

Symbiosis Law School, NOIDA
Symbiosis International (Deemed University)
KTS Tulsi Mock Trial Competition, 2023
SYMFIESTA 2023

Problem

Sessions Case No. 5264/2022

Before the Sessions Judge, District Gadbi, State of Uttam, Republic of Initia

1. Zainab was shivering in panic when she was being asked if she knew where she was, by Inspector Prakash at the Police Station Kadki in the early hours of December 23. For a few moments she could not comprehend the question and kept staring at the wall behind the Inspector's chair. When she gathered her thoughts, she said, "He's a monster". She was quite perplexed and it was clear to the Inspector that she is witness to something ghastly. When she regained her senses, FIR No. 6987 of 2022 was registered against Olivierer in the early hours under Section 302 IPC on December 23, 2022 on the statement of Zainab. She informed that she was on a date with Olivierer on December 22 and after dinner, they decided to go to his house for a cup of coffee. At Olivierer's house, Zainab insisted to make the coffee and when she opened the refrigerator to take milk out, she saw what looked like a human hand wrapped in plastic sheet and half-frozen. She could not believe her eyes. Feeling scared, she hushed up and picked up her bag in a frenzy leaving behind her scarf and left Olivierer's house without saying goodbye. She walked frantically to her house and after some time when she felt slightly safe, she walked towards the nearest police station. She kept ignoring Olivierer's phone calls till then.
2. Search for the accused led to questioning at his office from his colleagues in the days leading upto to his arrest. One of Olivierer's office friend, Gauri informed the police that he had applied for leave at office on December 23 and told her about some urgent personal work at his parents' house for which he had to leave for his hometown. He was due to return in two days.
3. On the information received from Zainab, the Police believed that there may be other body parts hidden in the house. Hence, a search of Olivierer's house was carried out. The police found powdered substance contained in a glass container from the accused's bedroom and seized the same. It was sent for forensic analysis. Few other body parts, i.e. limbs in decomposed state, were also found from the accused's house in a locked room. The head and torso were not found at the accused's house.
4. The police continued with its investigation and located a skull and a portion of a female torso in a decomposed state in a secluded area near a *nalla* behind the apartments where Olivierer lived. The skull and other body parts found were sent for forensic analysis. The police also recovered a small grinder in the area purportedly used by the accused to crush

the deceased's bones. The grinder was also sent for forensic analysis. The police found traces of blood in accused's car.

5. The media got hold of information of the crime and a hunt for the accused began under media scrutiny. The accused was arrested by Kadki police from a nearby town where the accused was hiding in a local lodge. He was arrested and produced before the Metropolitan Magistrate at Gadbi amidst media pressure and scrutiny. His bail application was denied, however, the accused expressed danger to his life owing to threats to his life received through the media. His prayer for additional security was however, denied by the Magistrate.
6. The forensic analysis of the recovered grinder found accused's fingerprints on the surface. The analysis of recovered powder confirmed it to be human bone remains. A fragment of the bone was also recovered as part of the bone powder recovered from the accused's room. The same was sent for DNA-profiling.
7. Questioning from accused's office friend Gauri and analysis of social media posts of the accused, led to possible identification of the victim-deceased, Kaisha. The nearest kin being her parents, were contacted and they were informed of the crime.
8. After completion of investigation, Inspector Prakash, IO/SHO filed charge-sheet against Olivierer on February 9, 2023 for offences punishable under Sections 302 and 201 of the Initia Penal Code. The police have relied on forensic evidence, 161 statements of the prosecution witnesses and purported confession made by the accused-Olivierer. The police claims that Olivierer's confession led them to find the grinder used by him. The police have further relied on posts and direct messages from deceased's social media accounts on 'the gram' and 'WhatsApp'.
9. The case was committed to the Sessions Court on March 10, 2023 for trial. The accused was denied bail due to the gravity of offences and possibility of him fleeing the court's jurisdiction. He continues to remain in judicial custody. The trial before the Sessions Judge is scheduled to begin on March 18, 2023.
10. At the outset, the teams may choose to argue on framing of charge in their opening statements.
11. **Only the following persons may be called as witnesses during the trial:**
 - a) PW 1 – Zainab
 - b) PW 2 – Sh. Trinkha (father of the deceased) **OR** Khushi (deceased's friend)
 - c) PW 3 – IO/SHO Prakash
 - d) PW 4 – Forensic Expert (only one)

- e) DW 1 – Olivierer
- f) DW 2 – Gauri
- g) One Extra DW - Any person who is not a PW. The statement of this witness has to be in conformity with the facts given in the problem.

12. Statements under Section 161, Code of Criminal Procedure, 1973

A. Zainab – PW 1

December 23, 2023

I first interacted with Olivierer on a dating app after seeing his profile. He was charming in his outlook and engaging in his words. This was our fourth date. I was shocked to see the wrapped hand and for a second I deliberated if it was artificial but then I realized it was not made of rubber or anything; it looked so real. I was overcome with fear and left his place immediately. I have shared the dating app profile details of Olivierer with the police. Olivierer's house is also peculiar; one of the rooms in his apartment was locked. We also chatted in his balcony and there appeared to be some sharp objects hidden under big brown mesh *bori* that are used to store vegetables. As I recall now, the balcony at the back of the apartment looked at a secluded gory empty space. It seemed abandoned and could have been home to some wild animals.

B. Trinkha – PW 2

January 5, 2023

My daughter was a happy child and was full of life. We knew she was dating Olivierer but we had not met him. We had only seen his photograph once on Kaisha's profile picture. I wanted my daughter to come back to her hometown, but she could not because of her job. After meeting Olivierer, we had not met her. She stopped coming to her hometown for any festival. I always sensed something had changed in her behavior and now she is no more. Had she told me earlier about Olivierer being abusive, I could have saved her.

Khushi – PW 2

January 6, 2023

I have lost one of my best friends. I last spoke to Kaisha in November after Diwali. She was upset with the frequent fights she would have with Olivierer. Most days of the week, Kaisha stayed at Olivierer's place. She even had kept some clothing sets and utilities there. When I met her on Diwali, Kaisha told me that Olivierer had recently hit her in anger. However, she was not injured badly. She took some pain killers and was doing fine now. I was worried for her and hence tried to remain in touch with her through WhatsApp post festival as well. Then I got occupied with my work and could not take time out to meet her or speak to her. I met Olivierer few months after Kaisha started dating him. They were both serious to spend life with each other. Olivierer was dominating by nature and was rude to Kaisha even before her friends. His behaviour was a little concerning however, Kaisha insisted to continue her relationship with him.

I used to get updates of her life via social media. I sensed they were thinking of marriage. I have lost her forever now. This is brutal what has happened to her.

C. DW 1 – Olivierer

I met Kaisha through a dating app. I loved her. She was precious to me. I would tell her that we would soon marry and on Diwali she was very happy to hear this from me. She also said sorry to me for causing me pain in the past. She was abusive but I loved her. I wanted her to be mine forever. In fact, she was about to leave her job for our relationship. I am innocent and I have not done anything wrong.

D. DW 2 – Gauri

I work in the same office as Olivierer. We would occasionally share a cup of coffee in office and sometimes after office hours. He would mention about Kaisha and how he planned to live with her forever. He also mentioned about Kaisha being abusive towards him. Olivierer's love for Kaisha seemed genuine and I fail to understand if he has done what he is accused of. He was regular in office too and would occasionally go to his parents' house.

Note:

1. The facts mentioned in the problem are fictitious and only for an academic competition purpose.
2. Laws of Republic of Initia are *pari materia* with those of India.
3. The trial shall take place in the Court of Sessions Judge.
4. Documentary evidence within the limits of the facts mentioned in the problem can be created and submitted by the teams as part of their submission. Any documentary evidence presented during the trial should be in accordance with applicable law and also conform to the facts and conclusions given in the problem.
5. For the purpose of the competition, accused has consented to appear as witness during trial.
6. Each team has to necessarily examine-in-chief and cross-examine at least one witness during the round for the purpose of the competition.
7. **The teams should prepare the case in accordance with the facts given in the problem and not prepare any case motivated by wild imagination, especially the statement of Extra DW.**

Contribution: This mock problem is drafted by Ms. Megha Nagpal, Assistant Professor, Symbiosis Law School, Noida.

Disclaimer: This mock problem is purely for *bonafide* academic purpose, and any similarity with any person living or dead is only coincidental.
