

THE K.K. LUTHRA MEMORIAL MOOT COURT, 2023

BEFORE THE HON'BLE SUPREME

COURT OF STAN

Writ Petition arising out of Article 32 of Constitution of Stan

IN THE MATTER OF

W.P. No. ___/ 2023

VARSHA

... PETITIONER

versus

REPUBLIC OF STAN

...RESPONDENT

MEMORIAL ON BEHALF OF THE RESPONDENT

TABLE OF CONTENTS

I. LIST OF ABBREVIATIONS	i
II. INDEX OF AUTHORITIES	ii
III. STATEMENT OF JURISDICTION.....	iv
IV. STATEMENT OF FACTS	v
V. ISSUES RAISED.....	vii
VI. SUMMARY OF ARGUMENTS.....	viii
VII. ARGUMENTS ADVANCED	1
ISSUE 1: WHETHER VARSHA T WAS LEGALLY EXTRADITED FROM BRITTANY?	1
[1.1] <i>The present petition is not maintainable before the Supreme Court of Stan.</i>	1
[1.2] <i>Varsha has committed an Extradition offence.</i>	2
[1.3] <i>Even an abetment to commit an Extradition Offence will attract same liability.</i>	3
[1.4] <i>Nobody can question the decision of the Brittany, once they have taken a decision to extradite Varsha back to Stan.</i>	4
[1.5] <i>Republic of Stan has assured not to give Death Penalty to Varsha</i>	4
[1.6] <i>Procedure established by law to extradite a person from a foreign country was duly followed by the Republic of Stan.</i>	4
ISSUE 2: WHETHER THE GOVERNMENT OF STAN WAS WRONG IN KEEPING THE EXTRADITION PROCESS OF VARSHA T IN ABEYANCE?	5
[2.1] <i>Criminal proceedings are going on against Varsha in Stan, which validates postponement of extradition process.</i>	5
[2.2] <i>Varsha can be prosecuted for the subsequently uncovered Fraud before the courts in Stan.</i>	6
ISSUE 3: WHETHER THE JUDGEMENT PASSED BY THE COMPETENT COURT CONVICTING VARSHA T OF SEDITION UNDER SECTION 124A OF THE STAN PENAL CODE IS VALID & CONSTITUTIONAL?	8
[3.1] <i>The Petition Filed by Varsha Before the Supreme Court of Stan is not Maintainable</i>	8
[3.2] <i>That the Novels and the Film of the Petitioner are Violative of Article 19(2) of Stan Constitution</i>	9
[3.3] <i>That there is always a presumption of constitutionality of the law</i>	13
VIII. PRAYER.....	ix

I. LIST OF ABBREVIATIONS

Abbreviation	Corresponding Expansion
&	And
¶	Paragraph
AC	Appeal Cases
AIR	All India Reporter
Anr.	Another
Art.	Article
Bom	Bombay
Const.	Constitution
Cal	Calcutta
CBI	Central Bureau of Investigation
Cri	Criminal
CrPC	Code of Criminal Procedure
Edn.	Edition
FIR	First Information Report
FR	Fundamental Right
FC	Family Court
ILR	Indian Law Reports
LJ	Lords Justice
MP	Madhya Pradesh
Ors.	Others
Ori	Orissa
Prop	Proposition
S.	Section
SC	Supreme Court
SCC	Supreme Court Cases Online
SCR	Supreme Court Reporter
UP	Uttar Pradesh
v.	Versus

II. INDEX OF AUTHORITIES

Treatises

Extradition Treaty - India and United Kingdom and Northern Ireland, Dec. 30, 1993, PAUSA 9, 1915 1

Domestic Rulings

Abu Salem Abdul Qayoom Ansari v. State of Maharashtra, (2011) 11 SCC 214, 66..... 7
 Addl. Secy. to the Govt. of India v. Alka Subhash Gadia (Smt), 1992 Supp (1) SCC 496..... 1
 Andhra Industrial Works v. Chief Controller of Imports, AIR 1974 SC 1539..... 9
 Annie Besant v. Advocate General of Madras, AIR 1919 PC 31 11
 Assistant Collector of Central Excise v. Jainson Hosiery, AIR 1979 SC 1889..... 2
 Avinash Chand Gupta v. State of U.P., (2004) 2 SCC 726 1
 B.R. Enterprises v. State of U.P, AIR 1999 SC 1867..... 15
 Bachan Singh v. State of Punjab, AIR 1980 SC 898 14
 Baldev Singh Gandhi v. State of Punjab, AIR 2002 SC 1124..... 9
 Bashira v. State of Uttar Pradesh, AIR 1968 SC 1313 14
 Bilal Ahmed Kaloo v. State of Andhra Pradesh, AIR 1997 SC 3483, (1997) 7 SCC 431, 91997) Cr LJ 4091 (SC)..... 16
 Central Prison v. Ram Manohar Lohia, AIR 1960 SC 633 12
 Chiranjit Lal v. Union of India, AIR 1951 SC 41 14
 Coffee Bd. v. Joint C.T.O., AIR 1971 SC 870. 9
 Daryo v. State of Uttar Pradesh, AIR 1961 SC 1457..... 2
 Dasrath Sharma v. State of Bihar, 2005 3 PLJR 687 15
 Daya Singh Lahoria v. Union Of India, (2001) 4 SCC 516..... 7
 Delhi Airtech Services Private Limited v. State of Uttar Pradesh, (2011) 9 SCC 354..... 15
 Express Newspapers v. Union of India, AIR 1958 SC 578 10
 Federation of Bar Association in Karnataka v. Union of India, (2000) 6 SCC 715..... 9
 Fertilizer Corp. Kamgar Union v. Union of India, AIR 1981 SC 344..... 9
 Gauri Shankar v. Union of India, AIR 1995 SC 55 15
 Jolly George Varghese v. The Bank of Cochin, (1980) 2 SCC 360 15
 Kedar Nath v. State of Bihar, AIR 1962 SC 955. 10, 11, 15
 Kharak Singh v. State of Uttar Pradesh, AIR 1963 SC 1295 14
 Magan Bhai v. Union of India, (1970) 3 SCC 400. 9
 Maneka Gandhi v. Union of India, (1978) 1 SCC 248 9
 Marie-Emmanuelle, Verhoeven v. Union of India, (2016) 6 SCC 456 1, 4, 7
 Masroor v. State of U.P., (2009) 14 SCC 286 13
 Md. Abu Hansnain v. The State of Bihar, (2007) 54 AIC 383 Pat 15
 Namit Sharma v. Union of India, (2013) 1 SCC 745..... 9
 Narendra Purshotam Umrao v. B.B. Gujral, AIR 1979 SC 420 14
 Narendra Singh v. State of M.P., 2004 Cri LJ 2842 14
 Niharendu Dutt Majumdar v. King Emperor, AIR 1942 FC 22. 12, 13
 Pathumma v. State of Kerala, AIR 1978 SC 771..... 15
 People's Union for Civil Liberties v. Union of India, (1997) 1 SCC 301; AIR 1997 SC 568. 15

Queen Empress v. Bal Gangadhar Tilak, (1897) ILR 22 Bom 112.....	16
Queen Empress v. Jogendra Chunder Bose, (1891) ILR 19 Cal 35.	13
Rajesh Ranjan Yadav v. CBI, AIR 2007 SC 451	14
Ramjilal v. Income Tax Officer, AIR 1951 SC 97.	9
Rosiline George v. Union of India, (1994) 2 SCC 80.....	5
Shahzad Hasan Khan v. Ishtiaq Hasan Khan, (1987) 2 SCC 684.....	13
Somanath Misra v. Union of India, AIR 1969 Ori 37	14
State of Bihar v. Shailabala Devi, AIR 1952 SC 329; (1952) SCR 654.....	12
State of Karnataka v. Hansa Corporation, AIR 1981 SC 463.....	15
State of Rajasthan v. Basant Nahata, (2005) 12 SCC 17	14
State of U.P. v. Demon Upadhyaya, AIR 1960 SC 1125	15
Subhash Kashinath Mahajan v. The State of Maharashtra, (2018) 4 SCALE 661	13
Suman Sood v. State of Rajasthan (2007) 5 SCC 634.....	7
Swami Motors Transport Pvt. Ltd. v. Sri Sankaraswamigal Mutt, AIR 1963 SC 864.....	15
Union of India v. Elphinstone Spinning and Weaving Co Ltd., AIR 2001 SC 724	15
Union of India v. Paul Manickam, AIR 2003 SC 4622.....	1

Books

D.D. BASU, COMMENTARY ON THE CONSTITUTION OF INDIA, 3705 (Lexis Nexis 2008).....	9
DURGA DAS BASU, SHORTER CONSTITUTION OF INDIA, 396 (13th ed. 2001).....	1
P.S. PILLAI, CRIMINAL LAW, 339 (Lexis Nexis, 2020).....	13
RATANLAL & DHIRAJLAL, THE INDIAN PENAL CODE, 263 (Lexis Nexis, 2019).....	10

Journal

<i>Submission of Lesser Crimes</i> , 56(6) COLUMBIA LAW REVIEW, 888-90 (1956),.....	8
---	---

Legislations and Statutes

The Indian Penal Code, 1860 § 124A, No. 45, Acts of Imperial Legislature, 1860 (India).....	2
---	---

International Legislations

The Human Rights Act, 1998, Article 10, Sch.1, Part 1, Act No. 42, UK Public General Acts, 1998 (UK).....	2
The Public Order Act, 1986, Act No. 64, UK Public General Acts, 1986 (United Kingdom)..	2

International Documents

<i>Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)</i> , 2012 ICJ Reports 422.....	7
--	---

Foreign Judgments

Munn v. Illinois, 94 U.S. 113 (1876).....	1
---	---

III. STATEMENT OF JURISDICTION

The Petitioners have approached the Hon'ble Supreme Court of Stan by the means of a Writ Petition, under Article 32 of the Constitution¹ to seek to enforce their Fundamental Rights under the ambit of Articles 19² and 21³ of the Constitution of Stan.

The Respondents do not submit to the jurisdiction of this Hon'ble Court.

¹ Article 32 of the Constitution of Stan:

“Remedies for enforcement of rights conferred by this Part,

- (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed;*
- (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part*
- (3) Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)*
- (4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution”*

² Article 19 of the Constitution of Stan:

“(1) All citizens shall have the right—(a) to freedom of speech and expression;(b) to assemble peaceably and without arms;(c) to form associations or unions;(d) to move freely throughout the territory of India;(e) to reside and settle in any part of the territory of India; (g) to practise any profession, or to carry on any occupation, trade or business.”

³ Article 21 of the Constitution of Stan:

“No person shall be deprived of his life or personal liberty except according to procedure established by law”.

IV. STATEMENT OF FACTS

Republic of Stan, a developing democratic economy, enjoys enormous international respect. It has six provinces namely, Province A, Province B, Province C, Province D and Province E and Eastern Province. The Eastern Province was acceded to the Republic of Stan ten years after Stan's independence. The Eastern Province, one of the most developed states, has a lower population density, and is dependent for water supplies on Province A and Province D. As a part of the Accession Agreement, apart from refusing to be called Province F, Eastern Province was permitted to continue to levy a local tax called 'Old Fee' on all products coming into or leaving Eastern Province that is for the exclusive use of Eastern Province. In 2015 exploratory talks began for the Republic of Stan to join the Continental market.

Varsha T. and the Sedition Novels

Stan author and journalist Varsha T. Surya, Varsha's husband, manages the Snoopy chemical firm. Varsha has written various books, including the Sedition Novels with Shavar as the main character in March 2020. Shavar, the protagonist, mobilizes a restive region of a fictitious kingdom, Nod, in a distant universe by making Ethereum from the territory's methane oceans. She also poisoned Province's Ethereum source for 10,000 years. Shavar's words inciting her region against the Kingdom of Nod have spawned novels and reprints.

These seditious novels have been adapted into movies, serials, and graphic novels in several languages. Varsha was a visionary and future Eastern Province leader. Singswell recorded a stirring speech as a song for Varsha in June 2021. Soon bootlegged, the song got widespread online. Based on its popularity in 2021, the Republic of Stan debated the Accession Agreement and the Old Fee, drawing clear comparisons between Nod and Stan.

The Chronicles of Shavar and Snoopy

In 2022, 'The Chronicles of Shavar' was announced. Varsha informed a film reviewer that 'The Chronicles of Shavar' was the closest film to her books' ideology. In 2022, she said she sold the rights to the Sedition Novels in April 2021. Snoopy announced on 23 June 2022 that it has identified an economically feasible technology to desalinate sea water off the coast of the Eastern Province. Shares of Snoopy skyrocketed in the days that followed. The Continent unilaterally suspends discussions with Stan on 24 June 2022.

The Chronicles of Shavar premiered on June 25, 2022, and severe unrest and riots followed. In Province B alone, more than 1500 women and children were killed. Seven teachers from the Eastern Province were shot on June 26, 2022. On 29 June 2022, one of the key water canals from Province A to Eastern Province was blasted, stopping water supplies. The Eastern Province Water Riots caused approximately \$2 billion in damage from 1 to 9 July 2022. On 10 July 2022, the Prime Minister of Stan proclaimed a state of emergency in the Eastern Province and said that no ex-gratia payments would be issued and that Old Fee recoveries were enough to care for Eastern Province residents. A crew of Stan Navy sappers had radioactive pellets and intended to make Stan's drinkable water radioactive. The sappers told investigators on 18 July 2022 that 'The Chronicles of Shavar' inspired them. On 20 July 2022, the Stan Parliament canceled the Accession Agreement. Province F replaced Province E.

FIR against Varsha

In Province B an FIR was recorded (FIR No. 17/2022) under Section 124A of the Stan Penal Code, 1860 naming Varsha as the main accused. She was accused of sedition, waging war against the Union and criminal conspiracy. Further, an open-ended non bailable warrants were issued against her by the Court of the Chief Metropolitan Magistrate, B City, Province B because she was not available in Stan.

Extradition

Stan asked Brittany for Varsha's extradition on August 1, 2022. Based on the same request, on 14 August the extradition agreement authorized Varsha to be extradited to Stan and the Stan Government agreed not to seek the death sentence for Varsha if she was found guilty under Section 124A IPC.

Varsha was found guilty of the Section 124-A Stan Penal Code offence. It produced a reasoned ruling holding that 'The Chronicles of Shavar' reflected modern Stan society and fostered enmity towards the Stan Government. The court deemed Varsha's unique situation inextricably tied to the film. Varsha's assertions concerning Snoopy's pronouncements were not genuine, and no relationship was identified between Snoopy's shares and Stan's governing party. Varsha had two months to establish mitigating circumstances. Varsha has challenged her extradition from Brittany and the order holding it in abeyance in the Supreme Court of Stan. Further, it also challenged the judgment before the same court.

V. ISSUES RAISED

ISSUE 1

WHETHER VARSHA T WAS LEGALLY EXTRADITED FROM BRITTANY?

ISSUE 2

WHETHER THE GOVERNMENT OF STAN WAS WRONG IN KEEPING THE
EXTRADITION PROCESS OF VARSHA IN ABEYANCE?

ISSUE 3

WHETHER THE JUDGEMENT PASSED BY THE COMPETENT COURT CONVICTING
VARSHA T OF SEDITION UNDER SECTION 124A OF THE STAN PENAL CODE IS
VALID AND CONSTITUTIONAL?

VI. SUMMARY OF ARGUMENTS***1. Whether Varsha T was legally extradited from Brittany?***

Varsha T has been properly extradited from Brittany. Following elements affirm her extradition, firstly, an extradition offence has been committed by Varsha, which even if is considered as an abetment to commit an Extradition Offence, will attract same liability. Further, according to Marie-Emmanuelle case, nobody can question the decision of the Requested State, i.e., Brittany, once they have taken a decision to extradite the Requested person i.e., Varsha back to the Requesting State, i.e., Stan, in doing which a proper procedure established by the law has been followed. Finally, the Republic of Stan has assured not to give Death Penalty to Varsha and the authorities will comply with the same.

2. Whether the Government of Stan was Wrong in Keeping the Extradition Process of Varsha in Abeyance?

The Government of Stan was not wrong in keeping the extradition process of Varsha in abeyance because criminal proceedings are going on against Varsha in Stan, which validates postponement of extradition process. Furthermore, Varsha can be prosecuted for the subsequently uncovered Fraud before the courts in Stan, since Republic of Stan has the authority to either extradite or prosecute, under Section 34-A of the Extradition Act, 1962 read with Article 8(1) of the Extradition Treaty between Stan and Brittany (1993), furthermore, the subsequently uncovered fraud is a lesser offence, under Section 21 of the Extradition Act and Article 13 of the Bilateral Extradition Treaty.

3. Whether the judgement passed by the Competent Court convicting Varsha T of sedition under Section 124A of the Stan Penal Code is valid and constitutional?

The orders of extraditing Varsha to and from Brittany cannot be challenged as Varsha was properly extradited from Brittany since she has committed an extradition offence for which she has been extradited back to Stan in accordance with the procedure laid down by the bilateral extradition treaty between the two countries. Furthermore, the Government of Stan is not wrong in keeping in abeyance the extradition process in abeyance, as the bilateral extradition treaty between the two countries allows postponement or even denial of request of extradition, in case criminal proceedings are going on against the requested person in the requested state, which is the very case in the present situation.

VII. ARGUMENTS ADVANCED**ISSUE 1: WHETHER VARSHA T WAS LEGALLY EXTRADITED FROM BRITTANY?**

1. It is humbly submitted before the Hon'ble Supreme Court of Stan that there is an Extradition treaty between Republic of Stan and Brittany, therefore, the extradition proceedings between the two countries will be governed by the same. Based on the said Treaty, it can be concluded that Varsha T was properly extradited from Brittany because [1.1.] the present petition is not maintainable before the Supreme Court of Stan, [1.2] an extradition offence has been committed by Varsha, [1.3] even an abetment to commit an Extradition Offence will attract same liability, [1.4] Nobody can question the decision of the Requested State, i.e., Brittany, once they have taken a decision to extradite the Requested person i.e., Varsha back to the Requesting State, [1.5] Republic of Stan has assured not to give Death Penalty to Varsha, and [1.6] procedure established by the law has been followed in authorizing the same.

[1.1] The present petition is not maintainable before the Supreme Court of Stan.

2. It is humbly submitted before the Supreme Court of Stan that the Republic of Stan and Brittany have signed an extradition treaty, and it is respectfully argued before the Hon'ble Supreme Court of Stan that this treaty governs any extradition procedures between the two nations. This Treaty provides the basis for concluding that extradition is warranted for Varsha and that the proper legal channels have been exhausted to secure her extradition.⁴ Therefore, whether the petitioner ought to be extradited or not is a decision that the concerned Requested State will take, there the courts of the Requesting State will not have any say.⁵
3. It has been held that Art. 32 confers 'extraordinary jurisdiction', and the same must be used sparingly and in circumstances where no alternative remedy is available.⁶ Art. 32(1) confers a right to move the Hon'ble SC by 'appropriate proceedings'⁷ which includes procedural factors such as res judicata, delay in filing the petition, and parallel proceedings⁸ in another court.⁹ The petition in the instant case was pending before the Court in Province B.¹⁰ Where there is an

⁴ Extradition Treaty - India and United Kingdom and Northern Ireland, Dec. 30, 1993, PAUSA 9, 1915.

⁵ Marie-Emmanuelle, Verhoeven v. Union of India, (2016) 6 SCC 456, 124.

⁶ Addl. Secy. to the Govt. of India v. Alka Subhash Gadia (Smt), 1992 Supp (1) SCC 496. Also see, Avinash Chand Gupta v. State of U.P., (2004) 2 SCC 726; Union of India v. Paul Manickam, AIR 2003 SC 4622.

⁷ INDIA CONST. art. 32, § 1.

⁸ DURGA DAS BASU, SHORTER CONSTITUTION OF INDIA, 396 (13th ed. 2001).

⁹ Daryo v. State of Uttar Pradesh, AIR 1961 SC 1457.

¹⁰ MOOT PROPOSITION, ¶ 47.

alternative statutory remedy, the court should not interfere unless the same is too dilatory or cannot grant quick relief.¹¹ Thus, the present Writ Petition is not maintainable on the ground that alternative remedy has not been exhausted, and thus, it should be dismissed.

[1.2] Varsha has committed an Extradition offence.

4. According to Article 1 of the said Extradition Treaty¹², the states are duty bound to Extradite the requested person who has committed an Extradition Offence according to Article 2¹³ of the Extradition Treaty. So, in the Republic of Stan, Sedition is an offence¹⁴ as can be seen under Section 124A¹⁵, and in Brittany, the said elements of Sedition are punishable under Article 10 of the Human Rights Act, 1998¹⁶, and Sections 4, 4A, 5, 18, and 21 of Public Order Act, 1986¹⁷.
5. Further, the said offence has to be interpreted in light of Article 7(1)¹⁸ read with Article 5¹⁹ of the Extradition Treaty, according to which it shall also be an offence under the law of the Brittany for any person to attempt to commit in Stan, or incite, or participate as an accomplice in, the commission in Stan of an offence under any of the Conventions specified in Article 5 of this Treaty.
6. When this provision is read along with Article 5 which carves an exception for Political offences, there clauses (2)(h)²⁰ and (2)(j)²¹ read along with (2)(p)²² of the Extradition treaty states that offences such as the causing of an explosion likely to endanger life or cause serious damage to property;²³ or the possession of a firearm or ammunition by a person who intends either himself or through another person to endanger life;²⁴ or even an attempt or conspiracy to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts commit such an offence.²⁵
7. In light of these provisions, in the present case, there is an Extradition Offence committed under Article 2, as the expressions of Varsha T, through her novels have incited the public to engage in violent means, which has done significant visible damage to the property as well as

¹¹ Assistant Collector of Central Excise v. Jainson Hosiery, AIR 1979 SC 1889.

¹² Extradition Treaty - India and United Kingdom and Northern Ireland art.1, Dec. 30, 1993, PAUSA 9, 1915.

¹³ Extradition Treaty - India and United Kingdom and Northern Ireland art.2, Dec. 30, 1993, PAUSA 9, 1915.

¹⁴ MOOT PROPOSITION, ¶ 37.

¹⁵ The Indian Penal Code, 1860 § 124A, No. 45, Acts of Imperial Legislature, 1860 (India).

¹⁶ The Human Rights Act, 1998, Article 10, Sch.1, Part 1, Act No. 42, UK Public General Acts, 1998 (UK).

¹⁷ The Public Order Act, 1986, Act No. 64, UK Public General Acts, 1986 (United Kingdom).

¹⁸ Extradition Treaty - India and United Kingdom and Northern Ireland art 7(1), Dec. 30, 1993, PAUSA 9, 1915.

¹⁹ *Id.* at art 5.

²⁰ *Id.* at art.2(h).

²¹ *Id.* at art.2(j).

²² *Id.* at art (2)(p).

²³ *Id.* at art 5 (2)(h).

²⁴ *Id.* at art 5 (2)(j).

²⁵ *Id.* at art 5 (2)(p)

reputation in the Republic of Stan. It was due to the story of Varsha's novels riots erupted across Stan, as the masses were incited against the Government based on the arousing statements and monologues spoken by the protagonist in the Novel, which was followed in the movie on the same subject.

8. Furthermore, the method described and appreciated by Varsha were idealized by many and based on that only on 17th July, 2022, a team of sappers tried to pollute the water reservoir with radioactive elements, which could have endangered the life of all the people in Stan²⁶, and an inspiration to do this particular act, as explicitly stated "have been inspired by 'the Chronical of Shavar'"²⁷ was taken from Varsha's novel, where the protagonist, Shavar, contaminated the source of Ethereum in the Province, rendering it poisonous for the next 10000 years.²⁸ Additionally, the said methods were also supported by Varsha, as she can be seen saying in a press statement that "I do not condemn any of the methods of violence used in the Novels."²⁹ This collectively makes the case of Varsha, a perfect case for valid extradition from Brittany.
9. Furthermore, the said offence alleged against Varsha T lies within the list of non-political offences, for which Extradition is allowed, as the act of Varsha of inciting the commission of violent offences, pursuant to which riots occurred across the Republic of Stan has endangered the life of many people in Stan.³⁰

[1.3] Even an abetment to commit an Extradition Offence will attract same liability.

10. Section 26 of Extradition Act³¹ explicitly states that a fugitive criminal who is accused or convicted of abetting conspiring, attempting to commit, inciting, or participating as an accomplice in the commission of any extradition shall be deemed for the purposes of this Act to be accused or convicted of having committed such offence and shall be liable to be arrested and surrendered accordingly.
11. Therefore, it is humbly submitted before the Hon'ble Court of Stan that, in the present case Varsha cannot take the defence of her not being directly involved in the commission of the riots, as she has played an instrumental role in abetting or inciting the public to engage in violent methods.

²⁶ MOOT PROPOSITION, ¶ 39.

²⁷ *Id* ¶ 40.

²⁸ MOOT PROPOSITION, ¶ 14.

²⁹ MOOT PROPOSITION, ¶ 20.

³⁰ MOOT PROPOSITION, ¶ 30, 31.

³¹ The Extradition Act, 1962 § 26, No. 34, Acts of Parliament, 1962 (India).

[1.4] Nobody can question the decision of the Brittany, once they have taken a decision to extradite Varsha back to Stan.

12. According to the case of *Marie-Emmanuelle v. UOI*,³² it is only for the Requested State, i.e., Brittany, to decide as to whether to extradite the requested person, i.e., Varsha, back to the Requesting State, i.e., Stan, or not, and if Requested State decides to extradite the Requested Person back to the Requesting State, then the courts will not have any say in that matter.³³
13. Therefore, in the present case, if Government of Brittany has taken a decision to extradite Varsha back to the Republic of Stan,³⁴ then it is not open for any authority besides the authorities of Brittany to question that decision.

[1.5] Republic of Stan has assured not to give Death Penalty to Varsha

14. In compliance with Article 16 of the Bilateral Extradition Treaty³⁵ the authorities of Republic of Stan have assured Government of Brittany that even if Varsha is found guilty of the Extradition Offence, then also she will not be given Death Penalty as a punishment for the same,³⁶ and Republic of Stan while respecting the Doctrine of Speciality will comply with this assurance.

[1.6] Procedure established by law to extradite a person from a foreign country was duly followed by the Republic of Stan.

15. The procedure established by law to extradite any person from Brittany to Stan, which has been laid down under Article 11³⁷ of the Extradition Treaty has been duly followed, and accepted by the Government of Brittany, as based on the same procedure the Government of Brittany had extradited Varsha back to Stan.³⁸
16. Article 11 of the Extradition Treaty lays down the procedure to Extradite a person from Brittany to Stan or vice versa, according to the said provision the extradition request shall be accompanied by the description of the requested person,³⁹ statement of facts of the offence committed,⁴⁰ the law involved in the dispute, and most importantly, it should also be

³² *Marie-Emmanuelle v. Union of India*, (2016) 6 SCC 456.

³³ *Marie-Emmanuelle, Verhoeven v. Union of India*, (2016) 6 SCC 456, 124.

³⁴ MOOT PROPOSITION, ¶ 42.

³⁵ Extradition Treaty - India and United Kingdom and Northern Ireland art.16, Dec. 30, 1993, PAUSA 9, 1915.

³⁶ MOOT PROPOSITION, ¶ 41.

³⁷ Extradition Treaty - India and United Kingdom and Northern Ireland art.11, Dec. 30, 1993, PAUSA 9, 1915.

³⁸ *Rosiline George v. Union of India*, (1994) 2 SCC 80.

³⁹ Extradition Treaty - India and United Kingdom and Northern Ireland art. 11(2)(a), Dec. 30, 1993, PAUSA 9, 1915.

⁴⁰ *Id.* at art.11(2)(b).

accompanied by warrant off arrest issued by a judge, magistrate or other competent authority in the territory of the Requesting State.⁴¹

17. In the present case, all these procedural requirements are fulfilled by the Government of Stan, while requesting Varsha to be extradited back to Stan. As it can be seen that a non-bailable warrant was issued against Varsha by the Chief Metropolitan Magistrate of City B, the capital of Stan.⁴² Therefore, in the present case, Varsha T cannot challenge the process and order of extradition, which was accepted the Government of Brittany, based upon which Varsha was extradited back to Stan. Nonetheless, the procedure followed by either of the countries was valid, thereby making the extradition of Varsha from Brittany as valid.

In light of the above arguments and authorities cited, it is humbly submitted by the Respondents that, Varsha T has been properly extradited to Stan, and the same cannot be challenged by anybody.

**ISSUE 2: WHETHER THE GOVERNMENT OF STAN WAS WRONG IN KEEPING THE
EXTRADITION PROCESS OF VARSHA T IN ABEYANCE?**

18. It is humbly submitted before the Hon'ble Supreme Court of Stan that the Government of Stan was not wrong in keeping the extradition process of Varsha in abeyance because [2.1] criminal proceedings are going on against Varsha in Stan, which validates postponement of extradition process, and [2.2] Varsha can be prosecuted for the subsequently uncovered Fraud before the courts in Stan.

***[2.1] Criminal proceedings are going on against Varsha in Stan, which validates
postponement of extradition process.***

19. It is humble submitted that the order by the State which kept in abeyance the extradition of Varsha T to Brittany cannot be challenged, as while the request to extradite her back to Brittany was made, Varsha was in custody of Stan's authorities. The said statement is supported by the provisions under Article 10(1)⁴³ of the Extradition Treaty between Stan and Brittany (1993), which states that "if criminal proceedings against the person sought are instituted in the territory of the Requested State, or he is lawfully detained in consequence of criminal proceedings, the decision whether or not to, extradite him may be postponed until the criminal proceedings have been completed or he is no longer detained."

⁴¹ *Id.* at art.11(2)(c).

⁴² MOOT PROPOSITION, ¶ 38.

⁴³ Extradition Treaty - India and United Kingdom and Northern Ireland art. 10(1), Dec. 30, 1993, PAUSA 9, 1915.

20. In the present case, based on the FIR that was filed against Varsha under Section 124A of Stan Penal Code,⁴⁴ she is undergoing trial before the competent court in Stan, therefore, according to Article 10 of the Extradition Treaty, since a criminal proceedings is going on against the person sought to be extradited in the Requested state, which is Stan in the present case, therefore, the authorities of Stan are not wrong in postponing the extradition process until the criminal proceedings have been completed or till the time Varsha is not detained.

[2.2] Varsha can be prosecuted for the subsequently uncovered Fraud before the courts in Stan.

21. It is humbly submitted before the Hon'ble Supreme Court of Stan that Varsha can be prosecuted for the subsequently uncovered Fraud before the courts in Stan because **[2.2.1]** Republic of Stan has the authority to either extradite or prosecute, and **[2.2.2]** the subsequently uncovered fraud is a lesser offence.

[2.2.1] Republic of Stan has the authority to either extradite or prosecute.

22. The Republic of Stan according to Section 34-A⁴⁵ of the Extradition Act, 1962 read with Article 8(1)⁴⁶ of the Extradition Treaty between Stan and Brittany (1993), has authority to prosecute Varsha. As according to the above-mentioned provisions, if the requested state, i.e., Stan, is of the opinion, or has taken a decision, that a fugitive criminal cannot be surrendered or returned pursuant to a request for extradition from a foreign State, it may, as it thinks fit, take steps to prosecute such fugitive criminal in Stan and may even be tried for the extradition offence in the courts of Stan.⁴⁷ The same position was affirmed in the case of *Marie-Emmanuelle*.⁴⁸

23. Therefore, in the present case, when the Republic of Stan chose to prosecute Varsha of the subsequently developed fraud then it has the authority to do the same. Nonetheless, in the present case, where Stan could even go on to refuse the extradition of Varsha under Article 8(1),⁴⁹ it only has kept the process of extraditing Varsha back to Brittany in abeyance under Article 10⁵⁰ of the Treaty.

⁴⁴ MOOT PROPOSITION, ¶ 37.

⁴⁵ Extradition Treaty - India and United Kingdom and Northern Ireland art. 34-A, Dec. 30, 1993, PAUSA 9, 1915.

⁴⁶ *Id.* at art. 8(1).

⁴⁷ *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, 2012 ICJ Reports 422 (judgment dated 20-7-2012)

⁴⁸ *Marie-Emmanuelle, Verhoeven v. Union of India*, (2016) 6 SCC 456, 116.

⁴⁹ Extradition Treaty - India and United Kingdom and Northern Ireland art. 8(1), Dec. 30, 1993, PAUSA 9, 1915.

⁵⁰ Extradition Treaty - India and United Kingdom and Northern Ireland art. 10, Dec. 30, 1993, PAUSA 9, 1915.

[2.2.2] The subsequently uncovered fraud is a lesser offence

24. According to exceptions in Section 21 of the Extradition Act⁵¹ and Article 13 of the Bilateral Extradition Treaty,⁵² which is based on the Doctrine of Specialty, any person accused or convicted of an offence, which, if committed in Sta would be an extradition offence, is surrendered or returned by a foreign State, such person can be tried in Stan for any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return.⁵³
25. The term “lesser offence” has been defined in the *Abu Salim Case*⁵⁴ where the court observed that “lesser offence” means an offence which is made out from the proved facts and provides lesser punishment, as compared to the offences for which the fugitive has been extradited. The court also goes on to elaborate upon two ways to describe a lesser crime. One, either every single element of a lesser crime should be component of the greater crime on the basis of their statutory definitions; or second, the allegations of the larger crime in the indictment should include all the factual details of the lesser crime.⁵⁵
26. Therefore, in the present case, the fraud case is a lesser offence as we can see that all the factual details of the fraud case, which is a lesser crime, are present in the larger crime. This can be inferred from Varsha’s defence,⁵⁶ where she states that ‘The Chronicles of Shavar’ as well as the announcements of the desalination technology were both attempts to drive up the share price of Snoopy. From this statement it is clear that ‘The Chronicles of Shavar’, which is a movie based on the novel written by Varsha, and the announcement of the desalination technology, form the elements of the new uncovered fraud. Now, these two factual elements also lead up to the alleged crime of Sedition in the present case. Therefore, the subsequently uncovered fraud case will be considered as a lesser crime, and will thereby, give the Stan authorities to prosecute Varsha.

In light of the above arguments, Government of Stan was not wrong in keeping the process of extraditing Varsha back to Brittany in abeyance.

⁵¹ *Id.* at art 21.

⁵² *Id.* at art 13.

⁵³ *Suman Sood v. State of Rajasthan* (2007) 5 SCC 634; *Daya Singh Lahoria v. Union Of India*, (2001) 4 SCC 516.

⁵⁴ *Abu Salem Abdul Qayoom Ansari v. State of Maharashtra*, (2011) 11 SCC 214, 66.

⁵⁵ *Submission of Lesser Crimes*, 56(6) COLUMBIA LAW REVIEW, 888-90 (1956), *See Also*, *Abu Salem Abdul Qayoom Ansari v. State of Maharashtra*, (2011) 11 SCC 214, 88.

⁵⁶ MOOT PROPOSITION, ¶ 44.

**ISSUE 3: WHETHER THE JUDGEMENT PASSED BY THE COMPETENT COURT CONVICTING
VARSHA T OF SEDITION UNDER SECTION 124A OF THE STAN PENAL CODE IS VALID &
CONSTITUTIONAL?**

27. It is humbly contended before the Hon'ble Supreme Court of Stan that the judgment passed by the competent court convicting Varsha T of Sedition under Section 124A of the Stan Penal Code is valid and constitutional, on the grounds that, [3.1] the Novel and the Film are Violative of Article 19(1) and falls under Article 19(2) of the Constitution of Stan and; [3.2] The actions of the Petitioner are violative of the 'due procedure established by law' under Article 21 of the Constitution. Further, [3.3] there is always a presumption of constitutionality of the law.

[3.1] *The Petition Filed by Varsha Before the Supreme Court of Stan is not Maintainable*

28. It is humbly submitted before the Hon'ble Supreme Court of Stan that the instant petition is not maintainable before the Supreme Court of Stan because [3.1.1] there is no violation of any Fundamental Rights, [3.1.2] even if it is a criminal appeal, it does not lie before the Supreme Court.

[3.1.1] There is no violation of FRs and it is just a mere speculation

29. is humbly submitted before the Hon'ble Court that no action lies in the SC under Art. 32 unless there is an infringement of an FR⁵⁷ as the SC has previously emphasized that violation of FR is the *sine qua non* of the exercise of the right conferred by Art. 32.⁵⁸ No question other than relating to an FR will be determined in a proceeding under Art. 32.⁵⁹ Thus, where there is no infringement of FR or scope for enforcement of any FR, the Writ Petition is not maintainable on the fragile ground.⁶⁰ Moreover, infringement of FRs cannot be founded on speculative grounds.⁶¹ There is no such action that infringes or poses a threat to the FR of the citizens. Mere apprehension that the petitioner would be deprived of his FR is not enough to invoke the jurisdiction of the Court under Art. 32.⁶²

30. The jurisdiction under Art. 32 can be invoked only when FRs are violated.⁶³ It has been held that if a right, other than an FR is claimed to be violated then such questions can be addressed

⁵⁷ Andhra Industrial Works v. Chief Controller of Imports, AIR 1974 SC 1539.

⁵⁸ Fertilizer Corp. Kamgar Union v. Union of India, AIR 1981 SC 344.

⁵⁹ Coffee Bd. v. Joint C.T.O., AIR 1971 SC 870.

⁶⁰ Federation of Bar Association in Karnataka v. Union of India, (2000) 6 SCC 715.

⁶¹ Baldev Singh Gandhi v. State of Punjab, AIR 2002 SC 1124.

⁶² Magan Bhai v. Union of India, (1970) 3 SCC 400.

⁶³ D.D. BASU, COMMENTARY ON THE CONSTITUTION OF INDIA, 3705 (Lexis Nexis 2008).

only in the appropriate proceedings and not on an application under Art. 32.⁶⁴ In the instant case, that there has been no direct and inevitable effect on the FRs.⁶⁵ Further, any violation of FR as claimed by the petitioner is illusory.

[3.1.2] This Criminal appeal does not lie before the Supreme Court

31. Furthermore, in criminal cases, an appeal lies to the Supreme Court if the High Court (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death or to imprisonment for life or for a period of not less than 10 years, or (b) has withdrawn for trial before itself any case from any Court subordinate to its authority and has in such trial convicted the accused and sentenced him to death or to imprisonment for life or for a period of not less than 10 years, or (c) certified that the case is a fit one for appeal to the Supreme Court. In the present case, the order being challenged by the Counsel for Varsha was passed by the trial court in Province B and thus, the instant petition is not maintainable before the Hon'ble Supreme Court of Stan.

[3.2] *That the Novels and the Film of the Petitioner are Violative of Article 19(2) of Stan Constitution*

32. The counsel on behalf of the respondents most humbly submits that in a democracy like Stan every citizen must have the right to freedom of speech and expression, however, the right is subjected to certain restrictions which can be imposed on the basis of certain grounds as enshrined under article 19(2). Article 19(1)(a) of the constitution guarantees the freedom of speech and expression and Article 19(2) allows reasonable restrictions.⁶⁶

33. The provisions of Section 124A are not unconstitutional as being violative of the fundamental rights of freedom of speech and expression under Article 19(1)(a) of the Constitution.⁶⁷ It is only when the words have the pernicious tendency or intention of creating public disorder or disturbance or law and order that the law steps in.⁶⁸ In *Express Newspapers v Union of India*,⁶⁹ it was held by the Supreme Court that there ought to be a reasonable balance between the freedoms enshrined under Article 19(1) and the social control permitted by clauses (2) to (6). In addition to this, the restriction imposed shall have a direct or proximate nexus with the object sought to be achieved by the law.

⁶⁴ Ramjilal v. Income Tax Officer, AIR 1951 SC 97.

⁶⁵ Maneka Gandhi v. Union of India, (1978) 1 SCC 248; Namit Sharma v. Union of India, (2013) 1 SCC 745.

⁶⁶ Kedar Nath v. State of Bihar, AIR 1962 SC 955.

⁶⁷ RATANLAL & DHIRAJLAL, THE INDIAN PENAL CODE, 263 (Lexis Nexis, 2019).

⁶⁸ *Id.* at 66.

⁶⁹ Express Newspapers v. Union of India, AIR 1958 SC 578.

34. It is humbly proffered before the Hon'ble Court that, the Fundamental right to freedom of speech and expression is not unfettered but subject to certain restrictions which may be imposed under Article 19(2) of the Constitution of Stan. The novel was instrumental in giving incitement to the offence of violence and riots in the provinces of Stan. The book showcases the character of Shavar in a heroic light where Shavar has resorted to a medium of violence and instigated the citizens of the provinces against the Kingdom of Nod which has stark similarities with the Kingdom of Stan. Shavar convinced a populace to initiate an economic blockade of the remaining Provinces which led to war between the Far Northern Province and the remaining Provinces.⁷⁰
35. The Petitioner has glorified the violent actions of Shavar thereby invoking the grounds of 'Sovereignty and integrity of Stan' and 'Security of the state'. Supreme Court, in *Kedarnath Singh v. State of Bihar*⁷¹ held that a speech falling under sedition will disrupt and endanger the authority of the government and resultantly affect the sovereignty of the country. It is therefore the duty of the government to make sure that they are restricted so as to prevent a situation of anarchy.

[3.2.1] That the Novels and the Film of the Petitioner threatens the security of the state in the present matter

36. Security of state might be at stake when actions intended to overthrow the government are carried on. It is thus necessary to restrict such circumstances in the interest of the security of the state.⁷² Hatred and contempt towards the government may be created by writing, imputing to the government base, dishonorable, contemptuous, malicious motives in the discharge of its duties or by writing that unjustly accuses the Government of hostility or indifference to the welfare of the people.⁷³ Moreover, words, signs, speech etc which caused incitement to violence shall be restricted under Section 124A of the Stan Penal Code. Considering that the character of Shavar portrayed by the Petitioner, also follows on to ensure the economic destruction of the Kingdom of Nod which in the present case relates to the Stan.⁷⁴ The novel was influential in affecting public order and the security of the state thereby inciting violence amongst the masses of the province, which lead to the state of emergency being imposed by the Prime Minister in the Eastern Province.⁷⁵

⁷⁰ MOOT PROPOSITION, ¶ 13.

⁷¹ Kedar Nath v. State of Bihar, AIR 1962 SC 955.

⁷² *Id* at 972.

⁷³ Annie Besant v. Advocate General of Madras, AIR 1919 PC 31. (*Case user Indian Press Act, 1910, closely similar to S. 124A of the IPC*)

⁷⁴ MOOT PROPOSITION, ¶ 14.

⁷⁵ MOOT PROPOSITION, ¶ 33.

37. Taking account of the fact that in the present case, the relations of the Stan with continent was also threatened, the government also needs to ensure friendly relations with foreign state and restrictions may be imposed on any form of speech that could jeopardise Stan's relations with foreign countries. The novels were listed as bestsellers across Continental capitals⁷⁶ and on 24 June, 2022, the Continent made a statement that it was unilaterally suspending talks with Stan for six months.⁷⁷ The violative actions of the Petitioner resulted in the Continent severing friendly ties with Stan and such actions are violative under Article 19(2) of the Constitution of Stan.
38. In the instant case, the heroic portraying of the character of Shavar and her actions by the Petitioners, lead to the incitement of violence. Incitement to violent crimes like murder would endanger the security of the state. In *State of Bihar v. Shailabala Devi*⁷⁸, the Supreme Court held that incitement to murder or other violent crimes would generally endanger the security of the state; hence a restriction against such incitement would be a valid law under Article 19 (2). Furthermore, the Respondents also humbly submits that, Article 19(2) mentions, the expression "public order" is synonymous with public peace, safety and tranquility.⁷⁹ The acts or words complained of must either incite to disorder or must be such as to satisfy reasonable men that is their intention or tendency.⁸⁰ In the instant case, the actions of the Petitioners, lead to riots in the provinces and has threatened public peace, safety and tranquility.
39. The counsel on the behalf of the Respondents most humbly submits that every right brings with it certain liabilities and the citizens have to use the right in a positive way and in a way that their enjoyment does not lead to infringement of someone else's right. Thus, any wrong use of this right may lead to imposition of restriction under article 19(2) in the interests of the sovereignty and integrity of Stan, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence. Thus, the counsel would like to conclude that the right to freedom of speech and expression is not unfettered.

[3.2.2] That the Novels and the Film of the Petitioner satisfy the elements of Section 124A of the Stan Penal Code

40. Section 124A require two essentials, firstly, bringing or attempting to bring into hatred or

⁷⁶ MOOT PROPOSITION, ¶ 15.

⁷⁷ MOOT PROPOSITION, ¶ 24.

⁷⁸ *State of Bihar v. Shailabala Devi*, AIR 1952 SC 329; (1952) SCR 654.

⁷⁹ *Central Prison v. Ram Manohar Lohia*, AIR 1960 SC 633.

⁸⁰ *Niharendu Dutt v. Emperor*, AIR 1942 SC 955.

contempt, or exciting or attempting to excite disaffection towards, the Government of Stan; secondly, such act or attempt may be done (i) by words, either spoken or written or (ii) by signs or (iii) by visible representation. Sedition may be defined as conduct which has, either as its object or as its natural consequence, the unlawful display of dissatisfaction with the Government or with the existing order of society.⁸¹ Merely exciting or attempting to excite feelings of disaffection, hatred or contempt, irrespective of whether or not disorder follows or is likely to follow therefrom, towards the government established by law is made punishable in Stan.⁸² In *Queen Empress v. Jogendra Chunder Bose*, the Court held that a person who excites or attempts to excite a feeling contrary to affection is liable for sedition.⁸³

41. The federal court of India, in *Niharendu Dutt Majumdar v King Emperor*, held that the gist of the offence of sedition is incitement to violence, mere abusive words are not enough.⁸⁴ In the instant case at hand, the publication of the seditious novel, which was later on made into a movie, riots broke out across Province B, Province C, and in the Eastern Province. It is pertinent to note that this juncture that, more than 1500 persons, including women and children were killed in the ensuing violence in Province B and 7 school teachers were gunned down in Province A.⁸⁵ Furthermore, Public infrastructure, including water lines, metro stations, bus stations, port facilities and schools were burnt down and more than 700 people were stated to have been killed in the Eastern Province as a result of the violence.⁸⁶

In light of the above, the judgment given by the competent court cannot be challenged on the ground of Sedition being violative of Article 19.

[3.2.3] That the actions of the Petitioner are violative of the ‘procedure established by law’ under Article 21 of the Constitution of Stan.

42. It is humbly submitted before this Hon’ble Court that the liberty of an individual is precious but cannot be absolute in every situation.⁸⁷ Liberty is to be secured through the process of law, which is administered keeping in mind the collective interest of the community.⁸⁸ It is possible that in a given situation, the collective interest of the community may outweigh the right of personal liberty of the individual concerned.⁸⁹ Therefore, right of liberty of an individual and

⁸¹ P.S.A. PILLAI, CRIMINAL LAW, 339 (Lexis Nexis, 2020).

⁸² PILLAI, *supra* note 81, at 340.

⁸³ *Queen Empress v. Jogendra Chunder Bose*, (1891) ILR 19 Cal 35.

⁸⁴ *Niharendu Dutt Majumdar v. King Emperor*, AIR 1942 FC 22.

⁸⁵ MOOT PROPOSITION, ¶ 31.

⁸⁶ MOOT PROPOSITION, ¶ 32.

⁸⁷ *Subhash Kashinath Mahajan v. The State of Maharashtra*, (2018) 4 SCALE 661.

⁸⁸ *Shahzad Hasan Khan v. Ishtiaq Hasan Khan*, (1987) 2 SCC 684.

⁸⁹ *Masroor v. State of U.P.*, (2009) 14 SCC 286.

the interest of the society in general has to be balanced.⁹⁰ Section 124A of the Code has an effect of depriving life and liberty in the collective interest of the community and is permissible under Article 21 because it is a ‘procedure established by law’ which is a fair procedure to deprive life and liberty.

43. It is most humbly submitted that the significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorizing it is reasonable, even-handed and geared to the goals of community good and State necessity.⁹¹ Before a person is deprived of his life and personal liberty, the procedure established by law must be strictly followed, and must not be departed from to the disadvantage of the person affected. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds.⁹² Therefore, Section 439A must be interpreted keeping in view the aforementioned salutary principles.⁹³
44. Article 21 prescribes that no person shall be deprived of his life or personal liberty except according to the procedure prescribed by law.⁹⁴ The word “life” has been given an expansive meaning and has been now recognized to mean to live a life of decency and not a mere animal existence.⁹⁵ In the present case, there is no violation of Right to Life and Liberty granted to Varsha T, as any action taken against her has been taken in accordance with procedure established by law then be it the act of taking her into custody, which was done under relevant sections of CrPC, or be it her extradition process which was done in accordance with the treaty between the two countries to extradite a person.

[3.3] That there is always a presumption of constitutionality of the law.

45. It is humbly proffered before the Hon’ble Court that, the presumption is always in favor of the constitutionality of a law, and the burden is upon him who attacks it to show that there has been an infringement of constitutional principles.⁹⁶ Such a presumption extends also in relation to a law, which has been enacted for imposing reasonable restrictions on the Fundamental Rights.⁹⁷

⁹⁰ Rajesh Ranjan Yadav v. CBI, AIR 2007 SC 451.

⁹¹ Bashira v. State of Uttar Pradesh, AIR 1968 SC 1313; Narendra Purshotam Umrao v. B.B. Gujral, AIR 1979 SC 420.

⁹² Narendra Singh v. State of M.P., 2004 Cri LJ 2842.

⁹³ The Indian Penal Code, 1860 § 439A, No. 45, Acts of Imperial Legislature, 1860 (India).

⁹⁴ INDIA CONST. art. 21.

⁹⁵ Kharak Singh v. State of Uttar Pradesh, AIR 1963 SC 1295; Munn v Illinois, 94 U.S. 113 (1876).

⁹⁶ Somanath Misra v. Union of India, AIR 1969 Ori 37; Chiranjit Lal v. Union of India, AIR 1951 SC 41; State of Rajasthan v. Basant Nahata, (2005) 12 SCC 17; Bachan Singh v. State of Punjab, AIR 1980 SC 898.

⁹⁷ People's Union for Civil Liberties v. Union of India, (1997) 1 SCC 301; AIR 1997 SC 568.

46. One cardinal principle well celebrated by Courts is that the legislature understands and correctly appreciates⁹⁸ the needs of its own people.⁹⁹ The presumption of constitutionality and the approval given to 'rational' classifications in laws are based on an assumption that the institutions of state government are structured so as to represent fairly¹⁰⁰ all the people.¹⁰¹ The Courts are required to make attempts to uphold the provisions and not to invalidate them merely because one of the possible interpretations leads to such a result.¹⁰² Thus, where there are two possible interpretations, one invalidating the law and the other upholding, the latter should be adopted.¹⁰³ In the present scenario, the law of Sedition under Section 124A of the Constitution of Stan is thoroughly grounded on the rudimentary principles of maintaining public order, and preventing any hatred or contempt, or the attempts or excitement of disaffection towards the Government of Stan.
47. Furthermore, although the Petitioners may submit that the state actions were manifestly arbitrary, the truth is thoroughly in contrast to such pleading. *Arbitrary acts*, as defined commendable by *Black's Law Dictionary*, are based on prejudice, preference, or personal predilections rather than on reasons or facts.¹⁰⁴ Far from being arbitrary, the impugned law is thoroughly grounded on the rudimentary principles of state responsibility and answerability.¹⁰⁵
48. An ordinance or law should not be interpreted by the courts while assuming its worst application, the court should analyse the wisdom of the legislation.¹⁰⁶ In the instant case, considering that the elements of Sedition under Section 124A have been fulfilled, the law in its place has been proposed for the protection of the security of the State and to maintain public order and peace. S. 124 'consists in exciting or attempting to excite in others certain feelings towards the government' and 'not' in 'the exciting or attempting to excite mutiny or rebellion, or any sort of actual disturbance, great or small.'¹⁰⁷ The Supreme Court also holds the view that merely doing certain acts that would bring the Government established by law into hatred or contempt is the decisive ingredient of 'sedition'.¹⁰⁸ In the instant case, the actions of the

⁹⁸ Pathumma v. State of Kerala, AIR 1978 SC 771.

⁹⁹ Gauri Shankar v. Union of India, AIR 1995 SC 55; State of U.P. v. Demon Upadhyaya, AIR 1960 SC 1125.

¹⁰⁰ Swami Motors Transport Pvt. Ltd. v. Sri Sankaraswamigal Mutt, AIR 1963 SC 864.

¹⁰¹ Union of India v. Elphinstone Spinning and Weaving Co Ltd., AIR 2001 SC 724.

¹⁰² B.R. Enterprises v. State of U.P, AIR 1999 SC 1867.

¹⁰³ Kedar Nath v. State of Bihar, AIR 1962 SC 955.

¹⁰⁴ *Black's Law Dictionary* (10th ed. 2014).

¹⁰⁵ Delhi Airtech Services Private Limited v. State of Uttar Pradesh, (2011) 9 SCC 354; Jolly George Varghese v. The Bank of Cochin, (1980) 2 SCC 360; Dasrath Sharma v. State of Bihar, 2005 3 PLJR 687; Md. Abu Hansnain v. The State of Bihar, (2007) 54 AIC 383 Pat.

¹⁰⁶ State of Karnataka v. Hansa Corporation, AIR 1981 SC 463.

¹⁰⁷ Queen Empress v. Bal Gangadhar Tilak, (1897) ILR 22 Bom 112.

¹⁰⁸ Bilal Ahmed Kaloo v. State of Andhra Pradesh, AIR 1997 SC 3483, (1997) 7 SCC 431, 91997) Cr LJ 4091 (SC).

Petitioners have resulted in inciting violence, and threatening public order, exciting feelings of hatred and rebellion as well as causing disturbances in the provinces.

Thus, in the light of the argument presented, there is always a presumption of constitutionality and the Section 124A of the Stan Penal Code is constitutional.

VIII. PRAYER

Wherefore in the light of the facts stated, issues raised, arguments advanced and authorities cited, the Respondent, humbly prays before this Hon'ble Supreme Court, to be graciously pleased to:

- *Firstly*, hold and declare that, Varsha has been legally Extradited from Brittany.
- *Secondly*, hold and declare that, the Government of Stan was not wrong in keeping the extradition process of Varsha T in abeyance.
- *Thirdly*, hold that, the judgement passed by the competent court convicting Varsha T of Sedition is valid and constitutional.

And /or pass any other order that it may be pleased to, in the interest of Justice, Equity and Good Conscience, and for this act of Kindness, the counsels on behalf of the Respondent shall duty bound forever pray.

Place: Republic of Stan

Respectfully Submitted,

Counsels on behalf of the Respondent