

# MOOT PROPOSITION

'La Majorca' a Spanish hotel chain, having its Registered Corporate Office at London (England) having signature in almost 22 countries worldwide, decided to enter the Indian hotel market, with an upcoming unit in New Delhi, and constructed a super luxury hotel in a very posh locality Sunder Nagar, named 'Majorca D' headed by CEO Juan Botto, who was a Spanish national and was based at New Delhi.

The Chairperson of the Hotel Chain was John Peterson, a Spanish origin English Citizen, in his early fifties, based at London. The Global Head (Operations) was a Spanish woman named Claudia Bassols, who is based at London and looking after operations across the whole globe.

Juan recently hired an Indian GM (Operations) Ms. Apsara Jhingan, a very talented and qualified woman of 36 years having excellent track record in Hotel Industry. Although she was appointed to cater Indian operations only but, as per appointment terms and conditions, she could be deputed at locations out of India also. Usually possible deputations are emergency duties, for a very limited time, only. Due to professional commitments, she attends conferences, team dinners and other official events frequently, in India as well as abroad also.

'Majorca D' came in operations just five months back and was still in the process of recruiting staff in certain departments, wherever the suitable staff was not appointed the work was outsourced to external contractors. In this sequence an Italian firm 'Paradizo' headed by Carlos Latore was appointed for housekeeping work. Paradizo appointed its 56 personnel to cater several activities including management of guest reception, cleaning rooms, lounge, restaurants and Bar, managing parking facilities and also security of premises etc.

All these activities and services were supervised by an Indian GM Rajneesh Behl, a highly qualified and experienced professional, having excellent command or guest relations. He had very deep links in hotel industry and with film celebrities. Rajneesh was an Indian origin, bachelor of 42 years having British citizenship, who arrived in India 3 months back on a temporary working visa valid for one year only.

As per requirement, the contract employee, so appointed by 'Paradizo', had to behave as a permanent staff of 'Majorca D' and to wear the same uniform, but their salaries are directly paid to the 'Paradizo', who in turn distribute it among its 56 employees. Rajneesh is also being paid in the same manner.

Apsara, being a regular employee of 'Majorca D', did not like the contractual engagement of Paradizo's employees and used to give them big attitude and no respect.

On 22nd January 2024, she was directed to move to Kathmandu, Nepal, on a temporary assignment for a month initially, and to look after the operations of 'Majorca Yeti', another establishment of 'La Majorca' group, as the local GM (Operations) quit the job without any intimation to the management. She followed the instruction and shifted to 'Majorca Yeti' with her bag and baggage.

It was a pleasant surprise for her to see Rajneesh there; as he was also directed to remain at Kathmandu and help in arranging manpower for Apsara, whenever it was required.

On 24th evening, it was a Friday followed by a weekend, Rajneesh offered her to go to another 'Hotel Soltee' Kathmandu to play 'Rolette' at Casino and to enjoy a late night discotheque and dinner together. She happily accepted the offer and got ready to come along. During play at Casino and dancing at discotheque; at times she could feel that Rajneesh is trying to come physically closer and also trying to touch her inappropriately but she escaped a bit and not objected on it.

Apsara and Rajneesh enjoyed almost the whole week together with usual outing and dinners. On 26th January, Rajneesh proposed her to visit 'Pokhra', almost 250 Kms. away, on weekend celebration and also to interview some suitable candidates for operations of the Kathmandu unit. Apsara was hesitant initially, but later agreed to go with him. Rajneesh booked a taxi and both of them took back seat for the travel. During the travel, Rajneesh was cracking jokes and laughing loudly, during which he was leaning on Apsara up to that level that she had to look for a safe space within the back seat. To avoid Rajneesh, Apsara started listening to music on her mobile phone and started peeping outside the car's window. Rajneesh understanding her mood started pretending to sleep, and during sleep he pretend to lean on her shoulder, and once he actually slipped in her lap and kept his head to rest in. Apsara pushed him away but he did it again and again.

At 'Pokhra' Apsara was stunned to hear, that Rajneesh had booked one luxury suite, having two blocks within, one for resting and another for sitting purpose, in the name of Mrs. and Mr. Rajneesh Behl, for staying and also taking interviews. The hotel was packed due to tourist season and was not having any other additional room available. As it was not wise to create a scene, she managed to slip to the inner part of the suite, locked the door from inside and slept for an hour, as she was very much tired due to the long journey. Rajneesh called her several times for taking tea but she did not open the door.

At night Rajneesh asked her to come to the restaurant for dinner and to play at casino, she prepared her to come out and both of them went for dinner only. After dinner Apsara returned back to her room and again closed it from inside. The following day fully packed with interview schedules, none of them could have enough time to even talk on casual issues.

Apsara could smell that Rajneesh is behaving slightly rough and pretending to give no hears to her during interview, even sometimes trying to overpower her objections. It was quite frustrating but she never bothered by then. In the evening neither he called Apsara for dinner nor arranged any travel facility for outing. He himself went out and came in drunken state, when Apsara saw him like that she asked, about his well-being, but Rajneesh gave her a dirty look and slipped on the sofa to sleep ordering her to close the television. Apsara felt it very bad but never spoke even a single word.

On 28th January they returned back to Kathmandu, during the return journey Rajneesh never tried to talk to her, neither he was willing her to answer any discussion or question. During the journey, Apsara asked Rajneesh to

bring her a cold drink.... *'Go to hell...you bitch'* Rajneesh murmured and went out of the car. Apsara could not bear this humiliation and never had any talk to him during their remaining journey.

After returning to New Delhi, almost after a week, she made a complaint against Rajneesh to Mr. Juan Botto for sexual harassment and wilful humiliation at the work place. Juan had developed a professional respect for Apsara and considered her an honest individual. He believe her story entirely and was keen to take prompt action. Aware of the new changes to the law, The CEO went about setting up a committee to deal with the issue as swiftly as possible. The only concern was that the Hotel had only been running for five months and it was therefore difficult to find adequate number of suitable employees to appoint on the committee. The Hotel had branches in the nearby Countries like Singapore and Nepal, and Juan drew from the staff at those branches to constitute the committee as required under law. The only post that he was unable to fill was that of a woman committee head.

Apsara was the senior most woman employee working with the Hotel in India, and Juan Botto felt the presiding officer could not be an employee who was junior to her in rank. The only woman senior to Apsara was the Global Head of the Hotel chain, Claudia Bassols, based out of London. Juan felt it unprofessional to burden her with such a chore and decided, in the absence of another alternative, to preside over the committee himself.

The committee carried out their duties, and allowed Rajneesh, an opportunity to be heard and cross examine witnesses such as the taxi driver. During the hearing, Rajneesh said on record, *"Apsara enjoyed my company and always looked to spend time with me especially after office hours. She went out on many intimate dinners with me, even though it was not professionally required"*. After analyzing all the facts, the members of the committee were unable to conclusively determine that Rajneesh's actions were entirely against Apsara's will, even holding that the actions were not strictly within the workplace. The only person in the committee who voted to find Rajneesh guilty was the presiding officer, Juan Botto himself.

On hearing the verdict, Apsara was shattered and went on a tirade against Juan Botto demanding to know why he had not taken the matter to the police. He explained that he had attempted to take quick action by setting up a committee in accordance with the law, and that she had made no request to initiate police action either. Apsara insisted that the Hotel was under an obligation to report the incident regardless of whether she had made such a request, and that the Hotel was only concerned about protecting its own reputation.

Apsara was also deeply disturbed by the statement of the Rajneesh to the committee. She filed a criminal complaint for defamation to the judicial magistrate under section 499 of IPC.

The Hon'ble court decided in the favour of Rajneesh in the case of criminal defamation. Devastated by the order of the judicial magistrate, Apsara decided to file an appeal in the session court.

Now Ms. Apsara has decided to approach the High Court of Delhi against the Hotel for non-initiation of a police complaint. She also claimed that the committee constituted by the Hotel was not in accordance with law.



The Delhi high Court has decided to club the appeal pending with session court with the present issue for the hearing on 9th March, 2024.

**The participants are directed to frame the appropriate issues according to fact sheet and argue from both the sides.**

