

MOOT PROPOSITION

Saksham Khanna and Sumit Tyagi are two very remarkable leaders of the oldest political party of Indiyana. The 'Jan Sevak Saksham Khanna is a young aspiring politician whereas Sumit Tyagi is a veteran. He is an influential leader since past thirty five years and is a sitting member of Parliament of Indiyana from the State of Madhyakhand. Many people consider that Saksham Khanna to be the protégée of Mr. Tyagi. The style of two in handling the public policies is quite similar and these two are well known for giving hard hitting statements relating to government policies. Saksham Khanna was invited by 'Special Rajya Forum' on 21.11.2022 to participate in a open discussion on 'Corruption' in Public Life: How will Indiyana fight Back'? The forum was to be attended by the honorable Prime Minister of the country Mr. Hari Narayan, who belonged to the Bharat Vidhata Party (BVP). Saksham Khanna was invited to talk after the Prime Minister. When he took the stage, he started slogans against the BVP and all its senior leaders. Rather than putting forward his claims, he started to speak in a very loud voice about the different instances where the Prime Minister was allegedly helping rich businessmen to get rewarding deals and how he is using his Political Office to collect unaccountable offers and money. He said he speaks on behalf of his fellow friends and party workers too. The debate got so heated that the party workers of both parties started hitting each other and the Prime Minister had to leave the venue. A lot of damage was done to the venue due to the fights and many party workers received injuries. The incident caught national eye. It was published in all National Newspapers. One of the prominent newspapers of the country 'Daily Updates' published a detailed report along with pictures of the whole incident. There started a whole new war of allegations and counter allegation between the two parties. The National daily 'Daily Updates' interviewed Mr. Tyagi about the whole incident and he too took a very strong stand in favour of Mr. Saksham Khanna and the allegations against the Prime Minister. This interview was published on the morning of 01.01.2024 and this further angered the party members of BVP and a mob gathered outside the residence of Mr. Tyagi. Police had to be called to intervene and to stop the mob of party workers from the vandalizing the house of Mr. Tyagi. Two weeks later the 'Daily Updates' organized a TV debate in collaboration with TV news channel TBP-1. For this show too the eminent leaders of both the parties were invited including the Prime Minister, Mr. Tyagi and Mr. Saksham Khanna.

The debate got heated again when Mr. Saksham Khanna started alleging the same charges of corruption, misadministration, and inefficiency against the Prime Minister. During the incident Mr. Tyagi kept telling the reporter to stop the recording. This news discussion was not telecasted on any channel. But on 24th January 2024 the news feed of the debate was released to a newspaper called 'Indiyana Times'. Every single dialogue spoken at the TV Debate was published by them. A criminal complaint was filed by the Public Prosecutor after the sanction granted by Central Government, before the Court of Session under sections 499, 500 Indiyana Penal Code against Saksham Khanna and Sumit Tyagi on 14.03.2024. After preliminary inquiry the process was issued to call the accused before the Court. Thereafter, the accused filed a Civil Writ Petition titled Saksham Khanna and Others v. Union of Indiyana & Others, under Article 32 of the Constitution before the Supreme Court challenging the constitutional validity of Sections 499 and 500 of Indiyana Penal Code. Keeping in view the constitutional perspectives of the matter referred to the Constitutional Bench of five judges of the Supreme Court. The main contention on the part of Petitioner is: That Sections 499 and 500 of the Indiyana Penal Code, 1860 are violating of Article 19 and 21 of the Constitution of Indiyana. These provisions infringe to fundamental right to free speech conferred by Article 19(1)(a) and this cannot be said to be reasonable restriction in a democratic setup as provided under Article 19(2). Even speaking truth is an offence under these penal provisions and cherished objective of Article 51-A (b) stands defeated. Further defamation is a civil wrong against an individual for which remedy cannot be sought under criminal law. Further defamation as a crime cannot be included in the word 'defamation' used in Article 19(2) of the Constitution. Plea on behalf of respondents is that the law on defamation serves the larger interest of public. The individual rights and societal harmony are linked. The law on defamation under sections 499 and 500 of Indiyana Penal Code does not affect right to free speech and expression and restrictions are within constitutional parameters. Ingredients of the offence of defamation are well defined in the Penal Code and are constitutionally valid. The procedure to deal with complaint of defamation meets the requirement of Article 21 of the Constitution. The matter is to be argued before the Constitutional Bench for or against the Constitution validity of offence of defamation as provided under the Indiyana Penal Code and on the procedure under the Code of Criminal Procedure to deal with complaints regarding defamation. The laws and constitution of Indiyana are similar to those in India.0

ISSUES RAISED:

1. Whether the present writ petition is maintainable?
2. Whether the present case falls under the ambit of Section 499 and 500 of Indian Penal Code?
3. Whether section 499 and 500 of Indian Penal Code are constitutionally valid?
4. Whether Defamation as an offence under Section 499 and 500 of Indian Penal Code is justifiable?



DISCLAIMER: The facts stated in the present case are fictitious and have been drafted solely for the purposes of this competition. The Facts, names, locations and dates bear no resemblance to any person, event or happening whether dead or alive. Any resemblance found, if any, is purely coincidental and for the purpose of learning. Similar data used in the problem are specifically for the purposes of this moot. No real incidents can be attached to them. This problem is not intended to hurt the feelings of any section of society or to offend any person.