

Vivekananda School of Law and Legal Studies

17th September 2019

7th Intra-Bail Argument Competition

Advocates' Legion is organizing the 17th Intra-Bail Argument Competition, on 19th October 2019. There shall be individual participation, therefore students are requested to send their name, class and semester, and contact number on intrabail2019@gmail.com by **10th October 2019**.

The participants shall be given their respective sides for argument at the time of registration.

Kindly adhere to the following rules-

1. The memorial shall be strictly in the form of application, consisting of 2-3 pages. The memorial may be supported by a separate compendium of judgments (the first page of judgment and the relevant extract).
2. The participants have to submit two copies of the memorials from one side only.
3. All the participants have to mail their memorial on intrabail2019@gmail.com by **15th October 2019** till 6:00pm.
4. The hard copies shall be submitted on 16th October at 2:00 pm in the 7th floor, Moot Court Room.
5. The participants (Applicant and respondent) shall be given 9 minutes for oral arguments and 1 minute for rebuttal.
6. The **training session** shall take place on 3rd October and 10th October in the Moot Court Room at 10.30 am and 1:00 pm.

Ms. Lovleen Sharma

Event Convenor

Intra Bail Competition

Moot Court Society, VSLLS

Moot Proposition*

Sister Maya was reported missing on the morning of 7th March 2017. She had woken at 4:00am to study for exams, and was last known to have gone to the kitchen for a drink. The refrigerator door was left ajar, a bottle of water was spilled on the floor and a single slipper sat under the fridge – its pair was found beside the convent hostel's well. On 7th March 2017, West Police Station ASI Feroz visited the crime scene and called the fire force to search for Maya's body in the well in the compound. The fire force removed the body from the well. An inquest was prepared by ASI Feroz. Photographs of the body were also taken. Clothing of Maya was taken into custody.

A post-mortem conducted on the body by Dr Radha found abrasions on the right shoulder and hip and two small lacerations above the right ear. There was no sign of sexual assault. The skull was intact. Brain showed localised sub-arachnoid haemorrhage underneath these contused regions. No sign of increased intra-cranial tension." The post-mortem report indicated death by drowning but also reported on the possibility of homicide based on head injuries. In May 2017, forensic medical expert Dr S K Pathak conducted dummy experiments leading them to conclude that homicide could not be ruled out.

Due to infirmities in the investigation by the local police, the matter was transferred to the Crime Branch. As part of its investigation in August 2017, the CBI conducted Narco Analysis tests on Fr. Thomas Kottoor, Fr. Jose Poothrikkayil, Sr. Sephy and some others whom they believed had knowledge about the case. Narco Analysis test report and CD were sent to Sessions Judge. On 29 November 2017, the CBI issued the first final report. Some of the initial manipulations in the case by the local police alleged by CBI are:

- a) The inquest report did not indicate the homicidal injuries on the body of Maya.
- b) The material evidence in the case was destroyed and the clothes were not subject to forensic examination
- c) The photographs showing injuries on the body were removed.
- d) The crime scene was tampered with or material physical evidence was not collected from the crime scene.

During the initial inquiry, the post-mortem, chemical examination and laboratory report also had been erased and then rewritten due to other influence.

CBI arrested two Catholic priests, Peter, Joseph and a nun - Sister Sophia - were arrested by the Crime Branch on 19 December 2017, were charged with murder and destruction of evidence. Prosecutors alleged that Sister Maya had stumbled upon the two priests and one sister in a

"compromising position" and had subsequently been attacked with an axe and dumped in the well. There were allegations that the CDs relating to the narco analysis tests were manipulated. The Sessions Court sent questionnaires to Dr. Nyra, Assistant Director of the Bangalore centre where the narco analysis was conducted. The lab denied any manipulation. But the Court, while hearing the bail petition of the accused, based on Case Diaries, mentioned that the narco analysis CDs might have been manipulated and wanted the originals to be produced in court. Dr. Nyra has since been dismissed from service on the charge of forging her birth certificates. CDs given to CDIT for tests. CDIT submits the finding that the CDs have been doctored more than 30 times. Court orders CBI to find out the original CDs. within 10 days. CBI questions the forensic lab officials including Dr. Nyra. CBI makes a volte face and submits that the CDs were not edited. CDIT challenges the submission by CBI.

On 25th January 2018 Feroz, the Assistant Sub Inspector who prepared the First Information Report during the initial case investigation, was found dead. Police said he committed suicide by cutting the artery on his wrist and taking poison. A suicide note cited mental torture by the CBI. The CBI had alleged that Feroz had destroyed evidence and closed the case as a suicide, but the case diary revealed it was Feroz who pointed to the possibility of homicide. He had recorded that Maya could have seen something objectionable in the dining room and could have been silenced. In his personal diary, Feroz wrote about how he was pressured by CBI to say that senior police officers tried to influence him.

The Session court has rejected the bail application on the basis of the evidence adduced by the prosecution. Now the matter is pending before the High Court of Delhi and accused has filed an application for seeking bail.

You are required to argue the matter on behalf of the side allotted to you.