



**SURANA & SURANA NATIONAL TRIAL ADVOCACY
MOOT COURT COMPETITION 2017**

IN THE COURT OF SESSION AT HILDA

State of Hilda – Prosecution

Vs

Kindran, Kushal & others

C.C. No. 101 of 2017

1. Rabat is a developing democratic republic which has 20 states with people of different ethnicity, language and culture. But it is the biggest democratic country in the world. In spite of its huge population and differences it is a successful country in all the spheres, like agriculture, education, technology and medicine. It is also praised for its secular credentials and tolerance by all nations in the world. But such a wonderful nation has its core weakness. That is corruption.
2. In every general election the contesting national parties will promise a corruption free society but it still remains a pipe dream. It is common knowledge that all parties used to woo voters with freebies and during elections bribe the voters with currency notes. Though many instances were covered in the print and visual media, there was no visible development to root out these evil practices.
3. Mital Nadu is a state in the union of Rabat. This state, with its capital in Mannai, too in spite of its vast resources and cultural background suffered from the national ailment of corruption. It is presently ruled by Mitali Development Sangam (MDS) a regional party who defeated its rival on the plank of dynasty politics and corruption. The lady chief minister Ms. Vijaya is a shrewd politician and ruled with an iron fist. She kept her party under control and showed marginal progress in the prospect of the state. But she was an acute diabetic and suffered from constant illness that kept her in the hospital for a considerable length of time. During such period she deputed her trustworthy minister Mr. Ulaganathan Palani Selvam fondly called as UPS to look after the affairs of the state as the acting chief minister.
4. MDS Party's symbol is Twin Buds which was etched in the minds of the people as their leader Ms. Vijaya sports a victory sign that both reflected the party's symbol and her numerous victories against rival factions, whenever she meets her supporters and party men. That image had almost attained an iconic status with her beaming smile. She did not marry but was assisted by a lady companion, Ms. Kalavathy, whom she mentioned as her sister though not born of her parents. Ms. Kalavathy comes from a modest family and a poor educational background. But she had a big family whose many members owned small business establishments. She claimed that she had severed her connections with them after she started assisting Ms. Vijaya, which fact was ridiculed by opposition parties who claimed that she had vested interests and her family members utilized her closeness to the CM and benefited by lucrative contracts for their business establishments.
5. In a case of disproportionate wealth accumulation launched by the previous government of Mital Nadu against Vijaya and Kalavathy and two of her family members, a special court convicted them and sentenced to four years simple imprisonment. Vijaya was fined Rs.100 crore and the other three were fined Rs.10 crore each. The opposition party (earlier ruling party) requested that the court proceedings take place outside Mital Nadu because it doubted that a fair trial would happen under her governance. The

trial took place at the neighboring state of Ankad. On appeal to the High Court they were acquitted. But the government appealed for revision of the case citing overlooking of vital evidences. Before the final verdict was given Vijaya became seriously ill and was in a state of coma in a hospital. Mr. UPS was again sworn in as the chief minister. After a prolonged illness Vijaya passed away. The whole of Mital Nadu was in tears as she was considered as their beloved mother. Even her bitter opponents praised her leadership qualities in their condolence messages. She was given a state burial.

6. Within a week of her demise, Kalavathy took the reins of the ruling party with the help of her family members and pressurized UPS to resign. She also got her elected as the general secretary of the MDP through the executive council members. She was also pleased with the name of Little Mother, fondly given by her sycophants and her family members. She also appointed Mr. Kindran, her Nephew as the Deputy General Secretary. The party had a simple majority of 135 members in a total of 234 member assembly. The main opposition the KDK party had 89 seats and a 9 seats were shared by smaller parties and independents. The party members after a prolonged meeting unanimously chose to support Kalavathy as their leader and also decided to elect her as the Chief Minister.
7. The MDP executive council members requested Mr. UPS to resign and handover reins to Ms. Kalavathy in January 2017. Mr. UPS submitted his resignation and in a few days later revolted against the party decision and claimed that he was the chosen person for the post by their leader Vijaya. About 12 members supported him openly. But he claimed that most of the members support him but are not coming out openly because of the threat to their lives by the family members of Kalavathy. He raised the suspicion that they had their hands in the untimely demise of Ms. Vijaya, their undisputed party leader. Many common people echoed his concerns.
8. In February 2017 the Supreme Court heard the case and convicted all. The order of the special court was restored by the apex court. This ended Kalavathy's dream to be Chief Minister of Mital Nadu. She was ordered to surrender in the State Prison of Ankad. But before surrendering she had put in place all her family members in control of the party, the estate of the late Ms. Vijaya, whom she claimed has chosen her as her successor and protégé. She was lodged in the State prison along with her sister in law and two of her nephews who were convicted along with her. She also appointed her trustworthy person Mr. Katpady Samy as the Chief Minister.
9. Meanwhile at the centre, the dynamic new Prime Minister who had come on the promise of rooting out corruption from the country and unearth black money and root out parallel economy took stern steps like demonetization and raids against business houses that evaded taxes and hoarded unaccounted wealth. People felt that whatever money was stashed by corrupt politicians will come back to them, with a hope that every person will get at least 15 thousand rupees as DBT (direct benefit transfer) from the seizure of black money.
10. The assembly seat of Vijaya fell vacant by her demise. It became a political challenge for both the ruling and opposition parties to win this seat to prove their supremacy and popularity. Mr. Kindran, nephew and close confidant of Kalavathy was chosen to represent the MDP. He is also the Deputy General Secretary of the party. The rebel group led by Mr. UPS refused to accept the selection of Kindran, who has been named in two scandals earlier and also denying Kalavathy's authority to do so. UPS also questioned the position of Kalavathy as General Secretary as she was not a party members and has no authority to call for the General Body meeting to select the chief.

11. Meanwhile the midterm election for the P K Nagar constituency was announced to be held on 12 April 2017. There was hectic parleys between many political parties whose poll managers and their minions settled around the constituency and worked round the clock canvassing for their party candidates. Kindran filed his nomination along with party members. UPS also fielded Mr. Shoodanas his candidate. Meanwhile the rebel group appealed to the State Election commission claiming the Two-buds symbol. Mr. Katpady Samy also appealed to EC claiming majority support and also produced the signature of 112 MLAs. Mr. UPS claimed that the MLAs were threatened and coerced by Kindran and his gangster family members. There was also a public outcry on the way Kalavathy took the reins of power and property of Vijaya and the party.
12. The election commission froze the Two buds symbol and allotted Water Bottle and & Tiffin Box symbol respectively for Kindran and Shoodan, who is the rebel candidate. Their parties were christened MDS(K) & MDS(U) respectively.
13. All the three major parties, MDS(K), MDS(U) and KDK fielded strong candidates and worked in a frenzy to get their nominee elected. The air was thick with accusation of the flow of money to buy the voters. Each accused the other of trying to buy votes by unfair means either by money or by giving freebies like white goods, which they can collect from dealers. They were issued with tokens along with the pamphlets. The tokens were such that three tokens together made a complete algorithmic code, which could be used to initiate a UPI (Unified Payment Interface) transaction into any designated account from a designated account outside Rabat. The identity of the sender account could not be deciphered by anyone. Likewise, if five tokens could be put together, they generated a unique algorithm which enabled accessing a bitcoin stash and allowed incoming transfer of bitcoins. Popular media reported that the bitcoin transfer was more preferred as it gave enough value to buy entire month's rations for a family of 5 as per the prevailing CPI (Consumer Price Index) rates. The EC came to know of this and had ordered enquires and sought help from the centre for protection for a free and fair election. A heavy battalion of central reserve police force was deployed and they checked every vehicle and carried out searches on receipt of complaints from people and the media. The media also covered the events extensively and there were many sting operations showing distribution of money and freebies by almost all party contestants.
14. Mr. Kindran deployed his entire force and ordered his men that no stone should be left unturned for making him victorious. All ministers were given specific tasks and were given specific area to cover. The talk of the town was that he was spending hundreds of crores of rupees for getting him elected. The talk of the town was that after getting elected, he will stake his claim for Chief Minister's chair.
15. There was daily news in the print and visual media about the indiscriminate amount of money being spent on this bye-election. There were some authentic representation of the money being exchanged and many instances the law enforcing authorities capturing vehicles and persons with loads of cash. These were confiscated and enquires were ordered. The centre came to the notice of such incidents on a regular basis. The new government has come on the plank of a corruption free administration. It ordered the Election commission to be strict in its approach and take appropriate action. The income tax department was also alerted over the huge amount of cash hauls in the vicinity of the constituency. On specific information from unknown sources raids were conducted by the income tax department and the CBI.
16. In one instance, a house belonging to Mr. Rakshab, a senior minister of the ruling MDS party was raided on specific information. The officials recovered huge amount of cash and also a diary noting specific amounts of few crores of rupees against many ruling party ministers, with their signatures acknowledging receipt. During the raids one of the ruling party dignitary Mr. Dandapani, holding an important post in the

committee was seen directing the party workers to get inside and seize the papers from the authorities. One such bunch of papers that was taken from the authorities was seen thrown outside the compound wall. The same was picked up by another party worker and disposed of by setting it on fire. Some tokens were also destroyed. These events were captured by the print and visual media and continuously broadcasted in the TV. The newspapers also carried the news prominently.

17. With the matters going out of hand, the State Election Commissioner in consultation with the Chief election Commissioner countermanded the election and ordered enquiry. Charges were filed against the various candidates who indulged in such acts and notices issued.—The ECI directed the Chief Election Officer, Mital Nadu on April 19 to ask the PK Nagar returning officer to file a complaint with police for bribing of the voters. A note informed that the Commission had received a report on April 9 from IT department on search and seizure of documents indicating large-scale distribution of money to bribe voters.
18. Meanwhile, the EC on their enquiries tracked a young entrepreneur Mr. Kushal, with a long trail of criminal cases arrested in Hilda, the capital of Rabat, reportedly told the police that he had been given crores of rupees in cash by Mr. Kindran to buy the MDS two-buds symbol. The police also recovered 2 crores in cash from Mr. Kushal. Mr. Kindran denied any wrong doing, claiming that he has never heard of the person who claims to be representing him.
19. Further enquiries and searches helped police net a cache of documents, tapes, hard disks and telephonic conversations that pointed squarely at Mr. Kindran for acts of money laundering, bribery and threats to various people in authority and government servants. Mr. Kindran denied all allegations and said that it was the conspiracy of UPS, the opposition party and the centre to discredit him and usurp power.
20. Documents seized by the income tax department during raids on senior minister Mr. Rakshab's house purportedly show the Kalavathy faction of the MDS gave Rs.5,000/- to every voter in the P K Nagar locality that was the home constituency of late chief minister Vijaya. The papers leaked to the media purportedly show the Kalavathy-led MDS faction giving more than Rs. 90 crores to seven ministers for distribution among P K Nagar voters and that they were allegedly given a target of around 2,30,000 voters to bribe. Further documentation also reportedly point to rampant corruption and the transfer and posting processes of the state, as well as illegal tie-ups with private education institutions. Another 5 crores was seized from an associate of Mr. Rakshab. Immediate enquiries reveal that the minister nor his associates were unable to tell the source of such huge cache of money.
21. The Election commission had made the following observation when questioned by reporters:
 - i. The EC had received complaints that large sums of money were being distributed to swing the outcome in an election, which has turned into a battle for Vijaya's legacy between Kalavathy & UPS. Kalavathy, serving time in a corruption case, was a long-time aide of the late CM while UPS was a Vijaya loyalist who rose in rebellion against Kalavathy.
 - ii. The poll panel can use Article 324 of the Constitution to cancel an election on grounds of bribery.
 - iii. In a strongly worded statement, the EC said: "... the commission cannot help expressing its anguish over the sordid state of affairs as revealed in the reports of the election expenditure observers, election expenditure monitoring teams, as well as the reports of the income-tax authorities."

- iv. The innovative ways which the political parties and their leaders... have devised to bypass the law-enforcing authorities entrusted with the task of keeping an eye on the unauthorised and illegal expenses incurred in the conduct of election campaigns of their party candidates need to be dealt with heavy hand.”
 - v. The poll panel, responsible for the Lok Sabha and state assembly elections, for long has been calling for clean-up. Its proposal to make electoral bribery a cognizable offence is being looked at by the government since 2011.
 - vi. Recently, the law ministry drew up a proposal to make bribing voters a cognizable offence that will allow for arrests and a police probe. A draft of the proposal is being circulated among stakeholders for their opinion.
 - vii. Bribing voters is a non-cognizable offence, punishable by a by fine or up to a year in jail or both.
22. The police, led by Assistant Commissioner Sumant Gill, had carried out searches at their residences on Thursday, even as their interrogation continued and appointed several surveillance offices who were entrusted with keeping a constant watch of physical movements, and all internet transactions of those who were perceived to be accused persons by the Police. The Hilda Crime Branch are on a money trail in Mannai and Choki, attempting to piece together who was involved in the transfer of Rs 10 crore from Kindran to middleman Kushal. Police officials had on Thursday raided the Kushal’s residence in Choki as well.
23. Meanwhile, on a tip received from one of the surveillance officer, a hawala operator and bitcoin mastermind named Harish was arrested in Hilda for allegedly facilitating money laundering in this case. He was held at the Hilda airport upon his arrival from Bangkok.
24. Kindran and his financial planner Mr. Nagarjuna was arrested late on 17 April 2017 night following days of interrogation in Hilda. An FIR was registered on April 19 by the Hilda police for attempting to bribe officials of the Election Commission in order to get the frozen two-buds symbol allotted to his faction.
25. Based on the inputs from the surveillance officer, the police had earlier on 15 April arrested Kushal, who had allegedly promised to bribe EC officials on behalf of Kindran for a sum of Rs 50 crore. Kushal was said to be in possession of Rs 2 crore and 30,000 bitcoins at the time of his arrest from top end Hatty hotel in Hilda.
26. Kindran has been booked under Sections 171B r/w 171E, 171F and 120B read with section 34 IPC and Section 8 of Prevention of Corruption Act, 1988 and Section 123(1) of Representation of People Act,1951. Kushal has been booked under Sections 170, 171B r/w 171E and 120B read with section 34 IPC and Section 8 of Prevention of Corruption Act, 1988 and Section 123(1) of Representation of People Act,1951.
27. **The laws of Rabat are analogous to the laws of India.**

Documents needed (add any other documents if needed)

1. FIR – Annexure 1
2. Statement of witnesses – Annexure 2
3. Enquiry report by investigation officer – Annexure 3
4. Panchnama – Annexure 4
5. Charge Sheet – Annexure 5
6. **List of witnesses** (add any other person you deem fit – in the place of Witness1 & Witness2)
 - 1) Investigating officer (P)
 - 2) Kindran (A1)
 - 3) Kushal (A2)
 - 4) Harish (A3)
 - 5) Nagarjuna (A4)
 - 6) Voice expert
 - 7) Handwriting expert
 - 8) Mr. Rakshab, senior minister
 - 9) Witness1 –by team’s request
 - 10) Witness2 –by team’s request
 - 11) Surveillance officer (s)
7. **List of exhibits**
 - a. Video recording (picture of video device only for representation)
 - b. Audio recording (picture of audio device only for representation)
 - c. Extract of telephonic conversation (between accused/threatening officials etc.)-max 2-3 pages
 - d. Voice expert report identifying the accused
 - e. Cash seized (Picture may be included for representation)
 - f. Diary seized with entries of names of ministers and their signature
 - g. Signature / handwriting expert report authenticating the entries

Each team will prepare

1. All the annexure and documents and exhibits to prosecute the accused (**will be part of the memorials**)
2. All supporting / applicable documents for authentication, of the exhibits in the appropriate formats citing appropriate provisions of Cr.PC and Evidence Act.
3. They will also prepare the memorials for the prosecution and defense
4. Each team will request a maximum 5 witnesses as mentioned in the list to the host institution. They will prepare the witnesses during the time allotted to them prior to the oral rounds.
5. The organizing Institution will provide the teams with a maximum of 5 witnesses as requested for both prosecution and defense side of arguments.
6. The registered team will request for the witnesses by the prescribed date to enable the organizing institution to prepare for the same.

Important note: The teams are bound to prepare the case within the parameters of the fact sheet. They can take cue from the material available on the subject from the print and electronic media. No wild imagination is permitted.