

Late Sri Narasarajugaru Memorial 2nd National Moot Court Competition 2023

Moot Problem

Harsh Kulkarni vs State of Karnad

- 1. Smita Murthy who works as lecturer in Computer Science and Artificial Intelligence at the prestigious private Engineering College in Kengalur met Harsh Kulkarni- an upcoming corporate lawyer, at a seminar on the Intellectual Property Laws.**
- 2. Since both had studied in the same University in the United States of America they had common interests and in due course of time, Smitha and Harsh became friends. The meeting of minds well versed in the subjects of technology and law led to the conception of a project for developing the Chatbot - on artificial intelligence App to address on the legal issues. Both spent hours together on the project.**
- 3. On the early morning of 16th January, 2023 at 6 am, Smitha accompanied by her lawyer Pooja Singh who was her school mate filed a complaint under Sec 156 of Code of Criminal Procedure, 1908 before the police accusing Harsh of committing sexual offences on her around 11 pm on 15th January, 2023. The news went viral on the social media.**
- 4. Smitha supported her complaint with copies of the email where Harsh had expressed his emotions for her. The police sent Smitha for medical examination around 7 am on 16th January, 2023 but the medical officer reported no visible marks on her body. The police questioned Harsh at 1 pm on 16th January, 2023. who while disclosing his soured relationship denied any wrong doing. However, police registered First Information Report against Harsh for offence punishable under Sec 376 of the IPC on 16th January, 2023 at 5 pm.**
- 5. Apprehending the arrest, Harsh immediately moved the Sessions Judge for anticipatory bail. But, the plea was rejected by the Sessions Judge.**

6. After failing to get bail before the Sessions Judge, Harsh moved application for anticipatory bail before the High Court. His second bail application was supported by the Report - a draft judgement generated by the Chatbot namely, Bail or Jail.

7. The Report stated that the e mails relied upon by Smitha in her complaint do not convey any inappropriateness on the part of Harsh, since emails and messages are typical among youngsters after returning from the pubs. The Report further said, disclosing of emotions is no evidence of offence of sexual assault. Smitha and Harsh were apparently dating, said the Report. The Report also ruled out Harsh fleeing since being a lawyer he is a responsible person and who has cooperated in the investigation. The Report took note of the fact that there are no visible marks on the body of Smitha. The Report concluded that, the complaint and material read together constitutes a case under Sec 354 A than under Sec 376 of the IPC.

8. However, the High Court rejected the bail application on merits without even referring to the Report of the Chatbot Bail or Jail. High Court observed that, Smitha's complaint is timely and prima facie reliable particularly in view of presumption available under Sec 114A of the Evidence Act of 1872.

9. Harish rushed Supreme Court which granted leave in the Special Leave Petition filed and posted the Criminal Appeal before three judge bench for hearing.

10. The three judge bench framed the following questions:

- (a) Whether, Artificial Intelligence is a person in law capable of giving opinion ?
- (b) Whether, Report of Jail or Bail Chatbot constitutes an opinion of expert admissible under the provisions of Evidence Act, 1872 ?
- (c) Whether reliance on the Report of Chatbot by a judge amounts to abdication of his judicial functions or amounts to acting contrary to the constitutional mandate as judge; and
- (d) Whether, the High Court erred in declining to grant bail to Harsh Kulkarni ?

Note: For the purpose of Moot, the State of Karnad shall be treated as State of Karnataka

***This Moot Problem is settled by Mohan Katarki, designated Senior Advocate, Supreme Court, New Delhi.**