**MOOT PROBLEM ON CRIMINAL LAW**

**In the case of:**

**Mrs. Madhu V. Mr. Vaidya and Others**

Mr. Rahul Sen and Mrs. Susmita Sen were married in 2017 and were residents of Kolkata in the State of West Bengal and they were working there in a US based Multi National company.

After 3 years of their happy marital life, Mrs. Susmita Sen became aware that she cannot give birth to a healthy child. She came to know about this fact by reading medical reports kept secretly by her husband. As per that report Mr. Rahul suffered from some serious congenital medical problem that may pass on to their child.

Then they had quite a big fight in this regard that he never told her about his health problem either prior to her marriage or thereafter but kept the information secret. She remained in her in-laws house under their care, as her husband went for employment training program to Pune for two months.

After some time Mr. Rahul learnt that his wife, desirous of having a healthy child, developed an extra marital relationship with her office colleague, Mr. Vaidya. However, he did not object to the same.

Mr. Vaidya however, confessed to his wife that he had an illicit relationship with Mrs. Susmita. *Mrs. Madhu, wife of Mr. Vaidya, furious about the matter, filed a complaint against her husband as ‘main accused,’ Mrs. Susmita Sen as ‘second accused’ and Mr. Rahul Sen as ‘an abettor’ as he, through his silence and acquiescence facilitated, rather, to put it bluntly, encouraged Mrs. Susmita Sen and Mr. Vaidya to indulge in ‘adultery’ thereby ruining her marital life. She pleaded that she too shall be recognized as ‘aggrieved person’ as her matrimonial life was disturbed with these developments.*

Meanwhile, an NGO filed a Public Interest Limitation in the Supreme Court with a plea that Section 497 of Indian Penal Code, 1860 shall be struck down as it violates Articles 14, 15 and 21 of Indian Constitution on the ground that the relevant section of Indian Penal Code, 1860 gives ‘immunity only to adulteress but not to men’ when both are equally guilty. As a matter of principle of ‘public policy’, gender neutrality shall be observed in criminal law.

Mrs. Madhu also impleaded herself challenging the constitutional validity of sec. 497 in the Supreme Court as it violates different Articles of Indian Constitution. She also submits that such ‘total immunity cannot be given to Mrs. Susmita, the adulteress.

She submits that S. 198 (2) of Code of Criminal Procedure, 1973 is also unconstitutional for it ‘discriminates on the basis of sex’ which is prohibited under Article 15 (1) of Indian Constitution.

Mrs. Madhu also filed a petition in the Family Court for ‘divorce’ from her husband under The Hindu Marriage Act, 1955.

Mr. Rahul also applied for divorce from his wife under The Hindu Marriage Act, 1955. Mrs. Susmita Sen objected that ‘it is strange that he, instead of she, filed for divorce when ‘in reality non-disclosure of his serious health problem has brought forth this state of affairs’.

The High Court quashed the criminal proceedings against all the accused persons ‘declaring that Sec. 497 does not violate any of the provisions of the Indian Constitution.

*The Supreme Court, after hearing preliminary arguments, admitted and clubbed all the SLPs for final disposal.*

* ***The matter to be heard by the Hon’ble Supreme Court.***
* ***Students shall prepare memorials/arguments for both Petitioner and Respondent.***
* ***Students may frame their own issues***