



## MOOT COURT PROBLEM

Anupriya (30 years) an educated woman, while studying, met Nilesh (32 years), both of them were in love, and both of them belonged to very rich families. Both were in favour of getting married with the approval of their families, as such Nilesh first took over his father's business and then both got married on 17 December 2013. Anupriya's family was very prosperous so there was no problem regarding dowry in the marriage. Anupriya and Nilesh were married according to Hindu customs. After marriage, Anupriya went to her matrimonial house in Lakhmiya belonging to Nilesh's father. After 2 years of marriage, Anupriya gave birth to a son, and named him Rajat. Everything was going well, but after some time Nilesh started suffering losses in business. As a result his behavior changed and as a result of depression started misbehaving with his wife. Nilesh was in crises and needed financial support to run the business properly and started borrowing money from the market. But Nilesh was constantly having losses in business, due to which his marital life was spoiled. In order to pay his debts, he requested his wife to borrow some money from her parents. Initially she agreed and deposited Rs. 5 lakhs in Nilesh's bank account. But Nilesh constantly insisted Anupriya to bring more money, due to which Anupriya's family got upset. On this, Nilesh started abusing and assaulting Anupriya compelling her to bring more money. He told Anupriya that if he did not receive the money he will kill Anupriya.

Due to the loss in business, he also became a victim of bad habits and started taking drugs due to which, he started beating, abusing and physically assaulting his wife Anupriya. Once under the influence of drugs, he used criminal force on his wife to the extent that she had to be admitted in a hospital due to fatal injuries. Anupriya's family lodged an FIR against Nilesh. FIR No. 667 of 2016 was registered under sections 498A, 304B, 326 of the Indora Penal Code, 1860. In which Nilesh was arrested by police and parent of Anupriya took her to maternal home.

Due to assurance of good behavior given by the parents of Mr. Nilesh, Anupriya's family withdrew the case. Anupriya agreed to go with Nilesh on the condition of apologizing and not repeating it in future. Nilesh's parents also promised to protect Anupriya.

After some time, Nilesh and his parents behavior again changed and they started to use harsh words towards Anupriya. Nilesh started insulting Anupriya and misbehaved with her. As a result Anupriya started getting upset. But now Anupriya became conscious of her position and filed an application against Nilesh and his parents in the court under the **Domestic Violence Act** claiming separate accommodation and maintenance. The Court ordered in favor of Anupriya and instructed Nilesh to provide separate accommodation in same home to Ms. Anupriya and a reasonable amount to be paid by Nilesh in the form of compensation and appoint a Protection Officer.

One day she saw Nilesh in an objectionable position with another woman which upset Anupriya and she attempted to hang herself in the room. Anupriya was timely saved by her in-laws when they saw her trying to hang herself.

After this incident, Nilesh came into the room and saw that Anupriya had written a suicide note in which she blamed her husband for her suicide, resulting which, Nilesh beat Anupriya brutally and took suicide note under his control and was waiting for a favorable situation.

After this incident Anupriya filed the complaint for Divorce under **Hindu Marriage Act** on the ground of cruelty and maintenance under **Criminal Procedure Code 1973**.

This was the height of mental trauma for Nilesh as he was already in a mood of revenge. He searched the suicide note of Anupriya and that was missing, this made Nilesh very angry. Nilesh walked in anger towards Anupriya and saw that she was talking to someone on phone and when he asked about it, she became nervous and walked away.

The very next day Nilesh checked her phone and he found that the call history was deleted. This made Nilesh more suspicious. He started using physical force against Anupriya and she became unconscious. Nilesh however thought that Anupriya is dead and he started hanging her with a Rope with an intention to convert his deed into Suicide in order to escape and run away.

Just after few seconds one of their neighbors Mr. Suresh saw her hanging from the window and ran towards Anupriya to save her. He took Anupriya to the Hospital and informed to parents of Anupriya. As a result Police came to take the statement of Anupriya. She spoke about the excesses and physical assault used by Nilesh and her in laws.

After taking Anupriya's statement, the police also took statements of Nilesh and his parents and then started their investigation and after the investigation was completed, the police submitted the report to the trial court, in which the police considered Nilesh and his parents accused in the relevant sections of IPC i.e. U/S 307,306,498A, 326, 201, 503 read with 34 & U/S 3 of Dowry Prohibition Act.

The trial court combined the previous cases along with this and ordered against Nilesh U/S 307,306,498A/34, 326, 201, 503 of Indora Penal Code awarded rigorous imprisonment of 7 years and compensation of Rupees 10 lakhs. The mother-in-law of Anupriya was punished U/S 498A, 326, 201, 503/34 for one year and the father in law was given the punishment of three years.

State as well as Anupriya filed appeal before the High Court pleading life imprisonment for Nilesh and imprisonment for 7 years for Smt. Vimla (Mother of Nilesh) and for 10 years for Mr. Roshan (Father of Nilesh). Nilesh also filed an appeal against conviction. The High Court reduced the punishment for Mr. Nilesh from 7 years to 4 years, and acquitted the mother and father of Nilesh on the ground that the circumstances are not of conclusive nature. Chain of circumstances is not complete so as to unerringly point to the guilt of the accused.

The State as well as Anupriya filed appeal against all the three accused setting aside acquittal of mother, father. It was also prayed that Nilesh be awarded maximum imprisonment with fine as also exemplary cost all throughout. The appellants have requested that accused Nilesh should be awarded imprisonment for life and his father and mother for seven years rigorous imprisonment. Domestic violence be deprecated and the police should be asked why no charge was framed. Notice issued by the Hon'ble Supreme Court to show cause why appeals be not accepted and imprisonment enhanced.

### **Instructions**

Constitution and other laws of Indora are analogous to that of Constitution and Laws of India.

### **RELEVANT LAWS**

1. Sections 304B, 306, 503, 34, 498A, 201 etc. of I.P.C.  
Sec. 34. Acts done by several persons in furtherance of common intention. when a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.  
Sec. 201. Causing disappearance of evidence of offence, or giving false information to screen offender. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, if a capital offence. shall, if the offence which he knows or believes to have been committed is punishable with death be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life. and if the offence is punishable with 1 [imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; if punishable with less than ten years' imprisonment. and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.  
Sec. 306. Abetment of suicide. If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend

to ten years, and shall also be liable to fine. 307. Attempt to murder. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to 1 [imprisonment for life], or to such punishment as is hereinbefore mentioned. Attempts by life-convicts.<sup>4</sup> [When any person offending under this section is under sentence of 1 [imprisonment for life], he may, if hurt is caused, be punished with death.]

Sec.326. Voluntarily causing grievous hurt by dangerous weapons or means. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with 1 [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Sec.498A. Husband or relative of husband of a woman subjecting her to cruelty. Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation. For the purposes of this section, "cruelty" means (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

Sec.503. Criminal intimidation. Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation. Explanation. A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

1. Dowry Prohibition Act, 1961.

Sec.3. Penalty for giving or taking dowry. If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Sec.4. Penalty for demanding dowry. If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both: Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf.

3. Domestic Violence Act.

4. Evidence Act.

5. The Criminal Procedure Code.

6. Other relevant laws.

7. Constitution of India.