

K.L.E. SOCIETY'S LAW COLLEGE, BENGALURU

Intra-College Moot Court Competition

Problem No. 1

In the Matter of

Kanhaiya Lal

v/s

Republic of Jungistan

Facts

Jungistan is a Democratic Republic located in the Asian Continent. It used to be a colony of the then imperial power Brait Gritain for almost 150 years before it got independence in mid the 20th century. The Penal Laws of the Country for the most part has remained unchanged even after the independence and the primary penal law - Jungistan Penal Code (hereinafter referred as JPC) has many provisions which continue to have the same text as enacted originally by the Brait Gritain.

Jungistan being a developing economy has seen a lot of expansion in industrial activities in the past few decades. As a result, the government had acquired lands for the purpose of setting up of industries, building dams, power plants, etc. Many lands which are acquired by government belonged to tribal people. Due this loss of land, they started violent movements against state with the ideology of Maoism. This has caused a considerable damage to resources of the government including lives of many armed personnel. Such an act is declared to be an act of "Waging war against Government" under S.121 of JPC.

Since their independence, Jungistan is ruled by the Jungistan Congress Party (JCP) for almost five decades. However, with the change in political spectrum and mushrooming of political parties, new parties also started to push for their place in governance.

Many local parties started spreading their political ideologies against the ruling party. The ideologies of some of these parties were based on communism to promote a labour state. One such party the Samvidhan Raksha Party (SRP) started to gain a lot of popularity in different regions of the country primarily because of their young leader Kanhaiya Lal, who is an exceptional orator. He makes very strong statements against the government actions in all his speeches. He always speaks of how government is targeting innocent people such as religious and cultural minorities to achieve their political motives.

Many a times, he has expressed his sympathy towards the Maoists forces and vehemently expressed that the government has failed to pay heed to their demands. Furthermore, since the government did not take measures to rehabilitate them, they had no option but to take arms against the government to protect their home. In one of his speeches, he even stated, "current

government is a government of *looter*s and *goonda*s who are leeching the money from the pockets of the citizens and they are killers of tribal culture.” He also condemned killing of certain tribal people in an encounter with the armed forces on account of suspicion of them being informants. He even went on to condemn the death sentence given to one of the Maoists leaders who was prosecuted on charges of waging war. Towards the end of his speech, he made statement that “let us all come together and dethrone these *goonda*s from their *gaddi* and teach them a lesson. We will make a new nation from the ashes of the government.” The crowd responded very passionately to his speech and people started chanting *laal salaam* (hail the red) in unison.

This speech was broadcasted in many news channels and was published in leading news papers. Many columnists, news anchors, social activists, celebrities, students and political leaders started to show solidarity towards the movement started by Kanhaiya Lal.

On looking at the attitude of public, the government suspected that this might result in violent movement. Kanhaiya Lal was arrested and prosecuted on charges of Sedition under section 124A of JPC. He was quickly prosecuted and convicted under the said charge against which he preferred an appeal as Special Leave Petition under the relevant provision of the Jungistan Constitution in the Supreme Court of Jungistan asking to set aside his conviction and declare section 124A of JPC to be unconstitutional as it violates his Fundamental Rights in general and Freedom of Speech and Expression in particular; and that the law of sedition is archaic and was originally enacted by the colonial powers to suppress the voices of freedom struggle of Jungistan.

The matter is posted before the Hon’ble Supreme Court of Jungistan for final Hearing.

Prepare issues and arguments from the allotted side.

Note: The provisions of JPC, Jungistan Constitution, and other laws and procedures of Jungistan are *in pari materia* with IPC, Indian Constitution and laws and procedures of India respectively.