

MOOT PROBLEM

1. *Xerbia* is a federal democratic republic with rule of law, independent Judiciary, free media and vibrant civil society. The Constitutional and legal system of *Xerbia* is identical to that of “Union of India”. *Olicana* is one of the western States under the “Union of *Xerbia*” having its own Legislative Assembly. Having a similar Judicature, the rights and penalties with respect to the *Lesbian Gay Bisexual Transgender (LGBT)* community also remain synonymous to that of Union of India. Further State of *Xerbia* is also a signatory to United Nations Human Rights Commission (UNHRC), where it held an abstention to the resolution passed in the year 2011 and 2016 respectively under the International Gay and Lesbian Human Rights Commission (IGLHRC), established in pursuance of the statutory provisions of United Nations Human Rights Commission (UNHRC).

2. Mr. Rajat, a well known lawyer working as a partner in the A&Z private partnership firm and lives in the city of Coria, located in the state of *Olicana*, along with his wife Mrs. Riya. Both are highly qualified post-graduates but belong to very conservative and orthodox Hindu families. They tied the knot in the year 2017 in- compliance with the recognized Hindu rites and ceremonies followed by a registration of their marriage under Matrimonial law of the country.

3. Since the beginning of the marriage there was a constant effort on Mrs. Riya’s part to cohabit the marriage but in vain. Mr. Rajat and Rajesh were partners in A&Z partnership firm even before their marriage. But the constant workload and pressure accompanied by an incremented time spent together resulted in a subtle yet a strong attraction between the two followed by them cohabitating their relationship in violation of penal laws of the country. Further Riya and her husband were fettered by the clutches of a very rough and unsuccessful marriage where almost every-day they had arguments with respect to the cohabitation of their marriage, further they were not giving reasonable and quality time to each other. There were days where such arguments reached the threshold just to come into the acquaintance of the neighbors who in turn resented themselves from interfering in the personal matters of a husband and wife.

4. After an unsuccessful wedlock for the period of 3 months, when Rajat could not handle the pressure of constant and repetitive arguments of his wife, he therefore proceeded with the decision of abandoning his

wife and commences a live in relationship with Rajesh. Despite several communications initiated by Riya, Rajat never responded to her. Having left with no other option, Riya sent a legal notice to Rajat to which he ignored and did not bother to respond.

5. Later, Riya filed a petition in the Family Court, Coria under Matrimonial law of the country in order to get relief by way of restitution of conjugal rights. As per her contentions, she believes that the existing relationship between Rajat and Rajesh is unnatural. Further she relies on a record of telephonic conversations and text messages between Rajat and her, wherein he has stated to her that cumulative pressure of the society and his parents compelled him to marry her. Further he was no longer in the position to prolong the marriage and therefore he decided to abandon her and live with Rajesh instead.

6. While the petition was still pending in the family court, a writ petition was filed by Mr. Rajat in the High court of Olicana challenging the constitutional validity of matrimonial law which forces him to cohabit with a person against his will, and penal law of the country which prohibits him from entering into unnatural relationship. He contended that humans should be allowed to live a dignified life as provided under the constitution of the country, thereby making sure that even the penal law should be in cognizance with the constitution of the country. However the High Court dismissed the petition stating that both the sections of the concerned statutes are constitutionally valid.

7. After the petition was dismissed in the Hon'ble High Court and while the matrimonial case was pending in the Family Court, the Hon'ble Supreme Court in another case declared that Right to Privacy is a facet of Right to Life under the constitution of the country. Aggrieved by the decision of the High Court he filed a Special Leave Petition before the honorable Supreme Court invoking the right of privacy.

Kindly argue the matter before the Hon'ble Supreme Court as per laws and relevant provisions of India and the Hon'ble High Court and Supreme Court judgments.

Note:

- 1) Parties are free to frame the issues relevant to the case.
- 2) Minimum three issues to be argued.