

MOOT PROBLEM (CRIMINAL LAW)

The Democratic Republic of *Amphissa* is situated in Asian Subcontinent. *Amphissais* a quasi-federal country comprised of 35 states with strong central Government. The Laws of *Amphissa* are in Pari-materia with the Laws of India. Pallaka is among one of the developed states of *Amphissa*. Michael and Jenny are citizen of *Amphissa*. They are resident of *Flemingo*, a small town of *Pallaka*.

On dated 25th feb.2016, Michael, aged 29, S/O- Late John, R/O- 54/3-New Ext. Apartment, Flemingo, and Jenny, Aged 24 yrs, D/O- Defrado, R/O- Greater Ango Colony, Flemingo, were married according to their religious rituals. Their marital life was going smoothly. On some occasions they used to have few verbal quarrels with each other but they reconciled soon after the verbal fight. Two years after the marriage Jenny gave birth to a baby girl on 4th September 2018. The girl was named as Jennifer. After few months of the birth of Jennifer, Jenny observed certain changes in the behaviour of Michael. Michael started behaving in a rude way and he usually becomes violent on every petty issue without any reason. Initially Jenny did not took the matter in a serious way but when the violent character of Michael continued Jenny took her husband Michael to the doctor Alfered (DW1), who was a psychiatrist. The doctor advised Michael to have control over anger and to take certain medicines. The doctor diagnosed him to be suffering from first stage of Bipolar Mood Disorder (Bipolar disorder, also known as manic-depressive illness, is a brain disorder that causes unusual shifts in mood, energy, activity levels, and the ability to carry out day-to-day tasks. There are four basic types of bipolar disorder; all of them involve clear changes in mood, energy, and activity levels).

In spite of the medical treatment the violent behaviour of Michael continued to exist. On slight issues Michael becomes violent and he also started to fight with Jenny and he also use to beat him without any reason. On dated 5th December 2018 at 11am, loud noise of fighting, crying and shouting was coming from the house of Michael. On hearing the cry Daniel(PW3) who was neighbour of Michael went in the house of Michael and found Jenny lying unconscious on the floor pooled in blood with various injuries on her body. At that time Daniel saw Michael hiding a 7 inch Iron Axe in the garden. Thereafter Daniel called the police and Jenny was taken to government hospital whereby she was treated by Dr. Andrew (PW2). Michael was arrested by police on the same day and was kept in police custody. On 6th December, 2018 Jenny regained her consciousness and her statement was recorded by Jaison (PW1) SHO of

Flemingo Police Station. In her statement she told to the police that on 5th December at 10 am Michael came home and started fighting with her in a violent way and when she resisted Michael attacked her with axe kept in the garden. On 8th December Jenny died because of the injury in her lower abdomen which proved fatal. Jennifer the daughter of Michael was sent to Government Child Care Centre.

On the basis of the statement of Daniel and the dying declaration of Jenny FIR was lodged against Michael vide. 733/2018 in Flemingo police station. Michael was prosecuted under Section 302 of IPC for the murder of Jenny. During interrogation Michael stated that he was unconscious at the time when Jenny was attacked. He told to police that when he regained his consciousness he found Jenny lying on the floor and axe in his hand. He told to the police that he did not know from where the axe came and he also stated that he did not know how Jenny died.

Final Report was submitted on 3rd Feb.2019 in which Michael was charged for murder of Jenny under Section 302 of IPC. The case (State of Pallaka vs. Michael) was tried by the Session Court vide Session Trial No-57/2019.

The prosecution examined the material witnesses in the court as under:-

Prosecution Witness 1 (PW1)- Jaison, SHO, Flemingo Police Station and Investigating Officer of the case deposed before the Court that the deceased Jenny in her dying declaration blamed Accused Michael for the attack over her. PW1 also deposed before the Court that the axe used for attack was recovered from the garden of Michael on which there was finger print of Michael as per forensic report.

Prosecution Witness 2 (PW)3- Dr. Andrew who treated the deceased deposed before the Court that the cause of death was due attack of the axe and the injury on abdomen proved to be fatal. He also deposed that Jenny was in a mentally fit condition at the time of making dying declaration.

Prosecution Witness 3 (PW3)- Daniel who was neighbour of Michael and informant of the case in FIR deposed that he saw the unconscious body of Jenny on the floor and Michael trying to hide the axe in the garden.

The accused Michael took the plea that he was suffering from Bipolar Mood Disorder and for which he was being treated. He also stated that at the time when Deceased Jenny was attacked

he was suffering from the disorder and he was out of his conscience and he did not know the nature of the act and therefore, he could not be made liable by virtue of Section 84 of IPC on ground of insanity.

The defence examined the material witnesses in the court as under:-

Defence Witness 1 (DW1)- Dr. Alfered who was treating accused Michael for Bipolar Mood Disorder stated before the Court that accused Michael was suffering from Bipolar Mood Disorder and the disorder was sufficient to enable a person to do any violent act under its influence.

Defence Witness 2 (DW2)- Mathew brother of Michael who stated before the Court that on various occasions Michael was very much aggressive and violent even for slight reasons.

On 3rd September 2020 Michael was found guilty of intentional murder of Jenny and convicted under Section 302 IPC and sentenced to 10 years Rigorous Imprisonment.

The accused feeling aggrieved by the said judgment preferred an appeal before the High Court of Pallaka on dated 9th October 2020 vide Criminal Appeal No. 875/2020. The High Court relying on the version of the doctor treating the accused for Bipolar Mood Disorder found that the accused at the time of committing crime was suffering from both legal and medical insanity and accordingly the Court acquitted the accused from the charge of murder on dated 5th September 2021.

State of Pallaka preferred an appeal before the Supreme Court of *Amphissa* against the order of acquittal by the High Court of Pallaka on 17th of November 2021.

The case of *State of Pallaka vs. Michael* is listed before the Divisional Bench of Supreme Court of *Amphissa* for final hearing on 10th May.2022. The respective counsels are expected to submit their considerations on the following issues:-

1. *Whether sufficient ground of legal insanity exists so as to exonerate the accused from liability of murder.*
2. *Whether the burden of proof of legal insanity on the part of Defence is at par with burden of proof on part of Prosecution.*
3. *The parties may raise any other issue on the given facts to advance arguments upon.*