



**ANAND LAW COLLEGE**

**&**

**ANAND COLLEGE OF LEGAL STUDIES,**

**ANAND**

**4<sup>th</sup> ONLINE NATIONAL MOOT COURT COMPETITION**

**ON**

**27<sup>th</sup> & 28<sup>th</sup> Feb, 2021**



## MOOT PROPOSITION

1. Vidula is a country whose laws are *in pari materia* with the laws of India. The Constitution of Vidula, like the Indian constitution, emphasises among other things the need to protect women and children and allows for the making of special laws this purpose. In 2012, noting the increasing crime amongst youth, the need to protect vulnerable youth and the increasing maturity levels amongst teenagers in Vidula, the government of Vidula enacted a new legislation, with the dual purpose of protecting children in need of care and to deal with children in conflict with the law.
2. Amar, Akbar, Anthony and Surjeet have grown up in tough conditions in the Pluto district of South Vidula. While Amar and Anthony have never known their fathers, Akbar comes from an abusive household, where he was always beaten up by a drunken father. Surjeet is an orphan who has grown up on the streets, fighting for each meal since the day he was 4, when he was abandoned by his parents. He was in and out of a few orphanages till the age of 10, after which he lived only off the streets. In their early teens, the four boys met at a local play ground and an instant friendship was struck among them. Initially they would play together, football being the game of choice at the local *maidaan*. Soon, they began spending more time together. Slowly but surely, they were led astray. They began consuming alcohol and slowly moved on to cheap drugs. In 2013, by the time they were 14, they were a notorious gang who committed several petty offences in order to fund their drug habit. They were infamously known as the “*baccha gang*”. They mainly focused on shop lifting, pick pocketing, stealing petrol, cycles and footwear from outside religious places, etc. Although the police had caught them a few times, they were never arrested and were always let free, primarily owing to their age. The police did maintain a roster of known offenders and as such, the names of the four boys had been entered on this roster as petty thieves in the BB Nagar police station in Pluto.



3. In early 2012, the “*Baccha Gang*” befriended and included within their fold, a 12 years old boy by the name of Sam. Sam came from a middle-class family. His parents had recently divorced and he was a disturbed child looking for a sense of belonging and family. He immediately took a liking the four members of the gang who treated him like a younger brother. Initially, Sam had no idea that the gang involved itself in criminal activity. He could be found playing with the four boys in the *maidaan*, and spending the entire day with them. He stopped going to school and would spend the whole day with them at times. They would sometimes ask him for money, which he would steal from his mother’s purse and give them. Sometimes, they made him carry strange looking paper bags in his school bag. They even taught him how to smoke and drink.
4. By June 2012, Sam had realized the full extent of the gang’s activities and was not comfortable being with them. He slowly and surely started distancing himself from the gang with the hope that he could soon be rid of them altogether. He began focusing on school, attending school every day and sports. By August of 2012, he rarely saw the *baccha gang*. This did not go well with Amar, the eldest of the four boys. He told the rest of them that they needed to make sure Sam learnt a lesson and mended his ways. On the night of the 5<sup>th</sup> of January, 2013, at around 7 PM, the *baccha gang* met Sam at Kila laal tea stall. After a brief talk, they all left, going towards the woods that were on the outskirts of Pluto.
5. On the Morning of 6<sup>th</sup>, Sam’s mother, along with her father, approached the BB Nagar Police to file a report about a missing person. They said that Sam had left home around 5 in the evening and had not yet returned. The police launched a manhunt and after 2 days the body of Sam was found in the woods surrounding Pluto. An autopsy revealed that he had died of severe injury to the head, primarily the result of blunt force trauma caused by repeated beating with a hard blunt object on the skull. His entire face was badly disfigured and the body was identified by clothes and a school ID in the pant pocket. The Autopsy also showed



signs of a struggle, several bruises on the body, foot mark shaped bruises, internal haemorrhage and blood loss. Forensic experts were able to recover a stone near the spot where the body was found with blood and tissue that matched Sam. Sam would have been thirteen on the 10<sup>th</sup> of January. The brutal murder was picked up by the media and created mass hysteria and outrage. People were calling for the culprits to be caught and brought to book as soon as possible.

6. Unfortunately, no evidence was found, no suspects were arrested and the matter cooled down. On June 21<sup>st</sup>, 2015, Amar was arrested on charge of robbery. During a search that followed, a notebook belonging to Sam and a few photos of Sam and his family were recovered from his residence. Finding this sufficient to question him as a suspect for the murder of Sam, the Police began a hard line of questioning. It came to fore that, on the night of the murder, the *baccha* gang were the last to see Sam and they had all left for the woods together. Akbar, Anthony and Surjeet were arrested immediately and they were all booked for murder.
7. On the date of the murder, Amar was 18 years and 12 days, Akbar was 17 years and 350 days, Anthony was 17 years and 5 days. Surjeet was 16 years and 200 days old. They were all over the age of 20 on the date of arrest.
8. Vidula enacted the Juvenile Justice (Care and Protection of Children) Act, 2012 on the 31<sup>st</sup> of January, 2012. This Act is *Pari in Materia* with *The Juvenile Justice (Care and Protection of Children) Act, 2015* as enacted in India. In accordance with this law, the three boys aged below 18 but above 16 at the time of alleged commission of the crime, were sent before the Juvenile Justice Board, who had to decide if or not, they were to be tried as adults. The Boys vehemently denied any involvement in the murder of Sam and claimed no knowledge of his whereabouts after they had all returned from the woods on that fateful day. The Board, with the help of eminent psychologists and psychiatrists, determined that the boys were well aware of their actions and capable of being tried as adults and



accordingly committed the matter to the Sessions court at Pluto, since no special children's court had been established. Based on the evidence before it, the Sessions court found all three boys guilty of the murder of Sam and the Judge commented that it was a fit case for life imprisonment but since his hands were tied by the law, he sentenced them to 8 years of Rigorous imprisonment each.

9. Amar, on the other hand, was tried as an adult by the Sessions court, as he was over the age of 18 on the date of commission of the offence. He was found guilty of the torture and brutal murder of Sam and sentenced to life imprisonment in prison, with life meaning life.
10. Immediately thereafter, A public interest litigation was filed by an organization called **People for the Education and Protection of Children (PEPC)** under Articles 226 and 227 of the Constitution of Vidula before the High Court of South Vidula. The PIL alleged that the Juvenile Justice (Care and Protection of Children) Act, 2012, primarily Section 15 and the committal proceedings were unconstitutional and violative of Articles 14, and 15 of the Constitution and that the Act itself violated Article 20(1) of the constitution. PEPC vehemently urged that the whole concept of treating 16-18-year olds differently after having defined a child as any person below the age of 18 is unconstitutional and baseless. The PIL also reiterated that the decision of the Board to try the three boys as adults was subjective and biased, primarily due to public rage, that, it had been three years since the incident and the state of mind of three children during the incident could not be determined after three years. The PIL also contended that the Act was against the UN Declaration on the Rights of the Child, a declaration to which Vidula was a signatory and which it adopted.
11. The High Court shall hear the matter, on all points including admissibility. Law of Precedent shall apply with High Courts and The Supreme Court of India having persuasive value. Law of Vidula, namely The Constitution of Vidula, The Vidula Penal Code, the Criminal



Procedure Code, The Law of Evidence and the Juvenile Justice (Care and Protection of Children) Act, 2012 are materially the same as The Indian Constitution, Indian Penal Code, The Criminal Procedure Code, The Law of Evidence and the Juvenile Justice (Care and Protection of Children) Act, 2015 as enacted in India.

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