 741.

<sup>35</sup> Document A, Moot Proposition, at 07, ¶ FaceTracer™.

potentially produce inequitable results in algorithmic systems.<sup>36</sup> In *casu*, the prosecution heavily relied on the Crime 360 report to prosecute the appellant,<sup>37</sup> denying access to key evidence such as the source code and datasets of Crime 360 contravenes this principle.

***1.2.2 Biasness in Crime 360 report violates the principle of fair trial.***

¶ 18. It is submitted before this Hon'ble bench that the use of the Crime 360 application, poses serious legal challenges due to its black-box nature, where the underlying decision-making process of the AI system is opaque, inaccessible, lacks transparency and can be influenced by flawed data, biases, or statistical errors.<sup>38</sup> The Crime 360 application produced a 92% likelihood that the appellant was involved in the crime based on facial recognition and other components of the Crime 360.<sup>39</sup>

¶ 19. Crime360 has three components i.e., FaceTracer, ToughTalk and CrimeForecaster which work on algorithms like State-of-the-art, Natural Language Processing and predictive algorithms<sup>40</sup> which in general possess bias and only target a single ethnicity which in this case is Mixolydian. According to various experts and international AI committees have observed that the biggest source of unfair bias is inappropriate 'training data',<sup>41</sup> the data from which the algorithm learns and identifies patterns and the statistical rules to which the algorithm applies.<sup>42</sup> The way that training data are selected by algorithm developers can be susceptible to subconscious cultural biases, especially where population diversity is omitted from the data.

¶ 20. Biases arising from social structures can be embedded in datasets at the point of collection, meaning that data can reflect these biases in society.<sup>43</sup> The detention of 300 Mixolydian youth<sup>44</sup> is the living example of biasness of the AI Tool and the labelling of Mixolydian neighbourhoods as "high-risk areas".<sup>45</sup> The use of AI tools without transparency in data selection and training can result in discriminatory outcomes, particularly against

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<sup>36</sup> NIST, NIST Special Publication 1270: Framework for Cyber-Physical Systems (2021), <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.1270.pdf>.

<sup>37</sup> Moot Proposition, Page 4, ¶ 13.

<sup>38</sup> Council of Europe, Discrimination, *Artificial Intelligence and Algorithmic Decision-Making* (2020), <https://rm.coe.int/discrimination-artificial-intelligence-and-algorithmic-decision-making/1680925d73>.

<sup>39</sup> Moot Proposition, at 3, ¶ 10.

<sup>40</sup> Document A, Moot Proposition, at 07, 08.

<sup>41</sup> Emilio Ferrara, Fairness and Bias in Artificial Intelligence: A Brief Survey of Sources, Impacts, and Mitigation Strategies, 6 Sci. 3 (2024), <https://doi.org/10.3390/sci6010003>.

<sup>42</sup> U.K. Parliament. Science and technology Committee: Robotics and Artificial Intelligence (2016), <https://publications.parliament.uk/pa/cm201617/cmselect/cmsctech/145/145.pdf>.

<sup>43</sup> Z. Chen, *Ethics and Discrimination in Artificial Intelligence-Enabled Recruitment Practices*, 10 Humanit. & Soc. Sci. Commun. 567 (2023), <https://doi.org/10.1057/s41599-023-02079-x>.

<sup>44</sup> Moot Proposition, at 02, ¶ 07.

<sup>45</sup> Document B, Moot Proposition, at 9, ¶ 2.

minority communities.<sup>46</sup> The reliance on such evidence without transparency violates the right to fair trial.

## 2. WHETHER THE CONVICTION OF THE APPELLANT UNDER SECTION 61, 102 READ WITH SECTION 105 OF THE IPC BAD IN LAW?

¶ 21. The Ld. Trial Court convicted Mr. Yaara Mixol u/s 189(4) and 102 r/w 105 of the Indian Penal Code (*hereinafter "I.P.C"*). The court ruled in favour of the admissibility of the said report and found that it made identification of Mr. Yaara and was reliable and accurate.<sup>47</sup> It is humbly submitted before this Hon'ble High Court of Madras that the Ld. Trial Court erred in convicting Mr. Yaara. The prosecution has failed to establish the guilt and the judgment delivered by the Ld. Trial Court is erroneous as **[2.1.] the essential elements of the charges are not satisfied, [2.2.] the case is not proved beyond all reasonable doubt, [2.3] the accused person was not a part of a criminal conspiracy.**

### 2.1.THE ESSENTIAL ELEMENTS OF THE CHARGES ARE NOT SATISFIED.

¶ 22. It is humbly submitted before this Hon'ble Court that there is ample evidence to conclude that Mr. Yaara has been wrongfully convicted for the offence of culpable homicide. In *casu*, it is contended that there is no satisfactory evidence to establish the presence of the appellant at the place of incidents. Therefore, the accused shall be acquitted as **[2.1.1.] the element of actus reus is absent in the present matter, and [2.1.2.] the prosecution has failed to establish the mens rea.**

#### 2.1.1 The element of actus reus is absent in the present matter.

¶ 23. A physical element of crime is called *actus reus*.<sup>48</sup> There are no 'thought crimes' i.e., crime without actus reus is not possible.<sup>49</sup> When a person, by an act or omission, does anything that results in the death of another person, he can only be held guilty of murder if it is clear that he has killed the victim.<sup>50</sup> When the Court is not satisfied by the prosecution's story and even if the Court is also not adequately satisfied by the accused's story, the conviction in such cases will be against the law.<sup>51</sup> In the present matter, Mr. Yaara was convicted and the Ld. Trial Court failed to appreciate the line of defence of the accused as well as the lacunas in prosecution theory. It is submitted that Mr. Yaara Mixol did not inflict any injury on the deceased, as **[i.]**

<sup>46</sup> IBM, Shedding Light on AI Bias with Real-World Examples (Nov. 23, 2020), <https://www.ibm.com/think/topics/shedding-light-on-ai-bias-with-real-world-examples>.

<sup>47</sup> Moot Proposition, at 05, ¶ 20.

<sup>48</sup> C.K. Jaffer Sharief v. State, (2013) 1 S.C.C. 205.

<sup>49</sup> R. Balakrishna Pillai v. State of Kerala, (2003) 9 S.C.C. 700.

<sup>50</sup> Rajiv v. State of Rajasthan, (1996) 2 S.C.C. 175.

<sup>51</sup> State of W.B. v. Orilal Jaiswal, (1994) 1 S.C.C. 73.



*testimonies given by the witnesses are irrelevant [ii.] the presence of Mr. Yaara Mixol near the place of the incident is uncertain.*

*i. Testimonies given by the witnesses are irrelevant.*

¶ 24. It is submitted that the whole case of the Respondent herein before the Ld. Trial Court was based on circumstantial evidences as there is no eye witness in the present case. In such situation, the circumstantial evidence becomes important. In case of circumstantial evidence, the chain that proves the guilt of the accused person is the cumulative result of all the circumstances which must unerringly point to the guilt of the accused and one circumstance by itself.<sup>52</sup> The chain of events must unequivocally establish the presence of the accused at the crime scene beyond reasonable doubt.<sup>53</sup>

¶ 25. *In casu*, the testimonies rendered by all the prosecution witnesses do not establish that Mr. Yaara has committed the crime. The testimonies on which Ld. Trial court put reliance are only corroborative to the extent that Mr. Yaara might be present in the event and not that he has committed any illegal act which led to the loss of life as [a.] *testimonies of PW/4 and PW/5 does not hold a required degree of probative value* [b.] *Testimony of PW/53 does not indicate guilt of Mr. Yaara Mixol.*

*a. Deposition of Prosecution witnesses 4 and 5 are not eye witness.*

¶ 26. It is humbly submitted that the present case is of circumstantial evidences and there were no eye witness in the present case and the testimonies of PW4 & 5 do not hold probative value as the link in the chain of circumstances is necessary to be established in case of circumstantial evidence,<sup>54</sup> However, in the present matter, the testimonies merely indicate to the extent that Mr. Yaara was present at the event, as they saw him in a corner behind the crowd, but the identification was based on the public TV appearances, which makes the same doubtful.<sup>55</sup> Further, the person who committed the offence was near the stage in a black sweatshirt with a mask over his nose.<sup>56</sup>

¶ 27. Also, where a witness identifies an accused who is not known to him in the Court for the first time, his evidence is valueless unless there has been a previous test identification

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<sup>52</sup> Gade Lakshmi Mangraju v. State of A.P., 2001 CrLJ 3317, ¶ 23 (S.C.); *see also*; Gade Lakshmi Mangaraju v. State of A.P., (2001) 6 S.C.C. 205.

<sup>53</sup> Hargovandas Devrajbhai Patel & Ors. v. State of Gujarat, (1998) 9 S.C.C. 17; *see also*; Baldev Singh v. State of Haryana, (2008) 14 S.C.C. 768; Rajendra Pralhadrao Wasnik v. State of Maharashtra, (2012) 4 S.C.C. 37; Jagroop Singh v. State of Punjab, (2012) 11 S.C.C. 768.

<sup>54</sup> Lachi Ram v. State of Punjab, A.I.R. 1967 S.C. 792.

<sup>55</sup> Moot Preposition, at 4, ¶ 17.

<sup>56</sup> *Id.* at 3, ¶ 10.

parade (*hereinafter* “TIP”) to test his power of observation.<sup>57</sup> *In casu*, no TIP was conducted, PW 4 and 5 before the trial.<sup>58</sup> Thus, the witnesses presented by respondents have no credibility. Therefore, the accused cannot be held guilty based on their testimonies.

*b. Testimony of PW/53 does not indicate the guilt of Mr. Yaara Mixol.*

¶ 28. A confessional statement made to a police officer or while in his custody is not admissible in evidence against the accused,<sup>59</sup> Only so much of recovery, as a result of the disclosure statement, which directly pertains to the commission of a crime is relevant.<sup>60</sup> Also, the law is well settled that the prosecution while relying upon the confessional statement leading to the discovery of the article, has to prove through cogent evidence that the statement has been made voluntarily and leads to the discovery of the relevant facts.<sup>61</sup> Moreover, the presence of two independent witnesses becomes imperative, to reinforce the credibility of the discovery.<sup>62</sup>

¶ 29. *In casu*, PW/53 deposed that the accused voluntarily declared his wish to get the weapon recovered, gave a detailed description of the gun, and got it recovered but the accused person denied giving his facial print<sup>63</sup> after his arrest and also denied the allegations against him, this raises concern about the statement being voluntary.

¶ 30. Further, while making recoveries pursuant to the disclosure statement of the accused it is a rule of caution that it should bear the signature of two independent public witnesses which aims at protecting the rights of the accused by ensuring transparency and credibility in the investigation of a criminal case,<sup>64</sup> but the same is also not complied with by PW/53 while preparing recovery and pointing out memo. Additionally, during the search of the accused house, there was irregularity in the investigation as no independent witnesses were made witnesses and no audio and video recording was done, which affected the weight of the evidence in support of the search.<sup>65</sup> Therefore, the appellant humbly submits that the testimony of PW/53 cannot be relied upon to hold Mr. Yaara guilty.

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<sup>57</sup> Kanan v. State of Kerala, (1979) 3 S.C.C. 319.

<sup>58</sup> The K.K. Luthra Memorial Moot Court 2025, Clarification No. 79.

<sup>59</sup> Bharatiya Sakshya Adhiniyam, § 23 (2023).

<sup>60</sup> Jaffar Hussain Dastagir v. State of Maharashtra, (1969) 2 S.C.C. 872; *see also*; Delhi Admn. v. Bal Krishan, (1972) 4 S.C.C. 659.

<sup>61</sup> Devarla Murali v. State of A.P., 2020 SCC OnLine AP 597.

<sup>62</sup> Ramanand v. State of U.P., 2022 SCC OnLine SC 1396, ¶ 53.

<sup>63</sup> Moot Proposition, at 4, ¶ 12.

<sup>64</sup> Mukesh v. State (NCT of Delhi), (2017) 6 S.C.C. 1; *see also*; (2017) 2 S.C.C. (Cri) 673; 2017 SCC OnLine SC 533, at 228.

<sup>65</sup> Matajog Dobey v. H.C. Bhari, (1955) 28 I.T.R. 941.

**ii. *The presence of Yaara Mixol near the place of the incident is uncertain.***

¶ 31. It is a settled law that suspicion is not a substitute for proof.<sup>66</sup> In cases where two views are possible the one favouring the accused person is taken into account.<sup>67</sup> *In casu*, the Ld. The trial court while convicting Mr. Yaara put their reliance on the Crime 360 report, which gave identification of Mr. Yaara as the perpetrator of the offence. The appellant humbly submits that the same is inadmissible also, there is no independent corroborative evidence.<sup>68</sup> To establish the presence of the accused near the place of incident. Thus, the element of *actus reus* is not established and therefore, the accused person cannot be held guilty based on merely the crime 360 report.

**2.1.2 Prosecution has Failed to establish the *Mens Rea*.**

¶ 32. For murder, proof of a real state of mind is required.<sup>69</sup> The prosecution has to satisfy the Court that the person arrayed had the requisite state of mind when the accused did the fatal act.<sup>70</sup> *In casu*, the prosecution has no direct or circumstantial evidence to show that Mr. Yaara had the guilty mind or intention to commit the offence he is convicted under as [i.] *no evidence to show intension of Mr. Yaara*, and [ii.] *motive is important in cases of circumstantial evidence*.

**i. *Intention is not established in the present case.***

¶ 33. *Mens rea* is considered as guilty intention,<sup>71</sup> Which is proved or inferred from the acts of the accused<sup>72</sup>. It is not tangible but has culled out from all surrounding circumstances such as the existence of a motive, the weapon with which assault is made, etc.<sup>73</sup>. The mental element in culpable homicide, i.e., the mental attitude of the agent towards the consequences of his conduct is one of intention or knowledge.<sup>74</sup>

¶ 34. In the present case, the recovery of the weapon does not indicate the guilt of the accused person.<sup>75</sup> also intention is the final aim that the person wants to achieve by his action<sup>76</sup> and the prosecution has failed to establish *actus reus* sufficiently, and just because the prosecution witness deposed that Mr. Yaara was in the event which is further not corroborated

<sup>66</sup> Varkey Joseph v. State of Kerala, 1993 Supp. (3) S.C.C. 745.

<sup>67</sup> State of H.P. v. Prakash Chand, 1997 Cri L.J. 197 (H.P.).

<sup>68</sup> Sarwan Singh S/o Rattan Singh v. State of Punjab, A.I.R. 1957 S.C. 637.

<sup>69</sup> J. Ramulu v. State of A.P., (2009) 16 S.C.C. 432.

<sup>70</sup> D. Ormerod, Smith & Hogan, Cases and Materials on Criminal Law 560 (9th ed., Oxford 2006).

<sup>71</sup> Commissioner of Income Tax v. Patranu Dass Raja Ram Beri, A.I.R. 1982 P&H 1.

<sup>72</sup> State of Maharashtra v. Meyer Hans George, A.I.R. 1965 S.C. 722.

<sup>73</sup> Hemchand v. State of M.P., 2016 Cr.L.J. 2826, at 2829-30 (Chhatt.).

<sup>74</sup> Ram Kumar v. State of Rajasthan, I.L.R. 19 Raj. 626, at 633; A.I.R. 1970 Raj. 70.

<sup>75</sup> Delhi Admn. v. Bal Krishan, (1972) 4 S.C.C. 659.

<sup>76</sup> Commissioner of Income-Tax v. Patram Dass Raja Ram Beri, 1981 SCC OnLine P&H 158.

by any other evidence, and his tweets.<sup>77</sup> Other recoveries on which the prosecution put reliance are not sufficient to establish *actus reus*. Unless it is not established that the deceased died because of the actions of Mr. Yaara and there is a connection between the act and Mr. Yaara *mens rea* cannot be established. *Therefore, the appellants humbly submit that the respondent has failed to prove mens rea on the part of Mr. Yaara.*

***ii. Motive is important in cases of Circumstantial Evidence.***

¶ 35. Motive is the cause that moves people to induce a certain action.<sup>78</sup> Existence of motive, even if not an essential component in proof of the offence,<sup>79</sup> Assumes important where direct and credible evidence is not available and the case rests on circumstantial evidence.<sup>80</sup> The mere suspicion of motive cannot serve as a sufficient ground for framing the charges in the absence of any material on record.<sup>81</sup> In cases, like the present case based on circumstantial evidence, motive bears an important significance.<sup>82</sup>

¶ 36. *In casu*, the report,<sup>83</sup> and the constant urge to get independence and demand for self-determination are bare the evidence on which motive has been established but just because he is vocal and putting his thoughts, merely on this basis it cannot be established that Mr. Yaara has the motive to commit the crime. He was targeted for his social work for the upliftment of the poor Mixolydian forest dwellers and fisherfolk.<sup>84</sup>

¶ 37. In *arguendo*, motive by itself is not sufficient to prove the guilt of the accused it must be followed by some guilty act.<sup>85</sup> In the present case, the report of Crime 360 establishes hatred and vengeance on the part of Mr. Yaara and the tweets along with the TV interviews. Even if these might give rise to suspicions of having a sufficient motive, the accused's enviousness and the existence of a such report and tweets alone do not amount to *mens rea* since no action on their part can be connected to the alleged reason. The accused must have done an act that is adequately related to the motive. Therefore, the motive is breaking the chain and does not connect the accused with the alleged crime.

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<sup>77</sup> Document G, Moot Proposition, at 16-18.

<sup>78</sup> Bryan A. Garner, *Black's Law Dictionary* 456 (8th ed. 2005).

<sup>79</sup> *Arundhati Keutuni v. State*, 1968 Cr.L.J. 848.

<sup>80</sup> *Bhagaoji v. Hyderabad Gov't*, A.I.R. 1954 Hyd. 196.

<sup>81</sup> *State of U.P. v. Sanjay Singh (Dr)*, (1994) 2 S.C.C. 707; *see also*; *Arun Gulab Gawli v. State of Maharashtra*, 1998 SCC OnLine Bom 810.

<sup>82</sup> *Mulakh Raj v. Satish Kumar & Ors.*, A.I.R. 1992 S.C. 1175.

<sup>83</sup> Document B, Moot proposition, at 9, 10.

<sup>84</sup> Moot Proposition, at 4, ¶ 11.

<sup>85</sup> *Ramachal v. State of U.P.*, 2017 SCC OnLine All 4261; *see also*; 2017 SCC OnLine All 4261; (2018) 2 All L.J. 305.

## 2.2. THE CASE IS NOT PROVED BEYOND ALL REASONABLE DOUBT.

¶ 38. It is well settled that where the inference of guilt of an accused person is to be drawn from circumstantial evidence only, those circumstances must, in the first place, be cogently established. Further, those circumstances should be of a definite tendency pointing towards the guilt of the accused, and in their totality, must unerringly lead to the conclusion that within all human probability, the offence was committed by the accused and none else.<sup>86</sup> The completed chain must be such as to rule out a reasonable likelihood of the innocence of the accused.<sup>87</sup>

¶ 39. The fundamental principle of criminal jurisprudence is that the accused is entitled to the benefit of reasonable doubt.<sup>88</sup> In the present matter PW/53, Mike Hudson, who is expected to conduct the investigation fairly and be an epitome of fairness in his investigation<sup>89</sup> not only conducted a superficial investigation but also gave evidence in the most unsatisfactory manner. There is no fingerprint analysis report, forensic science laboratory report, or any other evidence that would confirm the presence of the accused at the place of the incident. Furthermore, there was no eye witness to testify who had seen the accused committing the crime. Additionally, the other witnesses who were present before the court were not reliable enough to prove the guilt of the accused beyond all reasonable doubt. Therefore, the appellant humbly submits that the benefit of the doubt should be given to the appellant and the conviction should be set aside.

## 2.3. MR. YAARA MIXOL WAS NOT PART OF A CRIMINAL CONSPIRACY.

¶ 40. The meeting of minds of two or more persons for doing an illegal act or an act by illegal means is *sine qua non* of the criminal conspiracy.<sup>90</sup> The existence of the conspiracy and its objects have to be inferred from the circumstances.<sup>91</sup> the circumstances proved must form a chain of events from which the only irresistible conclusion about the guilt of the accused can be safely drawn, and no other hypothesis against the guilt is possible.<sup>92</sup>

¶ 41. In *casu*, the accused was not a part of any such conspiracy as there is no substantial evidence to prove the agreement between the accused and the other five individuals who were

<sup>86</sup> Rama Nand v. State of H.P., (1981) 1 S.C.C. 511; *see also*; 1981 S.C.C. (Cri) 197; 1981 S.C.C. OnLine S.C. 18, at 518.

<sup>87</sup> State of Kerala v. P. Sangatha, 2000 Cri L.J. 4584 (SC); Vasa Chandrasekhar Rao v. Panna Satyanarayan, 2000 Cri L.J. 3175 (SC); Narayanaswamy v. State of Karnataka, 2000 Cri L.J. 262 (Kant); Satish Kumar Kantilal Dave v. State of Gujarat, 1999 Cri L.J. 2628 (Guj); Shambhu Nath Das v. State of West Bengal, 1999 Cri L.J. 2648 (Cal); Arif Umer v. State of U.P., 1999 Cri L.J. 3399 (All); T. Raghunath Reddy v. State of A.P., 1999 Cri L.J. 4889 (A.P.).

<sup>88</sup> K. Gopal Reddy v. State of A.P., (1979) 1 S.C.C. 355; *see also*; B.N. Mutto v. Dr. T.K. Nandi, (1979) 1 S.C.C. 361; Yogendra v. State of Rajasthan, (2013) 12 S.C.C. 399; *see also*; Ranjit Singh v. State of M.P., (2011) 4 S.C.C. 336.

<sup>89</sup> Arvind Kumar @ Nemichand v. State of Rajasthan, 2021 SCC OnLine SC 1099.

<sup>90</sup> Yogesh v. State of Maharashtra, (2008) 10 S.C.C. 394.

<sup>91</sup> Navjot Sandhu Case, (2005) 11 S.C.C. 600; 2005 S.C.C. (Cri) 1715.

<sup>92</sup> K.R. Purushothaman v. State of Kerala, (2005) 12 S.C.C. 631.

tried along with Mr. Yaara. The respondent failed to prove the presence of Mr. Yaara in the event and the incriminating circumstantial pieces of evidence which indicate the presence of any conspiracy and meeting of the minds. Thus, the appellant humbly submitted that the accused should get relief as the same is not proved beyond reasonable doubt.

### **3. WHETHER THE APPELLANT IS LIABLE FOR CONVICTION UNDER SECTION 103(1) OF I.P.C?**

¶ 42. The Hon'ble Trial Court while convicting Mr. Yaara Mixol declined to hold him liable under section 103 I.P.C on the ground that he did not have the requisite knowledge. Moreover, the present case is of circumstantial evidence and the respondent fails in proving the only hypothesis that establishes the guilt of the accused person as **[3.1.]** *they fail to establish the essentials required to prove the guilt* **[3.2.]** *they fail to build a proper chain of circumstances which point towards Mr. Yaara to establish their claim*. The appellant humbly submits that Mr. Yaara is innocent and is not liable under this section.

#### **3.1.THE ESSENTIALS OF THE CHARGE PROPOSED IS NOT FULFILLED.**

¶ 43. To convict an accused person, the prosecution needs to prove that the intent and the act must both concur to constitute a crime.<sup>93</sup> The responsibility in crimes must depend on the doing of a 'willed' or 'voluntary act' and a particular intent behind that act.<sup>94</sup> It is humbly submitted that the prosecution failed to establish both **[3.1.1.]** *the performance of the act is not done* **[3.1.2.]** *absence of mens rea*.

##### **3.1.1 Performance of an 'act' is essential to establish the offence.**

¶ 44. It is a fundamental principle of criminal jurisprudence that circumstantial evidence should point inevitably to the conclusion that it was the accused and the accused only who were the perpetrators of the offence and such evidence should be incompatible with the innocence of the accused.<sup>95</sup>

¶ 45. *In casu*, there is grave uncertainty that Mr. Yaara was present near the stage as the Crime 360 report gave the positive identification of the accused person,<sup>96</sup> is not an accurate and reliable piece of evidence. Further, there are no material evidences that indicate the guilt of the accused person.

<sup>93</sup> Fowler v. Padget, (1789) 7 T.R. 514.

<sup>94</sup> SALMOND, JURISPRUDENCE 366 (10th ed.).

<sup>95</sup> Eradu v. State of Hyderabad, 1955 SCC OnLine SC 98.

<sup>96</sup> Moot Proposition, at 5, ¶ 20.

### 3.1.2 Absence of Mens Rea precludes a conviction u/s 103(1) I.P.C.

¶ 46. To hold the accused liable under the act for the offence under section 103(1), it is required that the accused person should have the intention to cause death or knowledge that the act of the accused is likely to cause death.<sup>97</sup> The intention of the person causing the injury has to be gathered from a careful examination of all the facts and circumstances of each given case.<sup>98</sup> In the present factual matrix mens rea on the part of Mr. Yaara cannot be established by the respondent as the respondent fails to establish *actus reus* in the present case, there is no connection between the act and the incident. Therefore, in the absence of *mens rea*, the conviction cannot be done under this section.

### 3.2. THE CHAIN OF CIRCUMSTANCES IS NOT CONCLUSIVE TO CONVICT APPELLANT UNDER THE OFFENCE.

¶ 47. It is most humbly submitted that when the chain of incriminating circumstances is not complete, conviction is not sustainable.<sup>99</sup> It is well settled that, where the evidence is circumstantial, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be conclusive and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved.<sup>100</sup> Also, great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted.<sup>101</sup>

¶ 48. *In casu*, the guilt of the accused person is not established as there is no direct or circumstantial evidence. The primary evidence that was used to prove Mr. Yaara as perpetrator of the offence is inadmissible, moreover, the other shreds of evidence presented by respondents were not conclusive in proving the guilt of the accused person. Thus, it is humbly submitted by the appellant that the respondent fails to comply with their burden to prove Mr. Yaara as the perpetrator and therefore it is uncertain it cannot be admitted as proof.<sup>102</sup> Therefore, Mr. Yaara should not be convicted of culpable homicide amounting to murder.

<sup>97</sup> Govindaswamy v. C., 2016(4) Crimes 12, at 17 (S.C.); A.I.R. 2016 S.C. 4299; J.T. 2016(9) S.C. 171; 2016(4) J.C.C. 2556 (S.C.).

<sup>98</sup> Jaspal Singh v. State of Punjab, A.I.R. 1986 S.C. 683, at 685.

<sup>99</sup> Radhey Shyam v. State, 1997(1) Crimes 69 (Del).

<sup>100</sup> Hanumant v. State of M.P., (1952) 2 S.C.C. 71; *see also*; Abdul Sayeed v. State of A.P., 2007 Cri L.J. 1890 (A.P.); Hanumant Govind Nargundkar v. State of M.P., A.I.R. 1952 S.C. 343; Kansa Behera v. State of Orissa, A.I.R. 1987 S.C. 1507.

<sup>101</sup> State of U.P. v. Ashok Kumar Srivastava, (1992) Cr. L.J. 1104 (S.C.).

<sup>102</sup> State of H.P. v. Prakash Chand, 1997 Cri L.J. 1979 (H.P.).

#### 4. WHETHER THE CONVICTION OF THE APPELLANT UNDER SECTION 189(4) IPC IS BAD IN LAW?

¶ 49. The Ld. Trial Court convicted Mr. Yaara u/s 189(4) for joining an unlawful assembly armed with a deadly weapon.<sup>103</sup> The DPF submitted a report to local police in which Mr. Yaara was named as a potential suspect along with other five individuals.<sup>104</sup> It is humbly submitted before this Hon'ble Court that the conviction of the appellant u/s 189(4) IPC is bad in law as [4.1.] *the essentials of the Unlawful assembly is not being fulfilled*, and [4.2.] *appellant is not armed with a deadly weapon*.

##### 4.1. THE ESSENTIALS OF THE UNLAWFUL ASSEMBLY ARE NOT BEING FULFILLED.

¶ 50. An assembly of five or more persons is designated as an unlawful assembly if the common object of the persons composing that assembly is to commit an illegal act using criminal force,<sup>105</sup> to resist the execution of any law, or any legal process; to commit any mischief or criminal trespass, or other offence; or depriving someone of their rights.<sup>106</sup>

¶ 51. In *casu*, the respondent failed to prove the presence of Mr. Yaara Mixol near the place of the incident and his being part of an unlawful assembly having five or more members with cogent and credible evidence.<sup>107</sup> The Crime 360 report cannot be rendered as admissible evidence. Also, testimonies of PW/4&5 cannot be relied upon and cannot be considered material evidence, the same does not corroborate with the chain of circumstances in the present case.

¶ 52. The testimonies of witnesses are of no consequence, as they are not witnesses to the occurrence of the incident. The ocular evidence is rendered questionable as the identification of Mr. Yaara was based on public TV appearances. Additionally, he was not even convicted of the event with the other five.<sup>108</sup> Thus, the appellant humbly submits that there is no clear evidence that Mr. Yaara was part of any unlawful assembly, hence there is reasonable doubt of guilt of the accused, and therefore he is entitled to be acquitted.<sup>109</sup> Further where common object of an unlawful assembly is not proved, the accused persons cannot be convicted,<sup>110</sup> and in present case [4.1.1] *Common objective is absent in the instant case*.

<sup>103</sup> Moot Proposition, at 5, ¶ 20.

<sup>104</sup> Moot Proposition, at 3, ¶ 10.

<sup>105</sup> Nitya Nand v. State of U.P., (2024) 9 S.C.C. 314; *see also*; (2024) 3 S.C.C. (Cri) 805; 2024 S.C.C. OnLine S.C. 2363, at 323; Mohan Singh v. State of Punjab, 1962 S.C.C. OnLine S.C. 82.

<sup>106</sup> Dominic Presentation v. State of Kerala, 2020 SCC OnLine Ker 22768.

<sup>107</sup> Ramanlal v. State of Haryana, (2015) 11 S.C.C. 1; *see also*; (2015) 4 S.C.C. (Cri) 246; 2015 S.C.C. OnLine S.C. 495, at 7.

<sup>108</sup> Moot Proposition, at 3, ¶ 9.

<sup>109</sup> Ramu Gope v. State of Bihar, 1968 SCC OnLine SC 74.

<sup>110</sup> Chanda v. State of U.P., (2004) 5 S.C.C. 141.



**4.1.1 Common objective is absent in the instant case.**

¶ 53. It is humbly submitted that the mere presence of a person at the place where the member of unlawful assembly has gathered for carrying out their illegal common object does not incriminate him.<sup>111</sup> Respondent must prove the common object of the unlawful assembly of which the accused is alleged to be a member.<sup>112</sup> It may be gathered from the course of conduct adopted by the members of the assembly.

¶ 54. *In casu*, the prosecution has not presented any evidence sufficient to establish the common object attributed to Mr. Yaara. The absence of credible evidence undermines the assertion that Mr. Yaara was part of an unlawful assembly with a shared intent or purpose. Consequently, without demonstrable proof of a common object, the charges against Mr. Yaara cannot be substantiated since it is necessary that the object should be common to the person and they should all be aware of it,<sup>113</sup> and without clear and admissible evidence linking the appellant to a common purpose of causing harm, the respondent's case lacks the necessary foundation for conviction. Therefore, the appellant humbly submits Mr. Yaara cannot be considered a part of unlawful assembly.

**4.2. APPELLANT WAS NOT ARMED WITH DEADLY WEAPON.**

¶ 55. Joining an unlawful assembly armed with a deadly weapon, which is likely to cause death, can be inflicted with a punishment prescribed therein.<sup>114</sup> *In casu*, the video footage referenced in the Crime 360 report,<sup>115</sup> which described him as having a 92% likelihood of being the perpetrator, fails to provide a reliable basis for accepting the State's narrative. The individual depicted in the footage was obscured by black masks, resulting in an inability to identify him. Additionally, PW/4 & PW/5 deposition does not have any mention of any weapon and doubtful conduct of the person they alleged to be Mr. Yaara Mixol.<sup>116</sup>

¶ 56. Thus, the appellants humbly submit that suspicion how strong cannot take the place of proof, we can't put the life of a person in jeopardy on mere suspicion, however can be done if there exists any definite proof.<sup>117</sup> The essential elements of the offence have not been satisfied,<sup>118</sup> therefore, the conviction u/s 189(4) is bad in law.

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<sup>111</sup> State of Maharashtra v. Kashirao, (2003) 10 S.C.C. 434.

<sup>112</sup> Suresh Chandra Yadav v. State of Bihar, 1983 SCC OnLine Pat 33.

<sup>113</sup> Allauddin Mian v. State of Bihar, (1989) 3 S.C.C. 5; *see also*; R.A. Nelson, Indian Penal Code 1, at 1061, ¶ 1 (13th ed.).

<sup>114</sup> Manga v. State of Uttarakhand, (2013) 7 S.C.C. 629.

<sup>115</sup> Document B, Moot Proposition, at 9-10.

<sup>116</sup> Moot Proposition, at 05, ¶ 17.

<sup>117</sup> Palvinder Kaur v. State of Punjab, (1952) 2 S.C.C. 177.

<sup>118</sup> Charan Singh v. State of U.P., (2004) 4 S.C.C. 205.

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**PRAYER**

*Wherefore in the light of the questions raised, arguments advanced, and authorities cited, it is most humbly prayed and implored before the Hon'ble High Court of Moda:*

- A. To Declare ICIA is unconstitutional and the Crime 360 report is inadmissible as evidence,
- B. Conviction under Section 61, 102 r/w Section 105 and 189(4) I.P.C, 2023 shall be overturned, and
- C. Shall not be held liable u/s 103(1) IPC, 2023.

*And*

*Pass any such order, direction, or relief that this Hon'ble court may deem fit and appropriate in the interests of justice, equity and good conscience.*

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*All of which is humbly prayed.*

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Place: Moda

Date: 21<sup>st</sup> February, 2025

URN: 2510

Counsels on behalf of the Appellants.