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THE K.K. LUTHRA MEMORIAL MOOT COURT, 2025

February 21, 2025 to February 23, 2025

Before

THE HON'BLE HIGH COURT OF MODA

CRIMINAL APPEAL NO. 634/2024

MR. YAARA MIXOL.....APPELLANT

v.

STATE OF MODA.....RESPONDENT

And

CRIMINAL APPEAL NO. 1214/2024

STATE OF MODAAPPELLANT

v.

MR. YAARA MIXOL.....RESPONDENT

-MEMORANDUM ON BEHALF OF THE APPELLANT-

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LIST OF ABBREVIATIONS

Abbreviations	Expansions
AIR	All India Reporter
Art.	Article
&	And
SC	Supreme Court
Hon'ble	Honourable
Ors.	Others
Prop.	Proposition
v.	Versus
UOI	Union of India
S.	Section
BSA	Bharatiya Sakshya Adhiniyam
BNS	Bharatiya Nyaya Sanhita
BNSS	Bharatiya Nagarik Suraksha Sanhita
IPC	Indian Penal Code
CRPC	Criminal Procedure Code
PW	Prosecution Witness

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STATEMENTS OF FACTS

Introduction & Background

Ionian is an Asian country divided into three states—Moda, Lydia, & Mixolydia. Moda is economically advanced & home to a majority of Ionian ethnic community, while Mixolydia remains poor & underdeveloped & populated by the minority Mixo ethnic group.

In 2019, the Ionian People's Party (IPP), led by populist Prime Minister Melody Moore, won the general elections with a slogan of "Make Ionian Great Again (MIGA)." This campaign resonated with the Ionian majority but alienated the Mixo ethnic community, particularly in Mixolydia, where the IPP won no seats. Tensions increased when, in December 2023, a popular song titled "MIGA MIGA" became a national hit, igniting a pro-independence movement in Mixolydia, led by the Neo Mixolydian People's Revolution (Neo-MPR), a youth organization advocating for Mixolydia's independence from Ionian.

The Incident

In January 2024, three simultaneous bombings occurred in shopping malls in the Ionian capital of Delphi, causing minor injuries. Neo-MPR claimed responsibility via social media. In response, the Prime Minister announced the launch of a nationwide AI-driven policing tool, Crime 360, developed to enhance the country's criminal justice system by predicting & solving crimes using advanced AI technology.

At a rally in June 2024, attended by 50,000 people & featuring singer Doljee Dosan, chaos ensued when black paintball pellets were fired at the stage, narrowly missing Prime Minister Melody. One of the security commandos was critically injured in the commotion & later succumbed to his injuries. Several suspects, including Yaara Mixol, were apprehended near the scene for wearing T-shirts with pro-independence slogans.

The Investigation

The Ionian Digital Police Force was called in to assist with the investigation, utilizing Crime 360 to analyze social media posts & video footage from the event. Based on the Crime 360 analysis, Yaara Mixol was identified as the prime suspect with a 92% likelihood of committing the crime. His home was searched, & paintball pellets & pro-Mixolydian literature were seized. Yaara was subsequently arrested. Despite his refusal, a faceprint scan was taken under the direction of a Magistrate, which matched 78% with the footage of the individual responsible for firing the paintball pellets.

The Trial

Yaara Mixol was charged with several offenses under the Ionian Penal Code, including causing the death of a commando & being part of an unlawful assembly. The prosecution's case primarily relied on the Crime 360 report. Other evidence included witness statements placing Yaara at the scene, & a paintball gun recovered based on his alleged confession. In his defense, Yaara's legal team challenged the admissibility of the Crime 360 report. The Trial Judge convicted Yaara for causing the death of the commando under S. 102 read with S. 105 of the Ionian Penal Code & for unlawful assembly. The judge ruled that the Crime 360 report was admissible as evidence & found it to be accurate & reliable. However, Yaara was not convicted under S. 103 IPC. Yaara was sentenced to seven years of rigorous imprisonment.

The Appeal

Yaara's legal team filed an appeal before the High Court of Moda, challenging the admissibility & reliability of the Crime 360 report. They argued that materials under S. 230 of the Criminal Procedure Code were not supplied, limiting the defense's ability to cross-examine the expert witness on Crime 360's methodology. The State of Moda, in a counter-appeal, sought to convict Yaara under a more severe S. (S. 103) & requested a life sentence.

STATEMENT OF ISSUES

ISSUE 1

Whether the Crime 360 report is inadmissible as evidence?

ISSUE 2

Whether the conviction of the Appellant under S. 102 read with S. 105 of the IPC is bad in law?

ISSUE 3

Whether the Appellant is liable for conviction under S. 103(1) IPC?

ISSUE 4

Whether the conviction of the Appellant under S. 189(4) IPC is bad in law?

SUMMARY OF ARGUMENTS

[1] Whether the Crime 360 report is inadmissible as evidence?

The Crime 360 report is inadmissible due to procedural flaws, including a broken chain of custody, non-compliance with the Evidence Act, & scientific unreliability from biases, untested algorithms, and lack of validation, failing the Daubert standard. The unauthorized collection of biometric data violated privacy rights under the Ionian Constitution and ICCPR, while denying access to its source code and methodology impeded the defense, breaching fair trial and due process principles.

[2] Whether the conviction of the Appellant under S. 102 read with S. 105 of the IPC is bad in law?

The conviction under S.s 102 & 105 is flawed due to the absence of mens rea and causation. The use of a non-lethal paintball gun shows no intent to cause harm, and the commando's death resulted from a stampede caused by crowd panic, a superseding event breaking the chain of causation. The prosecution's reliance on the untested Crime 360 AI tool, offering probabilistic rather than conclusive evidence, and its lack of transparency, violated the appellant's right to a fair trial. Without direct evidence, corroborative testimony, or proof of intent, the conviction is unsustainable.

[3] Whether the Appellant is liable for conviction under S. 103(1) IPC?

The conviction under S. 103(1) is unsustainable as it lacks the essential elements of murder—intent, causation, and foreseeability. A non-lethal paintball gun cannot be deemed a weapon likely to cause death, and the commando's injuries from a stampede were unforeseeable and not directly linked to the appellant. Procedural flaws, including the inadmissible Crime 360 report and unverified identification by PW, further undermine the case. The prosecution has also failed to prove motive, intent, or any act foreseeably leading to the commando's death, essential for liability under S. 103(1)

[4] Whether the conviction of the Appellant under S. 189(4) IPC is bad in law?

The appellant's conviction under S. 189(4) is baseless, as the prosecution failed to prove a common unlawful object or criminal intent. Mere presence or wearing a T-shirt with political slogans does not constitute unlawful assembly. A paintball gun, without evidence of modification or malicious use, cannot be deemed a deadly weapon. Procedural lapses, including unreliable identification and the absence of a test identification parade, weaken the case. The speculative Crime 360 report, with only a 78% match, also fails to establish guilt beyond reasonable doubt, making the conviction untenable.

ARGUMENTS ADVANCED

[1] Whether the Crime 360 report is inadmissible as evidence?

It is humbly submitted that the judgment of the trial court in accepting the admissibility of the report generated by Crime360 software is erroneous. *Firstly*, the Crime 360 report is deemed to be tainted due to procedural irregularities & non-compliance with BSA & BNSS. *Secondly*, the report is scientifically & evidentiarily unreliable. *Lastly*, it is not only violative of the Fundamental right to privacy but also other rights such as the right against self-incrimination.

1.1 Procedural irregularities in admission of the report

The Crime 360 report, submitted as primary evidence has inherent flaws which have been overlooked by the court & its admission in the trial was an erroneous decision because of the underlying procedural irregularities & violation of the BSA¹ & BNSS².

1. The Crime 360 report, admitted as primary evidence under S. 57 of the BSA³, should be deemed inadmissible due to procedural flaws. S. 63(4)⁴ requires certification of data integrity, system functionality, & output authenticity, but the certificate only covers the final report, omitting key details about data sources, algorithms, systems, & third-party inputs like DigiTravel, making it incomplete⁵.
2. Electronic records are inadmissible without a proper certificate under the BSA. This principle was established in *Anvar P.V. v. P.K. Basheer*⁶ & reaffirmed in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*⁷, where the SC emphasized that compliance with certification requirements is mandatory.
3. The chain of custody in Yaara Mixol's case is broken due to procedural lapses & missing documentation. The Crime 360 report, integrating data from sources like DigiTravel & law enforcement databases, lacks proof of secure & unaltered data handling. This absence of

¹ Bharatiya Sakshya Adhiniyam 2023, No. 47, Acts of Parliament (Evidence Act)

² Bharatiya Nagarik Suraksha Sanhita, No. 46, Acts of Parliament (Criminal Procedure Code)

³ Bharatiya Sakshya Adhiniyam § 57

⁴ *Id.* § 63(4)

⁵ Moot Prop., Para 15; Queries & Clarifications 43

⁶ *Anvar P.V. v. P.K. Basheer* (2014) 10 SCC 473; *Tomaso Bruno & Another v. State of Uttar Pradesh* (2015) 7 SCC 178

⁷ *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 3 SCC 216, *see also* *State of Maharashtra v. Prafulla B. Desai (Dr.)* (2003) 4 SCC 601

evidence raises doubts about reliability, compounded by the lack of access to critical components like algorithms, source code & datasets as it is a procedure under S. 230 of BNSS⁸, preventing the defense from scrutinizing or testing the evidence.

4. In *Subhendu Nath v. State of West Bengal*⁹, the Calcutta High Court held that breaches in the chain of custody or preservation of electronic evidence render it unreliable. It must be noted that denial of access to the Crime 360 source code undermines its reliability & admissibility, preventing the defense from conducting compliance checks, especially as this is the report's first use in a conviction.
5. It is submitted that the witness testimonies are inconsistent, & no forensic evidence or CCTV footage directly links Yaara to the alleged actions¹⁰. The prosecution relies solely on the probabilistic Crime 360 report, which fails to meet the standard of proof beyond reasonable doubt, as emphasized in *Ashok Debbarma v. State of Tripura*¹¹. Such speculative evidence cannot satisfy the evidentiary standard required for conviction¹².
6. The Ionian Criminal Identification Act¹³ allows the collection & retention of biometric data from individuals merely fined or arrested, violating the presumption of innocence & due process¹⁴. With no safeguards, oversight, or proportionality, the Act expands law enforcement powers arbitrarily, enabling misuse & infringing on fundamental rights¹⁵.

1.2 Scientific & Evidentiary Unreliability of Crime 360 report

The Crime 360 evidence is unreliable due to unaddressed AI biases & the lack of proper regulation & testing. The Face Tracer application, despite using validated facial recognition methods, shows a 22% error margin & inherent biases, risking inconsistent & incorrect results.

1. The prosecution's witness admitted that Crime 360 was used for the first time in this case, raising concerns about its scientific validity¹⁶. Under the Daubert standard¹⁷, evidence analogous to AI evidence in this case, must show validity, reliability, & accuracy, verified through independent

⁸ Bharatiya Nagarik Suraksha Sanhita § 230

⁹ *Subhendu Nath v. State of West Bengal* [MANU/WB/0500/2019 (2) RCR (Criminal) 112]

¹⁰ Moot *supra* note 5 at para 17

¹¹ *Ashok Debbarma v. State of Tripura* 2014 (4) SCC 747

¹² *V.D. Jhingam v. State of Uttar Pradesh*, AIR 1966 SC 1762

¹³ Ionian Criminal Identification Act, 2024

¹⁴ Id. § 2; Moot *supra* note 5 at Q&C 49

¹⁵ Id. § 5

¹⁶ Moot *supra* note 5 at para 16

¹⁷ *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)

testing, & low error rates. However, Crime 360 lacks such testing or acceptance, casting doubt on its admissibility.

2. The reliability of Crime 360 is compromised by algorithmic bias, as noted by Defense Witness Saara Ahmed, who highlighted that AI system may disproportionately target minorities like Mixolydians¹⁸. Combined with the untested nature of Crime 360 in reality, this underscores the need for rigorous bias testing. Without it, the evidence is unreliable. Global guidelines from the EU & UN further document AI bias against minorities, raising serious concerns about racial discrimination & human rights¹⁹.
3. The Crime 360 report, with a 78% match & a 22% margin for error, fails the "beyond reasonable doubt" standard²⁰. Documented facial recognition errors, especially under conditions like poor lighting & masks, as seen in the Randal Reid & Harvey Murphy Jr. cases, highlight risks of wrongful arrest due to AI biases²¹. The system operates as a "black-box", raising concerns for justice & the rule of law. The error margin & lack of independent validation undermine its reliability, failing the conclusive proof requirement under S. 104 of BSA²².
4. The Crime 360 system operates autonomously without human oversight²³, raising concerns about accuracy, accountability, & bias. Without human review, errors & biases in the system cannot be identified or corrected, undermining the reliability of the evidence. The inaccuracy and fallibility of the software, undermining its credibility produced results disconnected from the real facts.²⁴
5. International bodies like the European Parliament & OECD²⁵ stress strict protocols for AI evidence in criminal trials. The Ionian system's reliance on unverified AI results violates human rights standards, as Council of Europe guidelines require AI evidence to ensure transparency, accountability, & the right to challenge. The prosecution's reliance on the Crime 360 report risks automation bias, where AI-generated evidence is overvalued despite its flaws²⁶. The trial court treated the report as irrefutable, ignoring its probabilistic nature & the need for human oversight. This undermines procedural integrity.

¹⁸ Moot *supra* note 5 at para 19

¹⁹ Office of the High Commissioner for Human Rights, *Racism & AI Bias: A Past that Leads to Bias in the Future*

²⁰ Moot *supra* note 5 at para 15

²¹ BLG Wins, *Facial Recognition Leads to False Arrest*, BLG Wins

²² Bharatiya Sakshya Adhiniyam § 104

²³ Moot *supra* note 5 at Q&C 49

²⁴ *Id.* At Q&C 90

²⁵ Ephraim Nissan, Artificial Intelligence & Formalisms for Legal Evidence: *Applied Artif. Intell.* 185, 185–229 (2004)

²⁶ Moot *supra* note 5 at para 20

1.3 Violation of Fundamental Rights

It is submitted that the implementation of AI tools like Crime 360 although is necessary for surveillance but it should be with necessary safeguards in order to protect the fundamental rights guaranteed by the constitution as well as international conventions. The fundamental rights aim to ensure the protection of individual liberties against arbitrary actions by the state & other entities²⁷.

1. The Crime 360 system violates Yaara Mixol's right to privacy under Art. 21 of the Ionian Constitution²⁸ & Art. 17 of the ICCPR²⁹ by collecting biometric & geolocation data without explicit consent. DigiTravel's opt-out mechanism is coercive³⁰, & the data collection is disproportionate, failing the legality, necessity, & proportionality tests from *Justice K.S. Puttaswamy case*³¹. The indiscriminate retention of data also violates the presumption of innocence³² & ECHR principles³³.
2. The use of Crime 360 & its integration with DigiTravel data violates proportionality under Art. 21 of the Ionian Constitution & Art. 17 of the ICCPR by collecting data from individuals merely fined or arrested, imposing excessive surveillance³⁴. This breaches the proportionality test³⁵, making it unconstitutional. Moreover, reliance on Crime 360 evidence violates due process under Art. 21 & due to lack of, transparency, & access to the source code, preventing proper challenge of the evidence and right to fair trial³⁶.
3. Reliance on Crime 360 violates Yaara Mixol's right against self-incrimination under Art. 20(3)³⁷ of the Constitution. Yaara's biometric data (faceprint) was used to unlock his devices without consent, leading to coerced data extraction for the Crime 360 analysis & constitutes a compelled act, violating safeguards against coercion³⁸. In *Sanket Bhadresh Modi*³⁹, the Delhi High Court has ruled that an accused person cannot be coerced to disclose passwords in regard to digital evidence in a pending trial. The SC in *Selvi v. State of Karnataka*⁴⁰ confirmed that Art. 20(3) protects against involuntary

²⁷ D.D. Basu, Commentary on the Constitution of India, vol. 1, at 43–44 (LexisNexis 2015)

²⁸ Const. of Ionia Art. 21

²⁹ International Covenant on Civil & Political Rights art. 17, Dec. 16, 1966, 999 U.N.T.S. 171.

³⁰ Moot *supra* note 5 at Q&C 43

³¹ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1

³² P.N. Krishna Lal v Government of Kerala 1995 Supp(2) SCC 187, para. 23

³³ European Convention on Human Rights arts. 6(2) (3), Nov. 4, 1950, 213 U.N.T.S. 221

³⁴ Moot *supra* note 5 at Q&C 49

³⁵ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1; S. & Marper v. United Kingdom [2008] ECHR 1581

³⁶ Mindaugas Šimonis, Effective Court Administration and Professionalism of Judges as Necessary Factors Safeguarding the mother of Justice – The Right to a Fair Trial, 10 Int'l J. for Ct. Admin. 47–58 (2019) 1

³⁷ Const. of Ionia Art. 20(3)

³⁸ Moot *supra* note 5 at Q&C 22

³⁹ Sanket Bhadresh Modi versus Central Bureau of Investigation & Anr (2022) 10 SCC 51 *see also* T.G. Mohandas versus State of Kerala (1988) 3 SCC 319

⁴⁰ Selvi v.. State of Karnataka (2010) 7 SCC 263 *see also* Santosh s/o Dwarkadas Fafat v.. State of Maharashtra (2017) 9 SCC 714

evidence gathering, including biometric data. Since the evidence was obtained through coercion, it taints the entire Crime 360 report, making it inadmissible & violating constitutional protections.

4. The use of Crime 360 violates Art. 14 of the Ionian Constitution⁴¹ by disproportionately targeting Mixolydians due to biases in its datasets. This systemic bias undermines fairness & links to the preventive detention of youth, further violating constitutional equality protections⁴².
5. Reliance on the Crime 360 report violates the right to a fair hearing under Art. 21 of the Constitution & Art. 14 of the ICCPR⁴³. The trial court's deferral on admissibility & denial of access to the source code & datasets prevented cross-examination. These flaws breach fair play & transparency principles.⁴⁴ *Brady v. Maryland*⁴⁵ holds that non-disclosure violates due process. Additionally, the defense's inability to challenge the report violated S. 351 of BNSS⁴⁶, making the report inadmissible⁴⁷.

[2] Whether the the conviction under S. 102 r/w S. 105 of IPC is bad in law?

The conviction of Yaara Mixol under S. 102 read with S. 105 of the BNS⁴⁸, 2023, is flawed due to insufficient evidence of mens rea & causation. The prosecution's reliance on the Crime 360 report, with a 78% facial match & 92% likelihood of guilt⁴⁹, is probabilistic, not conclusive, & denial of access to its source code⁵⁰ hindered the defense's challenge. The uncorroborated confessional statement & failure to prove the paintball pellet's lethality or Yaara's knowledge of its potential to cause death further weaken the case. Procedural lapses & lack of direct evidence render the conviction unsustainable.

2.1 The essential requirements of S. 102 read with S. 105 are not satisfied

1. It is humbly submitted before this Hon'ble HC, S. 102 of BNS⁵¹ requires intentional acts leading to death, which the prosecution failed to prove. The use of a non-lethal paintball gun shows no intent to cause fatal harm, a point reinforced by the Trial Court's refusal to convict

⁴¹ Const. of Ionia Art. 14

⁴² Moot *supra* note 5 at para 7

⁴³ ICCPR Art. 14

⁴⁴ *Zahira Habibullah Sheikh & ors v. State of Gujarat & ors* 2006 (3) SCC 374

⁴⁵ *Brady v. Maryland* 373 U.S. 83 (1963)

⁴⁶ Bharatiya Nagarik Suraksha Sanhita § 351

⁴⁷ *Sonu v. State of Haryana* on 18 July, 2017 AIR 2017 SC (criminal) 1170; *Shanti Devi W/O Shanker Lal v. State of Rajasthan* 2012 (12) SCC 158

⁴⁸ Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament (Ionian Penal Code) § 102 & 105

⁴⁹ Moot *supra* note 5 Document B

⁵⁰ Moot *supra* note 5 at para 14

⁵¹ Bharatiya Nyaya Sanhita § 102

under S. 103 BNS⁵². S. 105 demands a direct causal link to the fatal outcome, but the commando's death resulted from a stampede⁵³, not directly from the accused's actions, further weakening the prosecution's case.

2. It is indisputable that the accused's intent plays a vital role as the present facts & circumstances of the case devolve upon circumstantial evidence⁵⁴. It is also true that the significant role played by intent is only limited to adding to the chain of circumstances & it cannot form the basis of criminal liability.⁵⁵ Moreover, the alleged intent of the accused cannot be warranted unless the prosecution proves its case beyond all reasonable doubt.⁵⁶ So far as is given to the definition u/s 100/101 of BNS, the offense is described to be the causing of death by doing an act with at least the knowledge or intention in the actor that his act is likely to cause death. In determining the nature of the offence, regards then must be had to the essential elements which are common to all the offences related to homicide: (a) the mentality of the accused (b) the nature of his act, & (iii) its effect upon the human victim.⁵⁷
3. Yaara lacked the requisite mens rea, as his actions involved the use of a paintball gun, a non-lethal weapon, which indicates no intention to cause serious harm or death⁵⁸. The SC has held that the nature of the injury, weapon used, & circumstances of the incident are key factors in determining the accused's intent or knowledge of causing death.⁵⁹
4. S. 105 of the BNS⁶⁰ mandates a direct causal link between the accused's actions & the fatal outcome. In this case, the commando's death resulted from a stampede caused by the incident, rather than directly from the paintball pellet shot.⁶¹ It is humbly submitted that in a case of murder, conviction on circumstantial evidence is permissible only when all the links in the chain of events are established beyond reasonable doubt & the established circumstances are consistent only with the hypothesis of guilt of the accused & totally inconsistent with his innocence.⁶²

⁵² Bharatiya Nyaya Sanhita § 103

⁵³ Moot *supra* note 5 at para 8

⁵⁴ Ramesh Durgappa Hirekerur v State of Maharashtra (2017) SCC OnLine Bom 9109; Amitava Banerjee v State of West Bengal (2011) 12 SCC 554.

⁵⁵ Tara Devi v State of U.P. (1990) 4 SCC 144; Ratanlal & Dhirajlal, The Law of Evidence (27th edn, LexisNexis 2019)

⁵⁶ Shivaji Chintappa Patil v State of Maharashtra (2021) 5 SCC 626.

⁵⁷ Dr. Hari Singh Gour, Penal Law of India, (Law Publishers India Pvt Ltd, 11th edn., 2003)

⁵⁸ Moot *supra* note 5 at para 8

⁵⁹ Stalin v State (2020) 9 SCC 524

⁶⁰ Bharatiya Nyaya Sanhita § 105

⁶¹ Moot *supra* note 5 at para 8

⁶² Munna Kumar Upadhyaya v. State of Andhra Pradesh AIR 2012 SC 2470. Sanatan Naskar & Ors. v. State of West Bengal 2010 8 SCC 249

5. The Crime 360 facial recognition tool only produced a 78% match for Yaara's involvement, while its likelihood of guilt assessment (92%)⁶³ is a probabilistic metric, not conclusive evidence. The appellant was denied access to the source code & training datasets for the Crime 360 system⁶⁴, violating Yaara's right to a fair trial as enshrined under the Ionian Constitution, (Art. 21)⁶⁵. This denial impaired the defense's ability to challenge the reliability & accuracy of the AI too, the collection of Yaara's biometric data & its use in the Crime 360 analysis violated his fundamental right to privacy, as upheld by the SC in *Justice K.S. Puttaswamy v. UOI*⁶⁶ & guaranteed under the Ionian Constitution. Moreover, the prosecution failed to adhere to the procedural safeguards outlined in the Ionian Criminal Identification Act, of 2024⁶⁷, further undermining the investigation's integrity.
6. The paintball gun used in the incident is not a lethal weapon under ordinary circumstances. The prosecution failed to prove that it was inherently capable of causing death or that Yaara was aware of such a possibility. This undermines the applicability of S.s 102 & 105⁶⁸ of BNS, as also stated in *Gurucharan Singh v. State of Punjab*⁶⁹ the determination of the weapon used plays a significant role in proving liability coupled with specific mens rea (criminal intent) on the part of the accused beyond a reasonable doubt.
7. It is humbly submitted before this Hon'ble Court that the offense of culpable homicide is committed only if death is caused under one of the following circumstances: (a) with the intention of causing death, (b) with the intention of causing bodily injury likely to result in death, or (c) with the knowledge that the act is likely to cause death⁷⁰. None of these conditions are satisfied in the present case, as Yaara lacked any intention to kill, as demonstrated by his use of a non-lethal paintball gun, & he had no knowledge that such an act could lead to a person's death.

⁶³ Moot *supra* note 5 Document B

⁶⁴ Moot *supra* note 5 at para 14

⁶⁵ Constitution of Ionia Art 21

⁶⁶ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

⁶⁷ Moot *supra* note 5 Document F

⁶⁸ *Bharatiya Nyaya Sanhita* § 102 & 105

⁶⁹ *Gurucharan Singh v. State of Punjab*, 1962 SCC OnLine SC 42

⁷⁰ *Anda v. State of Rajasthan*, AIR 1966 SC 148

2.2 Absence of Mens Rea & Lack of Direct Causation on the Part of Yaara Mixol

1. It is humbly submitted before this Hon'ble HC that Yaara is a historian & activist known for his advocacy for the underprivileged in Mixolydia⁷¹, not for any violent or criminal behavior. The records of his work with Mixolydian forest dwellers & fisherfolk support this assertion, making it unlikely that he intended to cause harm.
2. Yaara's actions were not accompanied by any direct or implied threats to life. His alleged participation in firing paintball pellets was symbolic & lacked the requisite intent to inflict fatal injury. Even the Trial Court acknowledged the absence of intent by refusing to convict him⁷² under S. 103 BNS⁷³. The mere existence of a single injury on the Eye of the deceased, that too not with any deadly weapon (Paintball), cannot lead to the conclusion that there existed an element of intention to cause the deceased's death or knowledge that it would likely cause the deceased's death.⁷⁴
3. The act occurred during a political rally in a highly charged atmosphere⁷⁵, with Yaara's activism likely targeting political narratives rather than individuals. His alleged actions must be seen in the broader context of Mixolydian dissatisfaction with Ionian governance, suggesting political dissent rather than homicidal intent. Following the well-settled legal principle, the absence of motive in a case of circumstantial evidence is a fact that weighs in favour of the accused-appellant.⁷⁶
4. S. 105 of the BNS⁷⁷ requires a direct causal link between the accused's actions & the fatal outcome, However The commando's death resulted from injuries sustained in a stampede triggered by the crowd's panic after the paintball incident.⁷⁸The stampede, a superseding intervening event, breaks the chain of causation under criminal law, as the accused's actions were not the proximate cause of death. The SC has also emphasized that in murder trials, the prosecution must establish the guilt of the accused beyond reasonable doubt, & the burden of proof lies upon the prosecution throughout the trial.⁷⁹

⁷¹ Moot *supra* note 5 at para 3

⁷² Moot *supra* note 5 at para 20

⁷³ Bharatiya Nyaya Sanhita § 103

⁷⁴ Vijay Pandurang Thakre v State of Maharashtra (2017) 4 SCC 377; K D Gaur, Criminal Law (9th edn, LexisNexis 2019) 345

⁷⁵ Moot *supra* note 5 at para 7

⁷⁶ Anwar Ali & Anr v The State of Himachal Pradesh (2020) 10 SCC 116; Pannayar v State of Tamil Nadu by Inspector of Police (2009) 9 SCC 152.

⁷⁷ Bharatiya Nyaya Sanhita § 105

⁷⁸ Moot *supra* note 5 at para 8

⁷⁹ State of Maharashtra v. Rajendra Jakkal AIR 1988 SC 1158

5. The paintball pellet itself caused no fatal injury to the commando; it merely struck his eye & did not directly lead to his death. The commando's fatal injuries were caused by the chaotic stampede⁸⁰, which cannot be attributed directly to Yaara's actions. As in the case of *R v. White*⁸¹ the court emphasized that, to establish the appellant's liability, both causation & foreseeability must be proven, demonstrating that the accused's actions directly resulted in the said outcome.

[3] Whether the Appellant is liable for conviction under S. 103(1) IPC?

Yaara Mixol's liability under S. 103(1) of the BNS⁸² cannot be established due to the absence of the required mens rea. The Crime 360 report, which assigns a 92% likelihood of guilt & a 78% facial match⁸³, fails to meet the standard of proof beyond a reasonable doubt, especially given its biases & lack of transparency. No direct evidence links Yaara to knowledge that firing paintball pellets would likely cause death. Paintball pellets are non-lethal, & the commando's fatal injuries during the stampede were unforeseeable. Procedural lapses, speculative evidence, & the absence of intent render S. 103(1)⁸⁴ inapplicable.

3.1 The essentials of Sec 103(1) of BNS are not being fulfilled in the present case

1. It is most humbly submitted before this Hon'ble High Court that Mr. Yaara Mixol cannot be held liable under S. 103(1) of the BNS, as the essential elements of murder are as follows: (i) intention to cause death, (ii) intention to cause bodily injury likely to result in death, & (iii) knowledge that the act is likely to cause death⁸⁵. None of these elements are satisfied in the present case. Mr. Yaara Mixol, a historian & activist renowned for his advocacy on behalf of the underprivileged in Mixolydia, neither intended to cause death nor possessed the requisite knowledge that firing a paintball gun could lead to such an unfortunate incident.
2. To prove the intention of the accused the prosecution needs to show that there was the intention to inflict that particular injury which caused the death of the deceased & that it was not accidental or unintentional or that some other injury was intended⁸⁶. In the present case,

⁸⁰ Moot *supra* note 5 at para 8

⁸¹ *R v. White* [(1910) 2 KB 124] (UK)

⁸² Bharatiya Nyaya Sanhita § 103(1)

⁸³ Moot *supra* note 5 Document B

⁸⁴ Bharatiya Nyaya Sanhita § 103(1)

⁸⁵ *Virsa Singh v. State of Punjab* (1958 AIR 465)

⁸⁶ *Saddik & Ors. v. State of Gujrat* (2016) 10 SCC 663; *Rampal Singh v. State of U.P.*, (2012) 8 SCC; *Virsa Singh v. State of Punjab* (1958 AIR 465)

it is evident that the commando's death was caused by the stampede & not by the paintball shot.⁸⁷ A paintball gun, being a non-lethal recreational device, clearly indicates that Mr. Yaara Mixol had no intention to cause death or serious harm. The tragic outcome was an unforeseen consequence of the ensuing chaos, not a deliberate or premeditated act by Mr. Yaara. His lack of intent to kill or harm anyone further underscores his innocence in this matter.

3. In the present case there is no evidence to affirm that the accused had the motive to kill the deceased intentionally. A mere suspicion, however grave it may be, cannot take the place of proof, & there is a large difference between something that 'may be proved' & something that 'will be proved'.⁸⁸
4. The Crime 360 tool used, was for the first time in a criminal investigation, making its reliability questionable. Even the prosecution's witness admitted that potential issues with the tool may not have been uncovered yet. Defense Witness No. 1 Sara Ahmad testified about potential biases in AI tools, which could stem from unverified training datasets⁸⁹. In today's world, technology plays a significant role in aiding criminal investigations by helping identify offenders. However, it is crucial to recognize that technology is not without its limitations. It often operates with inherent biases & cannot guarantee 100% accuracy. New technologies, particularly those being employed for the first time in a criminal case as in the present case,⁹⁰ require extensive testing & repeated executions to establish their reliability. Relying on such unproven technology could undermine its credibility & lead to potential errors.⁹¹
5. The collection of Yaara's biometric data (faceprint) under the Ionian Criminal Identification Act infringed upon his right to privacy, as recognized in Ionia.⁹² The appellant argues that this evidence was obtained in violation of his fundamental rights. In the case of *Kharak Singh v. State of Uttar Pradesh*⁹³ the Court interpreted "personal liberty" broadly, emphasizing the right to live with dignity & freedom from unwarranted intrusion by the State.
6. PW 4 & 5 who claimed to see Yaara at the scene had never met him before & based their identification on media appearances.⁹⁴ Such testimony lacks credibility & is insufficient to

⁸⁷ Moot *supra* note 5 at para 8

⁸⁸ Sujit Biswas v. State of Assam, (2013) 12 SCC 406

⁸⁹ Moot *supra* note 5 at para 19

⁹⁰ Moot *supra* note 5 at para 4

⁹¹ Shakeel Ahmad & Zoya Fatima, Evolution of Criminal Investigation & Forensic Science: An Appraisal, 29 ALJ (2021-22) 15

⁹² Moot *supra* note 5 Document F

⁹³ Kharak Singh v. State of Uttar Pradesh (1963 AIR 1295)

⁹⁴ Moot *supra* note 5 at para 17

establish guilt beyond reasonable doubt.⁹⁵ The subsequent recovery of a paintball gun allegedly "pointed out" by Yaara is unsupported by independent witnesses, making the chain of evidence questionable. Furthermore, the statement attributed to him lacks corroborative proof & could have been coerced.⁹⁶

7. The prosecution has failed to establish the critical elements required under S. 103(1) of the BNS⁹⁷, including Yaara's knowledge or intent regarding the likelihood of death. Moreover, the reliance on unproven technology, procedural lapses in evidence collection, & the absence of credible witnesses collectively raise reasonable doubt about his guilt. Therefore, his conviction under this S. should be denied.

3.2 Lack of Causation & Foreseeability of the Death in Relation to S. 103(1) IPC

1. It is pertinent to the court to note that a conviction under S. 103(1) BNS necessitates establishing that the act directly caused the death. In this case, the death resulted from injuries sustained during a stampede, which occurred as an indirect & chaotic consequence of the paintball incident. Blunt force trauma was the cause of death. The medical report attributes the commando's death to blunt force trauma to the head, blood accumulation in the thoracic cavity, asphyxia, & rib injuries⁹⁸. These injuries are consistent with being trampled in the stampede, not directly caused by paintball pellets. The intervening act of the crowd's panic, leading to the stampede, breaks the causal link between Yaara's alleged actions & the commando's death.
2. Unforeseeability of the Stampede: It must be noted that firing a paintball gun at a political event, while disruptive, does not inherently or foreseeably lead to a stampede or fatal injuries. The nature of the accused's act, a symbolic firing of non-lethal paintball pellets, is not one that would typically be expected to lead to a life-threatening scenario. The stampede was triggered by panic in the crowd, not directly by the paintball shots themselves.
3. Liability under S. 103(1) BNS cannot arise unless the harm was a natural & probable consequence of his actions⁹⁹. The commando's death was caused by the stampede, a result not inherently tied to firing a non-lethal paintball gun. Furthermore, the gathering at the event was aimed at bringing attention to the plight of Mixolydians, & there is no evidence to

⁹⁵ Manohar Sidram Ukarande v. State of Maharashtra (2010 SCC OnLine Bom 1592); Chandan v. State (NCT of Delhi) (2024) 6 SCC 799

⁹⁶ Moot *supra* note 5 Document C

⁹⁷ Bharatiya Nyaya Sanhita § 103(1)

⁹⁸ Moot *supra* note 5 at Q&C 35

⁹⁹ Anbazhagan v. The State Rep. by the Inspector of Police (2023 INSC 632)

suggest that Yaara or the alleged group intended or anticipated a chaotic stampede. The knowledge of such an unforeseen & extraordinary consequence cannot be presumed.

4. There must be a direct relationship between the act & the death. While reckless or negligent acts might contribute indirectly, they do not meet the threshold for a murder charge unless the harm is immediate & direct¹⁰⁰. Paintball pellets are designed to be non-lethal & are widely recognized as recreational equipment. There is no evidence that the accused used or modified the device in a way that could reasonably foreseeably cause serious harm or death. Without any forensic, independent witness or expert evidence¹⁰¹ indicating that paintball pellets could create a risk of fatal harm, the accused cannot be held accountable for the eventual consequences of panic-driven crowd behavior.
5. The paintball gun was fired from a distance of 50 feet¹⁰². Given that paintball guns are non-lethal & intended for recreational purposes, it is unreasonable to foresee that firing a paintball from this distance could result in death. The lack of direct impact, combined with the distance & the nature of the weapon, makes it highly improbable that Yaara could have foreseen the consequences leading to the commando's death, which was ultimately caused by the stampede, not the paintball shot. Thus, causation & foreseeability of death under S. 103(1) BNS cannot be established¹⁰³.
6. While symbolic or provocative acts can have unintended consequences, the law does not impose liability for every adverse outcome. The SC held that incriminating circumstances were not proved beyond reasonable doubt & chain of evidence was not complete to interfere with a degree of certainty of accused having committed the crime, & thus, burden could not be placed on the accused to prove his innocence¹⁰⁴.
7. It must be noted that the paintball pellets were recovered from Yaara's house during an illegal search conducted without a warrant¹⁰⁵. Evidence obtained through an unlawful search violates procedural safeguards under the Indian Criminal Procedure Code (in para materia with BNSS) & is inadmissible.

¹⁰⁰ State of M.P. v. Paltan Mallah, (2005) 3 SCC 169

¹⁰¹ Moot *supra* note 5 at para 18

¹⁰² Moot *supra* note 5 at Q&C 36

¹⁰³ Shankar Narayan Bhadolkar v. State Of Maharashtra 2004 AIR SCW 1511

¹⁰⁴ State of Punjab v. Kewal Krishan, 2023 SCC OnLine SC 746; Basheera Begam v. Mohd. Ibrahim, (2020) 11 SCC 174

¹⁰⁵ Moot *supra* note 5 at Q&C 51

[4] Whether the Appellant is liable for conviction under S. 189(4) IPC?

It is respectfully submitted that appellant's conviction under S. 189(4) of the Indian Penal Code¹⁰⁶ is bad in law. The prosecution has failed to satisfy the essential statutory requirements to establish that the appellant participated in an unlawful assembly armed with a deadly weapon. The conviction is based on speculative evidence, circumstantial presumptions, & procedural irregularities, all of which undermine the integrity of the trial process.

4.1 The assembly does not qualify as an unlawful assembly under S. 189(4) IPC

1. An unlawful assembly of five or more persons is designated as an unlawful assembly, if the common object of the persons composing that assembly is any of the following five objects declared illegal under S. 189, BNS:

- i. To overawe Government by criminal force;
- ii. To resist the execution of law or legal process;
- iii. To commit an offence;
- iv. Forcible possession or dispossession of any property; or
- v. To compel any person to do illegal acts¹⁰⁷.

The object of appellant cannot be prescribed as unlawful, unless it meets the aforementioned criteria, which in this case cannot be established.

2. It is humbly submitted that the assembly in question does not qualify as an unlawful assembly under S. 189(4) BNS.

S. 189 defines an unlawful assembly as a gathering of five or more persons with the common object to commit an illegal act or resist the execution of law. The prosecution bears the burden to establish the presence of a common unlawful object beyond reasonable doubt. Also, under S. 189(4), an unlawful assembly must fulfill two criteria: *Firstly*, it must consist of at least five persons; *Secondly*, its common objective as stated above, must include criminal acts such as using deadly weapons to commit violence¹⁰⁸. The prosecution has failed to establish the same.

3. There is no direct evidence proving that the appellant (Yaara Mixol) shared an intention with others to disrupt the rally or attack the Prime Minister. The presence of individuals wearing T-

¹⁰⁶ Bharatiya Nyaya Sanhita § 189(4)

¹⁰⁷ Dr. Hari Singh Gour, Penal Law of India, (Law Publishers India Pvt Ltd, 11th edn.,2003) 441

¹⁰⁸ Dr. Hari Singh Gour, Penal Law of India, (Law Publishers India Pvt Ltd, 11th edn.,2003) 446

shirts with “#Lokina”¹⁰⁹ or being in the vicinity does not constitute an unlawful assembly unless accompanied by clear evidence of criminal intent.

4. In *Naresh v. State of Haryana*¹¹⁰, the SC ruled that for a conviction under unlawful assembly, there must be clear evidence of a shared common object & intent. Similarly, in Yaara's case, the prosecution has not provided direct evidence proving a shared intent between the appellant & the other individuals. The mere presence of Yaara at the event & his proximity to other suspects does not establish the necessary criminal intent required to qualify as participation in an unlawful assembly under S. 189(4) BNS.

5. The right to assemble is protected under constitutional principles analogous to Art. 19(1)(b) of the Indian Constitution¹¹¹, which guarantees the right to peaceful assembly. The burden is on the prosecution to rebut this presumption by showing illegal intent, which has not been done. In *Ramlila Maidan v. Home Secretary, UOI*¹¹², the SC had stated, “Citizens have a fundamental right to assembly & peaceful protest which cannot be taken away by an arbitrary executive or legislative action.”

6. It is submitted that presence alone is insufficient to prove the charge of unlawful assembly. The prosecution's reliance on distant CCTV footage & social media posts only places the appellant near the site but does not prove active participation in or coordination with the assembly. Witnesses (PW Nos. 4 & 5) admitted under cross-examination that their identification of the appellant was based on TV appearances¹¹³, making their testimony unreliable.

7. The court in *Kuldeep Yadav v. State of Bihar*¹¹⁴ held that mere armed presence in an unlawful assembly does not justify punishment unless there is clear evidence of intent to commit a criminal act. In Yaara's case, mere proximity to the scene & presence with co-accused is insufficient to establish shared criminal intent. There must be evidence of active participation in the unlawful act to justify a conviction under S. 189(4) BNS¹¹⁵, which the prosecution has failed to provide.

8. It is pertinent to the court to note that the non-conduction of a Test Identification Parade¹¹⁶ (TIP) because it undermines the prosecution's ability to credibly prove his active participation at the assembly under S. 189(4) BNS. Without a TIP, the identification by PW4 & PW5, who had never met Yaara before the incident & recognized him solely through media appearances,

¹⁰⁹ Moot *supra* note 5 at para 9

¹¹⁰ *Naresh v. State of Haryana*, 2023 SCC OnLine SC 1274

¹¹¹ Constitution of India Art. 19(1)(b)

¹¹² *Ramlila Maidan v. Home Secretary, Union of India*, 2012 SCC OnLine SC 186

¹¹³ Moot *supra* note 5 at para 17

¹¹⁴ *Kuldeep Yadav v. State of Bihar* 2011 SCC OnLine 610

¹¹⁵ *Amrika Bai v. The State Of Chhattisgarh* AIR 2019 Supreme Court 1831

¹¹⁶ Moot *supra* note 5 at Q&C 79

becomes unreliable & lacks the corroborative weight necessary to establish his role in sharing the common object of the assembly beyond a reasonable doubt.¹¹⁷

9. There is no evidence of premeditation or collaboration between the appellant & the alleged co-accused. Mere association, such as following social media accounts, cannot be equated to participation in an unlawful assembly.

4.2 The appellant was not "armed with a deadly weapon"

1. The Crime360 report, which identified Yaara with only a 78% match¹¹⁸, fails to meet the standard of proof beyond a reasonable doubt, as emphasized in *V.D. Jhingam v. State of Uttar Pradesh*¹¹⁹. Speculative evidence, like this partial match, is insufficient to conclusively identify the appellant as the perpetrator. Moreover, the defense's denial of access to the Crime360 software's source code & datasets violates principles of transparency & procedural fairness¹²⁰, further weakening the reliability of this evidence for conviction.

2. At the time of his arrest, no weapon was recovered from the appellant's person or immediate possession. The alleged recovery of the paintball gun is based on a disputed pointing-out memo (PW53/13) that lacks independent witnesses¹²¹. This makes the recovery highly unreliable & casts doubt on the veracity of the evidence used to link the appellant to the crime. As such, the evidence does not meet the required standards to establish possession of a deadly weapon under S. 189 BNS.

3. A paintball gun is not inherently a deadly weapon. Its classification as such would depend on its use in a manner likely to cause death or grievous injury. The appellant's alleged use of the paintball gun, even if proven, does not meet this threshold & there is no evidence of modification to enhance its lethality.

4. It has been held by the Hon'ble SC that an object's classification as a deadly weapon depends on its inherent nature or the manner in which it is used. Not all sharp instruments (like blades) qualify as deadly weapons unless used in a way likely to cause death or serious injury¹²². In *Phool Kumar v. Delhi Administration*¹²³, a knife was deemed a deadly weapon because of its inherent ability to inflict serious injury. Conversely, in cases where the weapon's use or its capacity to cause grievous harm was not established, objects like blades have not been considered deadly

¹¹⁷ P. Sasikumar v. The State Rep. by the Inspector of Police, 2024 SCC OnLine SC 1652

¹¹⁸ Moot *supra* note 5 Document B

¹¹⁹ V.D. Jhingam v. State of Uttar Pradesh

¹²⁰ Zahira Habibullah Sheikh & ors v. State of Gujarat & ors 2006 (3) SCC 374

¹²¹ Moot *supra* note 5 at para 18

¹²² Asif v. State (NCT of Delhi), 2022 SCC OnLine Del 270

¹²³ Phool Kumar v. Delhi Administration, AIR 1975 SC 905

weapons. Unlike blades or knives, paintball guns are inherently non-lethal tools designed for recreational purposes. This aligns with the reasoning that an object cannot automatically be considered a deadly weapon unless its inherent purpose or use is malicious.

5. In *State of U.P. v. Indrajeet*¹²⁴, the court ruled that the weapon in question (rukhani) was not sufficiently lethal to classify the act as murder under S. 302. Similarly, in Yaara's case, a paintball gun, designed for recreational use & intended to minimize harm does not meet the threshold of a "deadly weapon" unless there is evidence of modification or malicious intent. Without such evidence, it cannot be classified as a deadly weapon under S. 189 BNS or analogous provisions.

6. It is humbly submitted that in *State v. Coauette*¹²⁵ & *State v. Lopez*¹²⁶, courts determined that paintball guns & airsoft guns, being recreational tools, do not meet the criteria for classification as firearms or deadly weapons without evidence of modification or malicious intent. Similarly, in Yaara's case, the paintball gun, primarily used for non-lethal purposes, cannot be classified as a deadly weapon under S. 189 BNS without further proof of intent to cause harm or modification to increase lethality.

¹²⁴ *State of U.P. v. Indrajeet* 2000 SCC(CRI) 1338; *Mathai v. State Of Kerala* on 12 January, 2005(2005 (3) SCC 26)

¹²⁵ *State v. Coauette*, 601 N.W.2d 443 (Minn. Ct. App. 1999)

¹²⁶ *State v. Lopez*, 341 Conn. 793, 268 A.3d 67 (Conn. 2022)

PRAYER

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

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

1. To **set aside** the judgment of the Trial Court regarding the admissibility of Crime360 as valid evidence.
2. To **set aside** the trial court's conviction of Yaara under Sec. 102 read with 105, as the circumstances of the present case does not satisfy any of the essential ingredients of S. 102 read with 105 Ionian Penal Code.
3. To **set aside** the judgment of the trial court regarding conviction under S. 189(4) of the Ionian Penal Code for joining an unlawful assembly armed with a deadly weapon

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

All of which is humbly prayed,

URN: 2543

COUNSELS FOR THE APPELLANT