

## CLARIFICATIONS

1. Are the issues that have been listed in the Supreme Court Record of Proceedings as Annexure A to the problem to be taken in the exact same order in the memorial or can the order be changed?

The issues framed need not be argued in the exact same order. Parties are free to identify the proper structure for their arguments.

2. In Annexure A, what are TC (Crl) 313 of 2016 and TC (Crl) 314 of 2016 referring to? This is because they haven't been mentioned anywhere else in the problem sheet?

TC (Crl) 313 of 2016 and TC (Crl) 314 of 2016 are transferred Writ Petitions, W.P. (Crl) 5421 of 2016, W.P. (Crl) No. 3393 of 2016 respectively.

3. In Para 4 of the problem sheet, what is the significance of this phrase in the last line, "...painting which rightfully belonged to him.". Does this mean that Mr. Gullberg is still the legal owner of the painting?

The query needs no answer. The facts given in the problem are sufficient to answer the query.

4. In Para 8 of the problem, when the police conducted raids in the residence of offices of Mr. Gullberg, was it in consequence of either of the two FIRs filed? If yes, then which of the two FIRs was it consequent to?

The raids were conducted in pursuance of the FIR under the Viscara Penal Code.

5. In Para 14, when opposing the provisional attachment order, the grounds for opposition was stated to be on principles of natural justice being violated and that "there was no nexus between the offence alleged and the attachment". Which offence is being referred to here? Is it the offence of Money Laundering under the Act or the Offences that are Scheduled Offences ?

The question needs no answer. The law and the facts given in the problem are sufficient to answer the query.

6. In Para 14, towards the end of the paragraph, the SLP being referred to was made to the Supreme Court of Viscara and not the High Court of Viscara as has been stated. Is that right?

Yes. The sentence in paragraph 14 is amended as follows:

"Aggrieved by this, Mr. Gullberg filed a Special Leave Petition before the Supreme Court of Viscara, being SLP (Crl) 9999 of 2016 on 1<sup>st</sup> August 2016."

7. In Para 22, since it has been stated that the tagging of matters has not been opposed by any of the parties to the proceedings, does this mean that the Jurisdiction of the Court is set in stone and that it need not be challenged in any way?

The jurisdiction of the court is established. However, parties are free to argue on the scope of the hearing as well as the relief which may be granted by the court.

8. In Para 22, do the last 3 lines indicate that the first three issues have to be dealt with by Speaker 1 and only the last issue by Speaker 2?

The structure of the problem and the issues is in no way meant to restrict the freedom of the parties to either choose the order of speakers or the issues which may be dealt by each speaker. Parties are free to divide the issues amongst the speakers as they wish, subject to the rules of the competition.

9. What about the position of the person who escaped from the car when intercepted by police on 12th February 2016. Whether any FIR filed on him or any details about him.

The police did not file an FIR against Mr. Henrick Larrson. However, based on Mr. Gullberg's statement, the police conducted an investigation to try and locate Mr. Larrson. However, they could not find any person by the name and no governmental records existed for Mr. Larrson.

10. What rights are provided by ED to the accused in Custody for fair trial?

The question needs no answer.

11. What are criminal proceedings threatened by Ms.Bennett on Mr. Gulberg mentioned in paragraph no 4

The said fact is not relevant to the present dispute.

12. What action taken by Police for complaint given by Bennett regarding the theft of the painting Periscope.

The facts given in the problem are sufficient to answer the said query.

13. The dates mentioned in the order viz: 1st march 2015 and 1st September 2015 do not match the dates in the moot problem.

The reference to 1<sup>st</sup> March 2015 is to be read as 1<sup>st</sup> June 2016 and the reference to 1<sup>st</sup> September 2015 is to be read as 29<sup>th</sup> November 2016.

14. Will you disclose the FIR of 12th February 2016 and the seizure & search report?

The query needs no answer. The facts of the problem are sufficient to address the issue.

15. Is there any evasion of duty on the 100 kg of gold found in the car? (para 7)

The said fact is the subject of investigation.

16. What is the valuation of duty for the 100 kg of gold found in the car? (para 7)

The value of gold was synonymous to the value of gold in Delhi on the said date.

17. The year mentioned in the 3rd issue is 1st March, 2015. However, the year is 2016 and there was no provisional attachment on 1st march. First provisional attachment and freezing order was given on 1st June, 2016.(see para 11 and 13)

See answer to Query No. 13.

18. Second provisional attachment was given on 29th November considering the expiry of the first provisional attachment order dated 1st June 2016. The date mentioned in the issue is 1st September, 2015. (See para 13, 15 and 19)

See answer to Query No. 13.

19. Further para 15 mentions the year as 2015. On 1st September 2015, a show cause notice was issued by the adjudicating authority and not a second provisional attachment order.

The year 2015 in para 15 is to be read as 2016.

20. In 14<sup>th</sup> paragraph 15<sup>th</sup> line: SLP was filed before the High Court of Viscara. Here Supreme Court of Viscara will come or not.

See answer to Query No. 6

21. In 20<sup>th</sup> paragraph 8<sup>th</sup> line there is 19<sup>th</sup> November mentioned. There should be 29<sup>th</sup> November as an order was passed.

Yes. The reference to the date 19<sup>th</sup> November in paragraph 20 is to be read as 29<sup>th</sup> November.

22. In the para 11, the problem talks about search and seizure. Under which act is this search and seizure done?

The facts given in the problem read with the law on the subject is sufficient to answer the said query.

23. What was the reason for search and seizure? Was it due to painting or because of gold?

The facts given in the problem are sufficient to answer the said query.

24. Was the report under Section 174 forwarded to magistrate before provisional attachment?

The report under Section 174 has been forwarded with respect to the FIR dated 1<sup>st</sup> February 2016.

25. Is the factsheet sufficient as to the outcome of investigation prior to provisional attachment? / what were the outcomes of investigation that ED conducted under section 5 of PMLA?

Yes. The facts given in the problem are sufficient to decipher the extent of the investigation conducted by the ED prior to the provisional attachment under Section 5 of the PMLA.

26. Did they have search warrant to search the car?

The police did not have a search warrant to search the car.

27. Is the appellant contesting the validity of section 5?

The said query is sufficiently answered in the moot problem.

28. Is the petitioner contending that the bank account of people other than him should not be attached?

The Petitioner would be raising any and every legally and factually permissible argument with respect to the issues set forth in the order dated 21<sup>st</sup> February 2017.

29. What objections did he raise to the initial showcause notice? Para 18

The extent of the reply given by Mr. Gullberg is specified under paragraph 18. There has been no further reply filed by Mr. Gullberg to the show cause notice.

30. What is the breakup of amounts in different bank accounts?

The sum in the accounts opened and closed in the name of Mr. Gullberg, his wife and his children were nearly the same. The accounts in the name of Mr. Gullberg's companies held a higher sum, accounting for about 60% of the amount estimated by the ED.

31. Clarification regarding who issued the order under 17(1)a and rank of officer?

The order under 17 (1-A) was passed by the person authorised to do so under the act.

32. What is the Exchange rate for VNR and USD?

For the purposes of the case, 1 VNR = 1 INR.

33. Whether Marzipan is a contracting State under Sec. 60(1) of The PMLA, 2002 with Viscara?

No.

34. Whether the Adjudicating Authority has confirmed the provisional attachment and freezing order?

The order is yet to be confirmed by the Adjudicatory Authority. Although no stay was granted by any of the courts against the proceedings, the Adjudicatory Authority decided to adjourn the matter till the hearing of the matters before the Supreme Court is concluded.

35. Whether PMLA (Amendment Act of 2015) is applicable or is it the PMLA Amendment Act of 2012?

All laws as on the date of the hearing are applicable.

36. Whether an application has been made to The Special Court regarding the evidence of bank account details of Mr. Gullberg in Marzipan?

The proceedings before the Special Court are at a preliminary stage and the investigation is yet to be concluded. No such application has been made to the special court as yet.