



**MAHARAJ VINAYAK GLOBAL
UNIVERSITY**

JAIPUR SCHOOL OF LAW

National Moot Court Competition-2023

To be held on 10th-12th February, 2023

Moot Court Preposition-2023

Farhan and Rehana got married in the Year 2020 as per Muslim rituals. Farhan on the date of marriage was of 22 years of age and Rehana, although have attained puberty, but was of 14 years of age. The marriage was duly consummated and they started to reside together at Jaipur. During the initial days of marriage, they both led a happy married life and out of the wedlock they had a baby in the year 2020.

After 2 years of living together relationship of husband and wife got horribly strained and Rehana was subjected to not only mental torture, but she was also subjected to physical torture. On several occasions, she was forced to make physical relationship with Farhan against her will and she was also made to perform unnatural sexual acts with her husband. She was completely denied her right to bodily integrity and right to deny. Even on various occasions, she was made to fulfil the physical lust of her husband.

Suffering with the physical and mental torture, Rehana filed a FIR before the concerned police station, upon receipt of her written report, FIR No.210/2018 was registered under Section 506, 498A, 323, 377 of the Indian Penal Code (in short IPC) and Section 10 of the Protection of Children from Sexual Offences Act, 2012 (in short POCSO Act).

After detailed investigation of the FIR and in light of the statement of the prosecutrix/complainant, her child and other documents related to her age, police had filed a charge sheet against Farhan for the offence punishable under Section 498A, 354, 376, 506 of the IPC and Section 5(j) and (l) read with, Section 6 and section 11 of the POCSO Act, 2012.

Farhan thereafter had filed a writ petition before the Hon'ble High Court requesting for quashing the entire proceedings pending in the lower Court initiated pursuant to FIR No.210/2018 registered at Police Station Gandhi Nagar, Jaipur. The Hon'ble High Court dismissed the writ petition.

Farhan challenged the order of the High Court before the Hon'ble Apex Court and through his petition he has also challenged the constitutionality of Exception 2 of Section 375 IPC (MRE). Following questions were framed for the parties for arguments:-

1. Whether the order taking cognizance against the appellant-husband for offence punishable under Section 376 & 377 of IPC and in - POCSO Act is tenable in law?
2. Whether Exception 2 to Section 375 of the IPC violates Fundamental Rights given under the Constitution of India?

Maximum Five (5) issues shall be taken by the participants team. More than that their Memorials will not be considered.