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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 RESPONDENT-

TABLE OF CONTENTS

LIST OF ABBREVIATIONS	iii
INDEX OF AUTHORITIES.....	iv
STATEMENTS OF FACTS	vii
STATEMENT OF ISSUES	viii
SUMMARY OF ARGUMENTS.....	ix
ARGUMENTS ADVANCED.....	1
[1] Whether the Crime 360 report is inadmissible as evidence?	1
1.1 Admissibility of Crime360 Report within the established Legal Framework	1
1.2 Scientific credibility and Evidentiary reliability of AI-Based Evidence	3
1.3 Fundamental Rights are Subordinate to National security needs	4
[2] Whether the Conviction Under 102 is Bad in Law?	6
2.1 That the Essential Ingredients of Section 101 Have Been Met	6
2.2 Yaara’s Actions don’t fall under any Mitigating circumstances	7
2.3 Appellant is liable for Murder under Section 103(1) IPC	8
[3] Whether the Appellant is liable for conviction under Section 103(1) IPC?	9
3.1 Determining Intent (mens rea) and Action (actus reus), along with examining Circumstantial evidence.	9
3.2 The Doctrine of Constructive Murder and the Principle of Foreseeability: Their Application under Section 103(1) IPC	11
[4] Whether the conviction of the Appellant under Section 189(4) IPC is bad in law? 13	
4.1 Establishing the existence of an Unlawful Assembly Armed with Deadly Weapon .13	
4.2 The Paintball Gun Qualifies as a Deadly Weapon.....	15
PRAYER.....	17

LIST OF ABBREVIATIONS

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

INDEX OF AUTHORITIES

CONSTITUTION AND STATUTES

Constitution of India

Bharatiya Nyaya Sanhita, 2023

Bharatiya Nagrik Suraksha Sanhita, 2023

Bharatiya Sakshya Adhiniyam, 2023

CONVENTIONS

European Convention on Human Rights Nov. 4, 1950, 213 U.N.T.S. 221

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

BOOKS

KD Gaur, Textbook on Indian Penal Code (8th ed., 2024)

Halsbury's Laws of India - Criminal Law (5th Edn, 2020) Vol 21

Batuk Lal, The Indian Evidence Act (24th Edition Central Law Agency 2023)

ARTICLES AND JOURNALS

1. Tech5, *The Role of Inclusive Biometric Technologies in National Level Identity Management Projects* (Feb. 9, 2024)
2. Juan M. Durán, David van der Vloed, Arnout Ruifrok, Rolf J.F. Ypma, *From Understanding to Justifying: Computational Reliabilism for AI-based forensic evidence evaluation*, 9 Forensic Science Int'l Synergy, 4-5 (2024)
3. Archak Das, *AI in Legal Evidence Analysis*, 2 IJLRA 7, 5-13 (2024).
4. H. Gandhi, *National Security v. Right to Privacy*, 5 Int'l JLMH 4, 1107-1112 (2022)
5. B. Pearsall, *Predictive Policing: The Future of Law Enforcement?*, NIJ J. 266, 16-19 (2010)
6. *Use of Algorithmic Risk Assessments in Sentencing*, 130 Harv. L. Rev. 1530 (2017)
7. K Chopra and S P Kasaudhan, *From Constitutional Rights to Data Protection: Article 21 and Comparative Perspectives on Privacy*, Manupatra Articles (2024)
8. Howard E. LeWine, *Subdural Hematoma*, Harvard Health Publishing (June 24, 2023)
David Mauss, *Misdemeanor or Felony? Analysis of Public Paintball Shootings in Miami Gardens*, DMT Law Blog (June 12, 2023)

CASES

Abdul Waheed Khan and Ors. v. State of Andhra Pradesh AIR 2002 SC 2961.....9

Anda and Ors.v. The State of Rajasthan AIR 1966 SC 148.....	9
Anvar P.V. v. P.K. Basheer (2014) 10 SCC 473	2
Appu v. State AIR 1971 Cri LJ 615 (Mad)	7
Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 3 SCC 216	2
Balbair Singh and Ors v. State of Punjab, (2022) 17 SCC 654).....	13
Chacko Aniyam Kunju and Ors. Vs. State of Kerala (2004) 12 SCC 269.....	6
Chandan v. State (NCT of Delhi), (2024) 6 SCC 799)	11
Dharambir; Jagdish Chandra; Ajay Khanna; Anand Mohan Sharan V/S Central Bureau Of Investigation 148 (2008) DLT 289	2
Dharmendar Kumar v. State of MP, (2024) 8 SCC 60)	11
Emperor vs Mushnooru Suryanarayana Murthy (1912) 22 MLJ 333.....	7
Gobind v. State of M.P., (1975) 2 SCC 148	5
K.M. Nanavati v. State of Maharashtra 1962 AIR 605, 1962 SCR Supl. (1) 567	8
K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1.....	5
Kaliappa Goundan And Anr. vs Emperor AIR 1933 MADRAS 798.....	7
Kharak Singh v. State of U.P., (1964) 1 SCR 332	5
Lalji v. State of Uttar Pradesh, AIR 1989 SC 754	15
M.P. Jan Vikash Party v. Election Commission of India, 2022 SCC OnLine SC 2271	3
M.P. Sharma v. Satish Chandra, (1954) 1 SCC 385.....	5
Manohar Sidram Ukaranade v. State of Maharashtra, (2010 SCC OnLine Bom 1592).....	11
Manu Sharma v. State NCT of Delhi AIR 2011 SC (CRIMINAL) 1296	2
Masalti v. State of Uttar Pradesh, AIR 1965 SC 202	15
Mathew v. State of Kerala AIR 1991 SC 1376	9
Mohan Lal v. Ajit Singh & Ors 1978 SCC (3) 249.....	1
Naga Khan v. Emperor, (1922) 23 Cri LJ 111	9
Nima Tamang v. State of Goa, (2023) 1 HCC (Bom) 617.....	12
Phool Kumar v. Delhi Administration AIR 1975 SC 905.....	16
Queen-Empress v. Khanduvalad Bhavani (1890) I.L.R. 15 Bom. 194.....	7
Radhey Shyam And Another v. State of U.P (2005) 53 All. HC 138	8
Raja v. State of Haryana, (2015) 11 SCC 43)	11
Rajwant Singh v. State of Kerala, 1966 SCC OnLine SC 50	9, 12
Ram Chatterjee v. Tapati Mukherjee, (2002) 2 ICC 193	13
Ram Singh v State of UP, (2024) 4 SCC 208	13
Rampal Singh v State of U.P. (2012) 8 SCC 289.....	7

Ravinder v. State (NCT of Delhi), 2016 SCC Online Del 3575	17
Ruli Ram and Ors. v. State of Haryana AIR 2002 SC 3360	9
Salim vs State (Delhi Administration, 1987 SCC OnLine Del 408	17
Sanjeev v. State of Haryana (2015) 4 SCC 387	7
Santosh Kumar Singh v. State through CBI, (2010) 9 SCC 747	12
Seetal vs State (Nct Of Delhi), 2014 SCC OnLine Del 4043	16
Shakariya v. State of Rajasthan 1978 SCC (3) 435	2
Som Prakash vs. State of Delhi Cri LJ 784: AIR 1974 SC 989	3
State of Maharashtra v. Kashirao (2003) 2 SCC 111	15
Tomaso Bruno and Another vs State of Uttar Pradesh (2015) 7 SCC 178	2, 4
Tukaram S. Dighole v. Manikrao Shivaji Kokate, (2010) 4 SCC 329	3
Vaij Nath v. State of Maharashtra, 2019 SCC Online Bom 1357	4
Virendra Khanna v. State of Karnataka ,2021 SCC OnLine Kar 5032	6
Virsa Singh v. State of Punjab 1958 AIR 465 1958 SCR 1495	9

FOREIGN CASES

Antonius Cornelis Van Hulst v. Netherlands, 2004 SCC OnLine HRC 58	5
Fisher v. United States, 1976 SCC OnLine US SC 6	5
Klass v Germany (Application No 5029/71) (1978) 2 EHRR 214, ECtHR	4
P.P. v. Chan Kim Choi [1989] 2 MLJ 100	7
Phefo v S (CA 63/2022)	8
State v. Hardy , 278 Conn. 113, 896 A.2d 755 (2006)	16
State v. Loomis, 881 N.W.2d 749 (Wis. 2016)	5

STATEMENTS OF FACTS

Introduction & Background

Ionia 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 Ionia 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 Ionia.

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 CRPC 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 Section 102 read with Section 105 of the IPC is bad in law?

ISSUE 3

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

ISSUE 4

Whether the conviction of the Appellant under Section 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, and 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?

Yaara Mixol should be convicted of murder under Section 103(1) of the Ionian Penal Code. His deliberate disruption of a rally using a paintball gun, causing death, demonstrates mens rea and actus reus for murder. His recklessness and awareness of fatal consequences reflect dolus eventualis, showing intent or knowledge of causing death. With no mitigating factors, life imprisonment is warranted.

[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 valid. Firstly, the provisions of the Ionian Criminal Identification Act, 2024¹, the BSA², and the BNSS³ establish the legal validity of the Crime 360 report. Secondly, the report's reliability is scientifically affirmative with the corroborative evidence. Lastly, privacy concerns are being outweighed by National security and preventive measures through reasonable restrictions and preventive policing in favour of national interest.

1.1 Admissibility of Crime360 Report within the Established Legal Framework

It is contended that the act of the appellant i.e. firing a paintball pellet aimed at the Prime Minister, Ms. Melody Moore was a direct attack on the state and is a concern of national security, the use of advanced AI technology like Crime 360 suite to identify the accused is justified given the gravity of the offense, especially when traditional methods may have been insufficient.

1. The Ionian Criminal Identification Act, 2024 establishes a coherent legal framework and provides for certain provisions that make the report generated by crime360 admissible as evidence. Section 2⁴ of the Act authorizes the Digital Police Force to collect and maintain records of biometric measurements, such as fingerprints, faceprints, iris scans, and other physical attributes, for criminal investigations and law enforcement, especially of the people fined or arrested which have been crucial in ensuring safety and security⁵.

2. The Magistrate's directive for Yaara Mixol to provide his faceprint was lawful under Section 4 of the Act even after his refusal⁶. In *Mohan Lal v. Ajit Singh & Ors.*⁷, it was held that taking fingerprints even against the consent of a person, is not against the Constitution and thus with the evolution in technology faceprints have become analogous with fingerprints⁸, therefore, the

¹ Ionian Criminal Identification Act, 2024

² Bharatiya Sakshya Adhiniyam 2023, No. 47, Acts of Parliament (Evidence Act)

³ Bharatiya Nagarik Suraksha Sanhita, No. 46, Acts of Parliament (Criminal Procedure Code)

⁴ Criminal Identification Act § 2

⁵ Moot Prop., Para. 12; Queries and Clarifications 49

⁶ Criminal Identification Act § 4

⁷ *Mohan Lal v. Ajit Singh & Ors* 1978 SCC (3) 249

⁸ Tech5, *The Role of Inclusive Biometric Technologies in National Level Identity Management Projects*, TECH5 (Feb. 9, 2024)

collection and use of Yaara's biometric data for facial recognition analysis in Crime360 was legally valid.

3. It may be noted that the police have the authority to take fingerprints and other biometric measurements as in this case⁹. Thus, records generated under Section 2, including measurements obtained per Section 4, are permissible under Section 6. This renders the Crime360 report a legally valid piece of evidence in the trial.

4. All requirements of the Crime 360 report being legally valid primary evidence are fulfilled as per S. 57 BSA¹⁰ along with being accompanied by a proper Evidence Act Certificate mandated for electronic evidence under S. 63¹¹. It allows for the admissibility of electronic records, such as Crime360 reports, if accompanied by proper certification, as affirmed in *Anvar P.V. v. P.K. Basheer*¹² and supported by *Tomaso Bruno*¹³ and *Arjun Panditrao*¹⁴. In this case, the Crime360 report was certified under S. 63 by Prosecution Witness No. 34, ensuring compliance with the legal standards for admitting digital evidence.

5. The non-disclosure of the Crime360 source code does not affect the report's admissibility, as the focus is on its output and expert validation. In *Manu Sharma v. State NCT of Delhi*¹⁵, the SC ruled that the accused's right to disclosure of documents under S. 230 of the BNSS¹⁶ is limited. The accused cannot claim an unfettered right to access all police files or excluded portions of them.

6. Moreover, the state contends that non-disclosure of the Crime360 source code does not impact the report's reliability. Mr. Yaara's request for access to the source code was denied by the trial judge, deeming it non-essential to the prosecution's case¹⁷, which is based on the software's output. In *Madhya Pradesh Jan Vikash Party v. Election Commission*¹⁸ the Hon'ble SC made it clear that EVM source codes "should never be disclosed" as the same can be misused. Similarly, disclosure of the source code could undermine the very purpose of the software, which is designed to enhance national security by providing real-time, predictive analysis of threats.

⁹ *Shakariya v. State of Rajasthan* 1978 SCC (3) 435

¹⁰ *Bharatiya Sakshya Adhiniyam* § 57

¹¹ *Id.* § 63

¹² *Anvar P.V. v. P.K. Basheer* (2014) 10 SCC 473

¹³ *Tomaso Bruno and Another vs State of Uttar Pradesh* (2015) 7 SCC 178

¹⁴ *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 3 SCC 216

¹⁵ *Manu Sharma v. State NCT of Delhi* AIR 2011 SC (CRIMINAL) 1296; *Dharambir; Jagdish Chandra; Ajay Khanna; Anand Mohan Sharan V/S Central Bureau Of Investigation* 148 (2008) DLT 289

¹⁶ *Bharatiya Nagarik Suraksha Sanhita* § 230

¹⁷ Moot, *supra* note 5 at para 15

¹⁸ *M.P. Jan Vikash Party v. Election Commission of India*, 2022 SCC OnLine SC 2271

1.2 Scientific Credibility Evidentiary and Reliability of AI-Based Evidence

The evidence generated by Crime360 is highly reliable due to its use of advanced algorithms for facial recognition and predictive analysis. These technologies analyze extensive datasets with high precision, making the identification of suspects accurate. Specifically, the FaceTracer application within Crime360 employs scientifically validated facial recognition methods¹⁹.

1. The Crime360 analysis is supported by the statement of PW No. 34 IO David Dhawan, trained especially by Looper Inc, for Crime 360 suite who stated that the algorithm works with absolute precision based on the inputs available²⁰. In *Som Prakash v. State of Delhi*²¹, the SC stressed that relying solely on traditional evidence is outdated in the technological age. With the rapidly advancing technology, the reliability of Generative AI evidence ought to increase²². This perspective affirms the growing reliability of AI evidence as technology evolves²³.
2. The Crime360 analysis, corroborated by social media posts and geolocation data, places Yaara Mixol at the June 4, 2024 rally. Additionally, CrimeForecaster flagged him as a potential threat based on behavioral data. Yaara's interactions with Neo-MPR members, supporting the AI's risk prediction and demonstrating its reliability in public safety²⁴.
3. Computational reliabilism supports the state's use of AI system outputs when there are sufficient grounds to trust their reliability²⁵. In this case, the Crime360 analysis, corroborated by geolocation, footage, and extremist social media posts from Yaara's public account, justifies its use. Additionally, components of Crime360 are used by law enforcement in Europe and the U.S., and AI-driven tools like FaceTracer and CrimeForecaster are considered more impartial than human decision-makers, contributing to the advancement of the Integrated Criminal Justice System project²⁶.
4. The SC in *Shafhi Mohammad v. State of Himachal Pradesh*²⁷ emphasized the need for modernization in investigations, aligning with the integration of AI tools like Crime360 in evidence law. AI tools provide impartial, data-driven analysis, eliminating human biases. They analyze patterns, behavior, and biometric data to assist in informed decision-making, especially

¹⁹ Moot *supra* note 5 Document A

²⁰ Moot *supra* note 5 at para 15

²¹ *Som Prakash vs. State of Delhi* Cri LJ 784: AIR 1974 SC 989

²² Archak Das, *AI in Legal Evidence Analysis*, 2 IJLRA 7, 5-13 (2024).

²³ *Tukaram S. Dighole v. Manikrao Shivaji Kokate*, (2010) 4 SCC 329

²⁴ Moot *supra* note 5 Document B

²⁵ Juan M. Durán, David van der Vloed, Arnout Ruifrok, Rolf J.F. Ypma, *From understanding to justifying: Computational reliabilism for AI-based forensic evidence evaluation*, Forensic Science International Synergy, Volume 9, 2024,4 - 5

²⁶ Moot *supra* note 5 para 5

²⁷ *Shafhi Mohammad v. The State of H.P.*, SLP(Crl.) No. 2302 of 2017

in complex cases requiring quick, accurate insights to prevent harm or solve crimes. This modern approach enhances fairness and efficiency in criminal justice.

5. The chain of custody for CCTV footage is verified via a S. 63 certificate²⁸, ensuring proper handling. The Hon'ble Bombay High Court in *Vaijinath v. State of Maharashtra*²⁹ mandated certification under the Evidence Act, while the SC in *Tomaso Bruno*³⁰ emphasized that electronic records must be preserved in a way that proves their authenticity and reliability.

1.3 Fundamental rights such as Privacy are Subordinate to National Security Needs and Preventive Measures

It is submitted that the implementation of AI tools like Crime 360 is necessary for surveillance and justified by the imperative to safeguard national security, with privacy concerns being outweighed by the need to prevent potential violence and maintain public order³¹. The actions of state do not violate the Fundamental Rights enshrined in the constitution.

1. It is pertinent for this Hon'ble Court to note that the danger to a state's security is not limited to direct threats; threats may even be grounded in distant events that can affect the security of the state indirectly³². While surveillance must be strictly regulated, it can be permissible when aimed at preventing serious threats to the state and maintaining public order³³. Predictive policing tools like Crime 360 are vital for modern law enforcement, helping allocate resources and address threats before they escalate. The recent blasts in Delhi, which caused injuries and increased public fear, highlighted the need for preventive policing to prevent further unrest and violence proactively³⁴.

2. It is argued that the paintball attack on the Prime Minister constitutes a direct threat to national security, justifying the use of Crime360 in safeguarding national integrity. Yaara's involvement in separatist activities, reflected in his public rhetoric, further supports the need for such measures³⁵. The Indian Criminal Procedure Identification Act, 2024, balances privacy with

²⁸ Moot *supra* note 5 Q&C 92

²⁹ *Vaijinath v. State of Maharashtra*, 2019 SCC Online Bom 1357

³⁰ *Tomaso Bruno and Another vs State of Uttar Pradesh* (2015) 7 SCC 178

³¹ H. Gandhi, *National Security v. Right to Privacy*, 5 Int'l JLMH 4, 1107-1112 (2022)

³² B. Pearsall, *Predictive Policing: The Future of Law Enforcement?* NIJ J. 266, 16-19 (2010)

³³ *Klass v Germany* (Application No 5029/71) (1978) 2 EHRR 214, ECtHR ; European Convention on Human Rights (ECHR) - Art.8

³⁴ Moot *supra* note 5 at para 4

³⁵ Moot *supra* note 5 Document B

security, in line with precedents like *M.P. Sharma*³⁶ and *Kharak Singh*³⁷, where privacy was limited in the interest of law and order and national security.

3. The State argues that the right to privacy under Art. 21³⁸, while acknowledged, is subject to reasonable restrictions for national security, public order, and crime prevention. In *Govind v. State of Madhya Pradesh*³⁹, privacy was derived from rights like liberty and speech, but the Court stated it is not absolute. Similarly, in *K.S. Puttaswamy v. UOI*⁴⁰, the SC affirmed privacy as a fundamental right but allowed restrictions if justified by a legitimate state purpose, supporting law, and proportionality between the restriction and its objective.

4. The court must consider the direct link between Yaara Mixol's Instagram posts and his involvement in the Neo-MPR movement, promoting secessionist ideologies. Furthermore, the State's use of the Crime 360 report aligns with principles in the ICCPR⁴¹, justifying privacy limitations for national security and public safety, as supported by global norms⁴².

5. In *State v. Loomis*⁴³, the Wisconsin SC upheld the use of algorithmic risk assessments in sentencing despite non-disclosure of the methodology, ruling no due process violation occurred⁴⁴. Similarly, Yaara Mixol's due process rights under Art. 21 are not violated. Evolving laws allow the processing of personal data, including faceprints, for legitimate state purposes, such as national security⁴⁵. Yaara, as a DigiTravel user, voluntarily consented to providing his faceprint, aligning principles like Purpose Limitation⁴⁶.

6. In *Virendra Khanna v. State of Karnataka*⁴⁷, the court ruled that the disclosure of a passcode does not violate the right against self-incrimination under Article 20(3)⁴⁸, as it is akin to providing physical evidence like fingerprints or voice samples. The disclosure of biometric data, such as a faceprint, similarly does not violate this right. Additionally, the "foregone conclusion" exception applies, meaning if the government already knows the facts, the accused's act of disclosure adds little to the information already available⁴⁹.

³⁶ *M.P. Sharma v. Satish Chandra*, (1954) 1 SCC 385

³⁷ *Kharak Singh v. State of U.P.*, (1964) 1 SCR 332

³⁸ The Constitution of India, Art.21

³⁹ *Gobind v. State of M.P.*, (1975) 2 SCC 148

⁴⁰ *K.S. Puttaswamy (Privacy-9J.) v. Union of India*, (2017) 10 SCC 1

⁴¹ International Covenant on Civil and Political Rights, 1966 Art.17

⁴² *Antonijs Cornelis Van Hulst v. Netherlands*, 2004 SCC OnLine HRC 58

⁴³ *State v. Loomis*, 881 N.W.2d 749 (Wis. 2016)

⁴⁴ *State v. Loomis: Use of Algorithmic Risk Assessments in Sentencing*, 130 Harv. L. Rev. 1530 (2017)

⁴⁵ K Chopra and S P Kasaudhan, *From Constitutional Rights to Data Protection: Article 21 and Comparative Perspectives on Privacy*, Manupatra Articles (2024)

⁴⁶ Moot *supra* note 5 at para 6; Q&C 43

⁴⁷ *Virendra Khanna v. State of Karnataka*, 2021 SCC OnLine Kar 5032

⁴⁸ The Constitution of India, Art.20(3)

⁴⁹ *Fisher v. United States*, 1976 SCC OnLine US SC 69

[2] Whether the Conviction Under 102 Is Bad in Law?

The present submission seeks to elevate the conviction of the appellant, Yaara Mixol, from culpable homicide to murder under S. 103(1) of the Ionian Penal Code⁵⁰. The Trial Court's failure to recognize the severity and intent behind the Respondent's actions led to an erroneous reduction in the charge. The gravity of the offense committed by the appellant warrants a conviction for murder. Therefore, in furtherance of the principle All "murder" is "culpable homicide" but not vice versa⁵¹ the following is established.

2.1 That the Essential Ingredients of Section 101 Have Been Met

Homicide is the killing of one human being by another.⁵² Under S. 101 of the BNS⁵³, it becomes voluntary culpable homicide if: (i) a person causes another's death; (ii) through an act or omission they are legally bound to avoid; (iii) with intent or knowledge likely to cause death.⁵⁴ In the present case, the action of the appellant having fulfilled all the above requisites has committed a culpable homicide amounting to murder.

The Appellant Possessed the Required Mens Rea and Engaged in Voluntary Conduct

1. *Mens Rea*: This mental element forms the core of criminal responsibility. Yaara's affiliation with the Neo-MPR, advocating Mixolydia's independence, and his inflammatory statements on media and social platforms; hashtags like #Lokina and #PrimaMixo reveal a premeditated desire to disrupt public order.⁵⁵ This clearly demonstrates mens rea.

2. *Actus Reus*: The appellant's voluntary act caused legally prohibited harm. Yaara's use of a paintball gun at a crowded rally triggered a stampede, leading to the commando's death. Crime 360 identified him with 92% certainty, and geolocation data confirmed his presence.⁵⁶

3. In the cases of circumstantial evidence, the lack of direct evidence enables the reliance to be placed solely on surrounding circumstances.⁵⁷ The probative force of preparation manifestly rests upon the intention to commit the offence which persisted until the power and opportunity were found to carry it into execution.⁵⁸ The accused, Yaara Mixol had the requisite intention or knowledge to cause death or grievous bodily harm, even if it was directed at a different person.

⁵⁰ Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament (Ionian Penal Code) § 103(1)

⁵¹ Chacko Aniyann Kunju and Ors. Vs. State of Kerala (2004) 12 SCC 269

⁵² Halsbury's Laws of England, 4th edn, 2005, vol 2, para 1151

⁵³ Bhartiya Nyaya Sanhita § 101

⁵⁴ Rampal Singh v State of U.P. (2012) 8 SCC 289

⁵⁵ Moot *supra* note 5 at para 3

⁵⁶ *Id.* at para 13

⁵⁷ Sanjeev v. State of Haryana (2015) 4 SCC 387

⁵⁸ Appu v. State AIR 1971 Cri LJ 615 (Mad)

The act committed by him was inherently dangerous and likely to cause death or grievous bodily harm. He must have had foreseen the possibility of harm to someone else, even if the intended victim was different⁵⁹.

4. If the intention is to kill and a killing results, the accused succeed in doing that which they intended to do and if the acts follow closely upon one another and are intimately connected with one another such as they were in the Bombay case⁶⁰, then the offence of murder has been committed.⁶¹ In Yaara's case, his intent to disrupt and target the Prime Minister, combined with harm to the commando, transfers malice, justifying a murder charge. Document E shows his political motives

2.2 Yaara's actions don't fall under any mitigating circumstances

Under S. 101 of the BNS⁶², a voluntary culpable homicide under S. 100 of the BNS⁶³ is murder, unless it falls under any of the mitigating circumstances provided for. The essential ingredients of an offence under S. 100 have been met in the present case and consequently, it is submitted that the essential ingredients for an offence under S. 101 have also been met. It is also submitted that the present case does not fall under any of the mitigating circumstances listed under S. 101 and therefore, the appellant is guilty of the offence of voluntary culpable homicide amounting to murder.

1. No Grave and Sudden Provocation: "Grave and sudden provocation" requires an act that induces a temporary loss of self-control in a reasonable person. As held in *K.M. Nanavati v. State of Maharashtra*⁶⁴, such provocation must be immediate, without premeditation, and cannot extend beyond reasonable limits for public safety. Yaara's actions were premeditated and politically motivated, with no grave or sudden provocation.

2. No Sudden Fight or Heat of Passion: Exception 4 of S. 101 applies only if there is a sudden fight without premeditation or undue advantage.⁶⁵ Here, Yaara's calculated use of a paintball gun in a crowded rally shows premeditated intent to incite panic, not an unplanned altercation or loss of control.

⁵⁹ Emperor vs Mushnooru Suryanarayana Murthy (1912) 22 MLJ 333

⁶⁰ Queen-Empress v. Khanduvalad Bhavani (1890) I.L.R. 15 Bom. 194

⁶¹ Kaliappa Goundan And Anr. vs Emperor AIR 1933 MADRAS 798

⁶² Bharatiya Nyaya Sanhita § 101

⁶³ *Ibid.* § 100

⁶⁴ *K.M. Nanavati v. State of Maharashtra* 1962 AIR 605, 1962 SCR Supl. (1) 567

⁶⁵ *Radhey Shyam And Another v. State of U.P* (2005) 53 All. HC 138; *see also P.P. v. Chan Kim Choi* (1989) Singapore Supreme Court 404

3. No Right of Self-Defense: Self-defense or actions in good faith for another's benefit can reduce the charge to culpable homicide. However, Yaara's actions were politically driven to disrupt the government, not in defense or good faith, negating any claim to self-defense.

It can be therefore concluded that none of the exceptions under S. 101 of the BNS are applicable and the appellant was erroneously charged with the offense of culpable homicide not amounting to murder, rather the appellant should be convicted for life imprisonment.

2.3 Appellant should be convicted of murder

1. In *Virsa Singh*⁶⁶, the SC established that under S. 101 culpable homicide becomes murder if: (a) the act is done with intent to cause death or bodily injury, and (b) the injury is sufficient in the ordinary course of nature to cause death. Even limited intent to inflict fatal injury qualifies as murder.⁶⁷ Although Yaara's specific intent to kill may not be clear, his deliberate actions—discharging a paintball gun in a crowded rally—demonstrate intent to cause harm sufficient to result in death, as shown by his separatist motives and conduct.⁶⁸

2. Under international criminal law, *dolus eventualis* means that if an individual foresees the possibility of death resulting from their actions but proceeds regardless, they bear liability for the outcome.⁶⁹ Yaara's knowledge that discharging a paintball gun could incite panic in a large crowd, potentially resulting in injuries or death, shows that he acted with *dolus eventualis*. He recklessly disregarded this foreseeable risk, which is indicative of murder.

3. If there is a high probability of death, S. 101 is met, qualifying the act as murder.⁷⁰ Even if the weapon isn't inherently fatal, the force or context may indicate intent to cause fatal injury, as in and *Naga Khan v. Emperor*.⁷¹ Yaara's act of discharging a paintball gun in a crowded rally created a high probability of death, satisfying the third clause and classifying it as murder.

⁶⁶ *Virsa Singh v. State of Punjab* 1958 AIR 465 1958 SCR 1495

⁶⁷ *Abdul Waheed Khan and Ors. v. State of Andhra Pradesh* AIR 2002 SC 2961. ; *See also* *Ruli Ram and Ors. v. State of Haryana* AIR 2002 SC 3360

⁶⁸ *Rajwant Singh v. State of Kerala*, 1966 SCC OnLine SC 50

⁶⁹ *Phefo v S* (CA 63/2022)

⁷⁰ *Ratanlal & Dhirajlal, The Indian Penal Code; Mathew v. State of Kerala* AIR 1991 SC 1376; *Anda and Ors.v. The State of Rajasthan* AIR 1966 SC 148.

⁷¹ *Naga Khan v. Emperor*, (1922) 23 Cri LJ 111

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

The State respectfully submits before this Hon'ble Bench that Yaara Mixol is culpable under S. 103(1) of the BNS for the death of a commando during a public event. The State's argument is grounded in fundamental principles of criminal law, specifically *mens rea*, *actus reus*, the principle of foreseeability, and the doctrine of constructive murder. This assertion is further supported by circumstantial evidence, technological findings, and relevant legal precedents.

3.1 Determining intent (mens rea) and action (actus reus), along with examining circumstantial evidence.

1. S. 103(1) of the BNS stipulates that *"Whoever commits murder shall be punished with death or imprisonment for life, and shall also be liable to fine."*⁷²

The prosecution submits that Yaara Mixol's intent (*mens rea*) to disrupt the event and inflict harm is explicitly evidenced in Document E (Statement by Suspect)⁷³, wherein he acknowledges his objective was to instigate chaos. Given the politically charged milieu and his expressed grievances against the current political landscape⁷⁴, it is reasonable to infer that his actions were premeditated rather than accidental

2. Furthermore, The Recovery Memo (Document D)⁷⁵ establishes a direct connection between Yaara and the physical act of discharging the paintball gun. Yaara's act of discharging a paintball gun, a dangerous action with foreseeable harm establishes *actus reus*. Firing it at a crowded event with the Prime Minister present shows reckless disregard for life, demonstrating a clear intent to incite panic or cause injury.

3. His association with hashtags like #Lokina and #PrimaMixo aligns with separatist sentiments and supports the inference that his intent was politically driven⁷⁶, ToughTalk AI (Crime 360) displayed that Yaara's social media behaviour had an 85% overlap with the Neo-MPRer account⁷⁷, which posted a live video of the incident.

4. PW No. 4 & 5, attendees at the event, testified that they observed Mr. Yaara strategically positioned behind the crowd alongside others clad in Mixolydian flag T-shirts⁷⁸ and the subsequent recovery of a box of paint gun pellets from Yaara's residence⁷⁹ significantly aligns

⁷² Bharatiya Nyaya Sanhita § 103(1)

⁷³ Moot *supra* note 5 Document E

⁷⁴ Moot *supra* note 5 at para 3

⁷⁵ Moot *supra* note 5 Document D

⁷⁶ Moot *supra* note 5 at para 3 & 4

⁷⁷ Moot *supra* note 5 Document B para 5

⁷⁸ Moot *supra* note 5 at para 17

⁷⁹ Moot *supra* note 5 at para 11

with the judicial precedent set in *Chandan v. State (NCT of Delhi)*⁸⁰, where the court affirmed a conviction based on credible eyewitness accounts, the prompt apprehension of the accused, and the recovery of a weapon directly linked to the crime. These factors were deemed sufficiently probative to substantiate the accused's guilt.

5. In *Manohar Sidram Ukarande v. State of Maharashtra*⁸¹ the court reviewed the culpability of several accused in a fatal assault with swords and scythes, finding the testimony of the deceased's siblings credible. It emphasized corroborative evidence, including the accused's presence, blood-stained clothing, and medical reports. This case reinforces the principles established in the Yaara Mixol case, particularly regarding the sufficiency of eyewitness testimony⁸² and supporting evidence to affirm guilt⁸³.

6. The chronological progression from the firing of the paintball gun to the ensuing panic, injury, and death of the commando illustrates a clear causal link between Yaara Mixol's actions and the tragic outcome. This aligns with the precedent set in *Raja v. State of Haryana*⁸⁴, where the SC underscored the application of both *actus reus* and *mens rea*. The appellant was convicted based on circumstantial evidence establishing his intention to kill Het Ram, coupled with the physical act of murder. The Court reiterated that the evidence must form a continuous chain leading to the conclusion of guilt.

7. The foreseeability of the consequences arising from discharging a weapon in a crowded event underscores the *actus reus*. It is reasonably foreseeable that such an act could incite panic, leading to injury or death, thereby satisfying the requisite criteria for *actus reus* in the context of causing harm. In *Dharmendar Kumar v. State of MP*⁸⁵, the Court emphasized that if an individual's conduct is likely to produce fatal consequences, they may be held criminally liable for resultant death, thereby integrating the principles of *actus reus* and *mens rea* to substantiate culpability.

8. A blog post by a former classmate described Yaara's experience in paintball⁸⁶, suggesting he had the knowledge to handle a paintball gun effectively. This supports the claim that he acted intentionally and with awareness of his actions, further contributing to *actus reus*.

⁸⁰ *Chandan v. State (NCT of Delhi)*, (2024) 6 SCC 799)

⁸¹ *Manohar Sidram Ukarande v. State of Maharashtra*, (2010 SCC OnLine Bom 1592)

⁸² Moot *supra* note 5 para 17

⁸³ Moot *supra* note 5 Document C

⁸⁴ *Raja v. State of Haryana*, (2015) 11 SCC 43)

⁸⁵ *Dharmendar Kumar v. State of MP*, (2024) 8 SCC 60)

⁸⁶ Moot *supra* note 5 Document B Para 6

3.2 The Doctrine of Constructive Murder and the Principle of Foreseeability: Their

Application under S. 103(1) BNS

1. The doctrine of constructive murder, or felony murder, holds an individual criminally liable for any death occurring during a dangerous felony, regardless of intent⁸⁷. This principle assumes certain felonies inherently endanger life, making individuals liable if they engage in such acts with reckless disregard for human life. Key elements include committing a felony, inherent danger, and foreseeability of death—criteria met by Yaara's actions.

2. In *Rajwant Singh v. State of Kerala*,⁸⁸ it was held that an act that is dangerous to human life and likely to cause death may still amount to murder, even if the direct intent to kill is absent, so long as there is knowledge of the probable consequences. The judgment highlighted that recklessness and knowledge that the act is likely to cause death are sufficient to convict someone of murder under Sec.101 BNS⁸⁹, similarly in *Nima Tamang v. State of Goa* ⁹⁰, The judgment emphasized that even without explicit intent to kill, awareness that their conduct could likely result in fatal outcomes made them liable. This reflects the principle that reckless actions in dangerous situations can lead to criminal responsibility for resulting harm.

3. Even if Yaara's primary goal was disruption rather than direct harm, he surely knew his actions were likely to cause death. Firing paintball pellets in a crowded area incited panic, leading to a deadly stampede⁹¹. Any reasonable person would foresee that shooting at the Prime Minister's stage during a public event would likely provoke panic and serious consequences. In *Santosh Kumar Singh v. State through CBI* ⁹², the foreseeability of the risk and subsequent harm played a great role. The SC analyzed whether the accused could foresee that his acts would lead to the victim's death, which impacted the sentencing decision.

4. The principle of foreseeability is paramount in determining liability under S. 103(1) BNS⁹³, especially in instances where the accused may not have had a direct intent to kill but was aware that their actions could likely result in death. This principle ensures that individuals are held accountable not only for intentional acts but also for actions that carry foreseeable harmful

⁸⁷ KD Gaur, Textbook on Indian Penal Code (8th ed., 2024)

⁸⁸ *Rajwant Singh v. State of Kerala*, 1966 SCC OnLine SC 50

⁸⁹ *Bhartiya Nyaya Sanhita* § 101

⁹⁰ *Nima Tamang v. State of Goa*, (2023) 1 HCC (Bom) 617

⁹¹ Moot *supra* note 5 at para 8

⁹² *Santosh Kumar Singh v. State through CBI*, (2010) 9 SCC 747

⁹³ *Bhartiya Nyaya Sanhita* § 103(1)

consequences⁹⁴. In *Balbir Singh and Ors v. State of Punjab* ⁹⁵ The court stressed that the accused's awareness of likely causing death or grievous harm, along with their reckless disregard for life in a violent confrontation, was key in establishing mens rea and affirming their culpability for murder. Similarly in *Ram Singh v State of UP* ⁹⁶ the court highlighted that Ram Singh could reasonably foresee that his actions would likely cause fatal consequences, even if there was no direct intent to kill. This foreseeability established his liability by showing that he was aware of the likely outcomes of his conduct.

5. Following Yaara's directions, a Tippmann Bravo One Elite paintball gun was recovered at Curzon Road and Akbar Road⁹⁷, establishing both mens rea and actus reus. Although Yaara's intent may have been to disrupt the rally and instill fear, the malicious intent is transferred to the resulting fatality under the doctrine's aim of preventing harm from reckless conduct during felonies.

6. In *Ram Chatterjee v. Tapati Mukherjee* ⁹⁸, The court addressed mens rea, emphasizing the need to prove the accused's intent or knowledge of causing harm. Although Yaara did not directly cause the security officer's death, firing a paintball at a crowded event was likely to cause panic and harm, satisfying the mens rea for constructive murder.

7. As detailed in the post-mortem report, the following injuries were observed: a pellet lodged in the right eye, resulting in complete loss of vision; severe bleeding from the affected eye; subdural hematoma due to internal bleeding within the eye; and (4) a fractured skull⁹⁹. A subdural hematoma occurs when a blood vessel near the surface of the brain bursts. Blood builds up between the brain and the brain's tough outer lining, A subdural hematoma is a life-threatening problem because it can compress the brain.¹⁰⁰ These injuries are direct consequences of Yaara's actions, which were clearly foreseeable, as discharging a paintball gun toward the Prime Minister at an event attended by 50,000¹⁰¹ individuals, demonstrates a reckless disregard for human life. Such behavior renders him liable under S. 103(1) of the BNS¹⁰².

⁹⁴ KD Gaur, Textbook on Indian Penal Code (8th ed., 2024)

⁹⁵ *Balbir Singh and Ors v. State of Punjab*, (2022) 17 SCC 654)

⁹⁶ *Ram Singh v State of UP*, (2024) 4 SCC 208

⁹⁷ Moot *supra* note 5 Document C

⁹⁸ *Ram Chatterjee v. Tapati Mukherjee*, (2002) 2 ICC 193

⁹⁹ Moot *supra* note 5 Q&C 35

¹⁰⁰ Subdural Hematoma, Harvard Health Publishing, available at https://www.health.harvard.edu/a_to_z/subdural-hematoma-a-to-z (last visited Dec. 02, 2024)

¹⁰¹ Moot *supra* note 5 at para 7

¹⁰² Bhartiya Nyaya Sanhita § 103(1)

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

The prosecution respectfully submits that the conviction of the appellant, Mr Yaara Mixol, under S. 189(4) of the IPC (BNS) is legally sound and fully justified.

S. 189(4) of the Code, states that “*Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offense, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*”¹⁰³

The conviction is based on the appellant’s participation in an unlawful assembly armed with a deadly weapon—the paintball gun—which, in the given circumstances, qualifies as such a weapon. The following submissions substantiate this position.

The prosecution submits that the appellant's actions, combined with the presence of a deadly weapon in the assembly, meet all legal requirements for conviction under these provisions.

4.1 Establishing the Existence of an Unlawful Assembly Armed with a Deadly Weapon

1. Presence in a Group with Unlawful Intent

The prosecution submits that the assembly formed at the rally, which included the appellant and four other individuals, constituted an unlawful assembly under S. 189(1) BNS¹⁰⁴. The group was gathered with the intention of disrupting a high-profile political rally. The presence of individuals wearing “Lokina” T-shirts¹⁰⁵, clearly showing their allegiance to the separatist cause, establishes a common unlawful objective of inciting unrest and creating panic at the event.

In *Lalji v. State of Uttar Pradesh*¹⁰⁶, the court held that whoever being aware of facts which render any assembly an unlawful assembly intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly as per the penal code of the country. Court also held that the common object of the assembly must be one of the five objects mentioned in S. 141 BNS. Common object of the unlawful assembly can be gathered from the nature of the assembly, arms used by them and the behaviour of the assembly at or before the scene of occurrence. The Hon’ble SC in *Masalti v. State of Uttar Pradesh*¹⁰⁷ held that the mere presence of a person in an unlawful assembly is sufficient to render them liable for the actions of the group

¹⁰³ Bhartiya Nyaya Sanhita § 189(4)

¹⁰⁴ Bhartiya Nyaya Sanhita §189(1)

¹⁰⁵ Moot *supra* note 5 at para 8

¹⁰⁶ *Lalji v. State of Uttar Pradesh*, AIR 1989 SC 754

¹⁰⁷ *Masalti v. State of Uttar Pradesh*, AIR 1965 SC 202

if the unlawful objective is shared. In this case, the appellant's presence, in conjunction with other individuals, near the location where the shots were fired, establishes his alignment with the group's unlawful objective.

2. Connection to the Neo-MPR Movement and Prior Bombings and Calls for Liberation

The appellant's longstanding association with the Neo-MPR movement, a radical group advocating Mixolydian independence¹⁰⁸, and his public support for separatist activities establish a clear connection between his presence at the rally and the group's unlawful purpose. The prosecution submits that the prior bombings in Delphi in January 2024, which were claimed by Neo-MPR¹⁰⁹, highlight a pattern of violent and disruptive conduct from the group.

As observed in *State of Maharashtra v. Kashirao*¹¹⁰, where a person's actions indicate prior involvement in unlawful activity, they are more likely to be part of a conspiracy or shared objective when in the company of similar-minded individuals. The appellant's involvement in the movement and his presence at a politically charged rally strongly suggest that the group's purpose was to cause disruption.

3. Evidence from the Crime 360 Report

The Crime 360 Report, which identified the appellant as 92% likely to be the perpetrator based on facial recognition technology and AI-driven analysis¹¹¹, further solidifies his involvement in the assembly. The report also revealed that the appellant was present at the event, dressed in clothing matching the description of the suspect seen in social media footage, and displayed suspicious behaviour.¹¹²

In the case of *Shafhi Mohammad v. The State of H.P*¹¹³, the Hon'ble SC emphasized the pressing need to modernize investigation techniques. This case underscores the critical role of integrating artificial intelligence (AI) in law enforcement. Consequently, the Crime360 report serves as reliable and admissible evidence. The government's reliance on the Crime 360 tool to identify potential threats before the event demonstrates a proactive approach to law enforcement. The preventive detention of individuals identified as high-risk by CrimeForecaster underscores the state's responsibility to maintain public order.

¹⁰⁸ Moot *supra* note 5 at para 3

¹⁰⁹ Moot *supra* note 5 at para 4

¹¹⁰ *State of Maharashtra v. Kashirao* (2003) 2 SCC 111

¹¹¹ Moot *supra* note 5 at para 10

¹¹² Moot *supra* note 5 Document B

¹¹³ *Shafhi Mohammad v. The State of H.P*, SLP(Crl.) No. 2302 of 2017

4. Use of a Deadly Weapon

The paintball gun used by the group, though typically not considered a deadly weapon, meets the criteria of a deadly weapon under S. 189(4) BNS¹¹⁴, given the context in which it was used. The firing of paintball pellets directly resulted in panic at the rally, causing a commando's death in the ensuing stampede. As ruled in *Phool Kumar v. Delhi Administration*¹¹⁵, any weapon that, when used in a specific context, can cause serious harm or death qualifies as a deadly weapon. In this case, the paintball gun's use to target the Prime Minister and the rally attendees¹¹⁶ had a direct and lethal consequence.

Furthermore, in *Seetal vs State (Nct Of Delhi)*¹¹⁷, held that It is pertinent for this Hon'ble Court to note that since a knife can be considered a deadly weapon regardless of its type or size due to its potential to cause serious harm, a paintball gun can similarly be deemed a deadly weapon if used in a manner that causes injury or death. The focus should be on the capacity for harm rather than the intended use, making the paintball gun a viable weapon of offence in this case.

4.2 The Paintball Gun Qualifies as a Deadly Weapon

1. Under S. 189(4) of the BNS¹¹⁸ and similar provisions, a "deadly weapon" is defined as any object that, by its nature or manner of use, is capable of causing death or grievous injury. The courts have historically interpreted this definition to include objects that may not be inherently lethal but become so when used in dangerous circumstances. In *Salim vs State (Delhi Administration)*¹¹⁹, the court highlighted that the classification of a knife as a deadly weapon depends on its design or manner of use. The court also recognised that the nature of a weapon is not determined by its conventional use but by its ability to cause harm in the situation in which it is employed. Similarly, the paintball gun, when used in the highly charged environment of a political rally, had the potential to cause significant harm.

2. Furthermore, in *State v. Hardy*,¹²⁰ examines the definition of "deadly weapon" The court affirmed that the air pistol used in the crime could indeed be considered a deadly weapon despite not using gunpowder, as it was designed for violence and capable of causing serious bodily

¹¹⁴ Bhartiya Nyaya Sanhita § 189(4)

¹¹⁵ *Phool Kumar v. Delhi Administration* AIR 1975 SC 905

¹¹⁶ Moot *supra* note 5 at para 8

¹¹⁷ *Seetal vs State (Nct Of Delhi)*, 2014 SCC OnLine Del 4043

¹¹⁸ Bhartiya Nyaya Sanhita § 189(4)

¹¹⁹ *Salim vs State (Delhi Administration)*, 1987 SCC OnLine Del 408

¹²⁰ *State v. Hardy* , 278 Conn. 113, 896 A.2d 755 (2006)

injury. The court determined that weapons designed for violence and capable of inflicting serious bodily harm can be classified as deadly weapons, independent of the means of discharge. Evidence, including the air pistol's operating manual, indicated that it was potentially dangerous to humans and could cause serious injury.

3. In *Ravinder v. State (NCT of Delhi)*¹²¹, the Single Bench of the Delhi High Court addressed the argument that an air gun is not a deadly weapon. The court determined that an air gun, which uses energy and force generated from compressed air or gas to discharge pellets or projectiles, can indeed cause injury and thus qualifies as a deadly weapon. Similarly, a paintball gun poses comparable risks and should also be considered a deadly weapon.

4. The death of the commando, who was hit by a paintball pellet and then trampled in the ensuing stampede¹²², highlights the serious risks associated with the careless use of paintball guns in public settings. The post-mortem report notes injuries such as a pellet lodged in his right eye, resulting in total vision loss, severe bleeding from the injured eye, and a subdural hematoma due to internal bleeding. This tragic incident illustrates that paintball guns can be lethal weapons and pose significant danger.

5. The prosecution contends that the paintball gun was used in a manner that posed a significant risk to life and safety. Even in the context of sports, paintball guns require the use of protective gear, to prevent serious injuries. This underscores the potential danger they pose. When used without such protective measures, a paintball gun can be as dangerous as an actual weapon, capable of causing serious bodily harm or even death. Therefore, the State contends that a paintball gun should be considered a deadly weapon due to its inherent capacity for harm.¹²³

¹²¹ *Ravinder v. State (NCT of Delhi)*, 2016 SCC Online Del 3575

¹²² Moot *supra* note 5 at para 8

¹²³ David Mauss, *Misdemeanor or Felony? Analysis of Public Paintball Shootings in Miami Gardens*, DMT Law Blog (June 12, 2023) <https://www.dmtlaw.com/blog/misdemeanor-or-felony-a-criminal-defense-lawyers-analysis-of-public-paintball-shootings-in-miami-gardens/> (Last visited Dec. 08, 2024)

PRAYER

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

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

1. To **abide** by the judgment of the Trial Court regarding the admissibility of Crime360 as valid evidence.
2. To **set aside** the trial court's conviction under Section 102 read with Section 105 of the Ionian Penal Code, as the circumstances of the present case satisfy the essential ingredients of Section 103(1) of the Ionian Penal Code, and to **convict** under Section 103(1) accordingly.
3. To **abide** by the judgment of the trial court regarding conviction under Section 189(4) of the Ionian Penal Code for joining an unlawful assembly armed with a deadly weapon

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

All of which is humbly prayed,

URN: 2543

COUNSELS FOR THE RESPONDENTS