

MOOT PROBLEM - I

Mr. Ashok Shah, Mr. Rajesh Singh, Mr. Manik Jain, Ms. Shruti Kapoor, Mr. Sandeep Borse, Mr. Karan Khanna and Mr. S. Shaikh were the members of governing body of a renowned Jagran Public Charitable Trust (JPCT). Mr. Ashok Shah was the Chairman of the Trust. Mr. Rajesh Singh was a trustee by virtue of his post as Executive Secretary. As per its objectives JPCT was engaged in running of various schools, hostels and hospitals. JPCT also owned vast agricultural land and commercial complexes which formed part of the income of the Trust. Since the Trust property was spread in seven different places situated in three different districts, the trustees shared the responsibility of managing various units called "Station". Mr. Ashok Shah was also responsible as manager of one such Unit at Devnagar which had an English medium school, a vernacular language school, dispensary, agricultural land, residential quarters, commercial complex and a hostel for 300 students. There was regular income at this station in the form of fees of students studying in school, agricultural produce, patients availing dispensary facilities, hostel inmates and rent of workers' quarters and commercial complex.

The Governing body was divided into two groups - Mr. Ashok Shah, Mr. Karan Khanna and Mr. S. Shaikh on one side and Mr. Manik Jain, Ms. Shruti Kapoor and Mr. Sandeep Borse on the other side. The latter was headed by Mr. Manik Jain. Group of Mr. Manik Jain was trying hard to get into power and therefore they wanted to remove Mr. Ashok Shah as Chairman of the trust. To achieve their purpose, they incited Ms. Shruti Kapoor to make allegations of sexual harassment against Mr. Ashok Shah.

On the other hand, Mr. Ashok Shah and group came up with a plan where they made Mr. Ashok Shah agree to write a suicide note alleging Mr. Manik Jain and group responsible for his suicide. They put up a drama of suicide thus fixing Mr. Manik Jain and group on charges of abetment to commit suicide.

The Trust held an agricultural land near an upcoming Special Economic Zone (SEZ) and therefore the land got attention of many builders. Mr. Manik Jain, Ms. Shruti Kapoor and

Mr. Sandeep Borse wanted to sell the Trust land at the prevailing market price but Mr. Ashok Shah objected to the same and as a result the sale did not materialize.

Thirty people viz. workers and residents of Devnagar Station reported to the Executive Secretary Mr. Rajesh Singh on 10th October 2011 that Mr. Ashok Shah as a manager of the station was engaged in embezzlement of funds. They pointed out that he had taken illegal gratification from the parents to get their children admitted in schools and hostels. He had sold away chunk of agricultural produce and had not submitted the amount to Trust's fund. Similarly, they pointed out that Mr. Ashok Shah had regularly collected house rent and rent from the tenants of commercial complex and had not remitted the amount to Trust's treasury. This News was flashed widely in local media.

After receiving the written complaint, the Executive Secretary brought the matter to the notice of the Chairman Mr. Ashok Shah and informed him that since he is having a written complaint against him, he will have to bring the matter in front of Governing body to be held on 12th November 2011. He further requested Mr. Ashok Shah to clear the matter before the meeting so that his image was not tarnished. All Members of Governing Body unanimously supported Mr. Ashok Shah and issued a letter to Mr. Rajesh Singh condemning the allegations and supporting Mr. Ashok Shah.

On 5th November 2011, Mr. Ashok Shah wrote a letter and kept the same in his office drawer. The letter contained the statement that in case of his death, Mr. Manik Jain, Ms. Shruti Kapoor, Mr. Sandeep Borse should be held responsible for his death. According to the letter, they had been the mastermind behind the complaint and done with sole intention to defame him.

Early morning on 12th November 2011, Mr. Ashok Shah was found hanging from the roof in the rear room of his house with its main door not latched. On the basis of preliminary investigation, police prima facie assumed that he had committed suicide. Based on the note found in his office drawer police filed a charge sheet against Mr. Manik Jain, Mr. Sandeep Borse, Ms. Shruti Kapoor. They were alleged to have

committed an offence u/s. 306 read with Sec. 34 of IPC. The Trial Court convicted Mr. Manik Jain, Ms. Shruti Kapoor and Mr. Sandeep Borse.

Being aggrieved by the conviction, they preferred an appeal to the High Court of Gujarat.