



SYMBIOSIS LAW SCHOOL, HYDERABAD

Symbiosis International (Deemed University), Pune

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MOOT PROBLEM

1. The Country of Republic of Sindhia, the laws of which are similar to India, is a land of diversities. Such diversity is also visible in the spheres of religion. The majority population of Sindhia follow Sindhuism (i.e. approximately 84% of the total population), a religion which is deep-rooted to the Sindhian culture and history and entwined with the concept of its nationalism.
2. The second largest religion is Jeruslam (i.e. approximately 12% of the total population) consists of the largest minority religion, brought into the land of Sindhia by its invaders in early 1800s. According to the Constitution of Sindhia, Sindhia is a secular and democratic nation. Due to differences in the culture of Sindhuism and Jeruslam, there have been several conflicts which have led to massive riots and mass-violence in the past across Sindhia. Often, Sindhus condemned the followers of Jeruslam as anti-nationals and associated them with Jerustan, a Jeruslam majority neighboring country, which got recently separated from Sindhia and has frequent cross border conflicts with Sindhia.
3. Due to substantial progress in the fields of technology, connectivity and collaboration tools across the globe, Sindhia is undergoing a digital revolution. The present government has started initiatives such as 'Digital Sindhia' to give impetus to its technology and telecom companies, so that they are able to provide uninterrupted services and internet facility to its citizens. As a result, the number of users of internet and social media have increased exponentially. However, as a flip side, these social media platforms are being misused by politically motivated and rightwing groups, who upon understanding the influence of social media on the general public, have started spreading hate speech and blasphemous contents to instigate/ trigger riots and violence in the country, especially between the Sindhus and the Jeruslam.

4. Broomland is in the territory of Sindhia, Jerustan has been claiming territorial sovereignty over Broomland. The laws of state of Broomland are similar to Delhi, India. On December 8, 2018, a migrant worker named Frazil of Jeruslam, was hacked to death in the state of Broomland with a meat cleaver and his body was then burnt at the scene of crime. The man on trial for his murder had the entire attack on Frazil videotaped and uploaded on Funbook (a popular social media platform in Sindhia, owned by “**Funbook Private Limited**”) along with a sermon against the Jeruslams, captioning it “Go to Jerustan” and “Jhanda Ucha Rahe” (flag should fly high) (“**Video 1**”). Before Video 1 could be taken down from Funbook, it became viral on Funbook owned messaging application called ChatOn which uses end-to-end encryption technique to transmit messages.
5. Despite repeated petitions and complaints being made by the citizens of Sindhia to the Ministry of Home Affairs of Sindhia to curb the spread of the hate videos, the said Ministry took no cognizance of the matter. The government of Sindhia blamed the end-to-end encryption technology used by ChatOn and said that because of this technology they are unable to trace the origin of the dissemination of Video 1 and thus, they cannot take action against the perpetrator. Further, the Government accused Funbook of refusing to co-operate with them and provide them with data regarding the spreading of Video 1 through ChatOn and Funbook on the grounds that the privacy of their users was of utmost importance to them. Funbook further contended that they would not breach the trust of their users by decrypting the materials shared on its platform as the USP of Funbook and ChatOn was their end-to-end encryption technology that guaranteed the privacy of contents shared by users.
6. However, on receiving repeated complaints from users, ChatOn and Funbook came up with a revised user policy whereunder if 50 or more users complain about the content of any post uploaded or shared on such social media, the same will be immediately removed. Further, through a new feature of their application, ChatOn and Funbook ensured that any video which has graphic content was blurred and an express consent from the user is taken before such video is played.

7. Immediately after the video of Frazil's brutal murder went viral, processions were taken out by Akhil Bhartiya Sindhu Sanstha ("**ABSS**") in Jeruslam populated localities shouting anti-Jeruslam slogans and shouting "Go to Jerustan" and "Jhanda Ucha Rahe". Post this incident, a video of a Sindhu woman being raped by a group of men wearing religious Jeruslam lockets went viral on Funbook and ChatOn ("**Video 2**"). It was observed in Video 2 that the men were shouting "Sindhia belongs to Jerustan". The said video became viral and the slogan used therein became a trend. The mass circulation of Video 2 caused massive riots and violence in the state of Broomland, causing a communal fight between the Sindhus and Jeruslams.
8. Lady Unnamed whose rape video had become viral in Video 2 expressed her angst and repeatedly pleaded Funbook and ChatOn to remove and prevent further circulation of the same. In their response, Funbook provided documentary evidence of the fact that they have complied with all the legal requirements under the Information Technology Act 2000 and have processed her complaint. They further clarified that Funbook and/or ChatOn do not initiate any transmission through their platform nor do they select the recipient of such transmission or modify any information contained in the transmission. Lady Unnamed was not satisfied with the response received from Funbook and ChatOn and therefore, she urged the Government of Sindhia to intervene.
9. Neutral Sindhia, a public spirited non-governmental organization, which strives for a violence free and secular nation, requested Funbook to remove Video 1 and Video 2 (collectively "**Videos**") and actively followed it up with Funbook. At the time of Video 2 going viral, Lady Unnamed and Neutral Sindhia (the "**Petitioners**") made a written request to the Grievance Officer of Funbook stating that the said videos should be urgently taken down and any future posts pertaining to the same should be automatically blocked. Also, that the user account posting the same should be deactivated. According to them, these contents fall under the category of hate speech and violated the right to privacy of Lady Unnamed. They also alleged that the contents are prima facie blasphemous and have triggered riots all over Sindhia. However, despite repeated requests from the Petitioners,

Funbook declined to take down the said videos and related contents because as per Funbook's policy 50 people had to complain for Funbook to take down any content from its platform. Funbook refused to entertain any further queries/ requests from the Petitioners.

10. The Petitioners also approached the Department of Information Technology, State of Broomland (“DIT”) requesting DIT to issue an official notification to Funbook and ChatOn to take down the Videos from such platforms and blacklist Funbook and ChatOn in Sindhia. DIT issued a show cause notice to Funbook demanding a detailed report of the incidents. However, DIT refused to entertain the request of the Petitioners to blacklist Funbook and ChatOn on the ground that it did not have enough information on the same and it has to hear both the parties before taking any further action. Further, DIT said that any form of regulation of the contents of Funbook and ChatOn without reasonable justification would tantamount to violation of freedom of speech of the citizens of Sindhia. In the meantime the riots had already spread and there were various instances of violence across Broomland. Thus, the Petitioners have approached the Hon’ble High Court of Broomland with its petition against Funbook Private Limited (“**Respondent 1**”) and DIT (“**Respondent 2**”) (Respondent 1 and Respondent 2 are collectively referred to as “**Respondents**”).

11. The Petitioners in their petition have alleged that the Respondent 1 had played a pivotal role in spreading the riots all across Broomland. They alleged that not only did Respondent 1 decline the request to take down the Videos but they also caused the contents pertaining to the Videos or related contents to appear again and again on their application software in those areas which were most impacted by the riots. It was alleged that the repeated re-posting of the Videos in riot inflicted areas made the riot spread faster. The Petitioners claimed that social media forums such as Funbook lack proper vigil mechanism to ensure that contents which spread hatred or are blasphemous or create security issues are identified, tracked and blocked before they have any negative impact on the society at large or instigate a crime. Further, the Petitioners claimed that due to inactivity of Respondent 2 to take necessary action, the right to privacy of Lady Unnamed had been violated and mass riots had been caused in Broomland.

12. In light of the above facts, the reliefs claimed from the Hon'ble High Court of Broomland were largely as follows:

- a. Directions to the DIT and/ or any other appropriate authority to discharge their executive, statutory and all other obligations in relation to safeguarding of privacy of Lady Unnamed and prevent public access of any information which threatens the security of Sindhia and public order.
- b. Directions to the Government of Sindhia under the Information Technology Act 2000 to:
 - i. regulate the functioning of the platforms run by intermediaries;
 - ii. ensure that the privacy rights of the users/citizens are not compromised and are duly protected.
- c. Directions to Respondent 1 to immediately take down the Videos and prevent further spread of the same and payment of compensation to Lady Unnamed.

[Note: Maintainability of the writ petition can be challenged.]