

**2024**

**3rd SANKHLA  
AND ASSOCIATES  
NATIONAL VIRTUAL MOOT  
COURT COMPETITION  
by THE AMIKUS QRIAE  
MOOT PROPOSITION**

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## MOOT PROPOSITION

Industan, officially the Republic of Industan, is a country in South Asmania. It is the largest democracy in the world, known for its powerful government, pervasive surveillance and stringent policies. It is a developing country where freedom to practice any profession or carry on any occupation, trade or business to its citizens is guaranteed as a fundamental right under the Constitution.

On 11.09.2013 at 6:35 P.M, during patrolling duty complainant Assistant Sub-Inspector Naruto arrived in front of Shalini Bazar Metro Station Gate No. 2, in the state of Madhyasthan where he received secret information that sex toys were being sold in Shop No. 16 of Shalini Bazar. He reached the spot and on searching the shop premises, an orange coloured sex toy and a purple coloured battery operated phallic sex toy of transparent plastic, were recovered. Since, the accused Mr. Obito Roy has committed an offence punishable under Section 292 of IPC, a complaint was made and subsequently an FIR was registered.

The case went on trial before the Court of Ld. Metropolitan Magistrate, Wonderpur where the accused Mr. Obito Roy was convicted of committing an offence under Section 292 of Industan Penal Code. Section 292 states that exhibition of genitals in the form of sex toys, meant for sexual activity, falls under the definition of obscenity under Section 292 of IPC. The Trial Court held that the community has a legitimate interest in curbing public exhibition and display of such products. The Trial Court also held that in cases of this nature, the Court while considering diverse perspectives, would base the evaluation on an objective set of criteria, not individual interpretations.

After his conviction, Mr. Obito Roy was disappointed with the fact that selling of sex-toys was prohibited even though there are no specific laws banning the same. Ten years after his arrest, he decided to open a shop to sell sex-toys in the state of Beachtown. His decision was guided by the fact that Beachtown has a freer society, and its dazzling beaches and vibrant nightlife are always swarming with a largely younger crowd. Mr. Obito Roy was under the impression that his right to freedom of trade and business would not be violated in this state.

As such, in 2023, Industan's first sex toy shop was opened in the state of Beachtown by Mr. Obito Roy and was inaugurated around Valentine's Day in Poungkhul a popular tourist destination in the state of Beachtown. His business was on the rise. But a little over a month after its opening, Beachtown's only brick and mortar sexual wellness shop, Love Gadgets had to close its shutters.

Love Gadgets was shut down by the panchayat citing that it was illegal to carry with activities of such nature. Pounghul Sarpanch, Mr. Namjoon said that they had received verbal complaints from many people about the shop and that it was against their culture, causing the shut down. The panchayat took action against the shop, removing even the signage. The Sarpanch had also said that the shop was selling adult items and he had received complaints from both men and women about it. He was disappointed with the fact that people had also posted on social media and WhatsApp about the shop. He gave his statement to the press that they would not allow such activities.

There were several other instances where selling of sex-toys in different states of Industan were vandalised, shut-down and shop-owners were punished and rebuked. There was uproar among the sellers and manufacturers of sex-toys in Industan as selling of sex-toys were permitted in most other countries.

However, Mr. Obito Roy found that, recent trends showed the rise in demand and usage of sex-toys among people. According to Internet trends, "sex toy stores near me" has been a popular search in the previous five years. Further "how to create sex toys at home" had been a trending search topic in the last twelve months. The latter might potentially be the outcome of India's taboo about sex toys, leading them to be prohibited.

Adult lifestyle goods have long been offered on the black market and frequently by street sellers. In the last few years, the e-commerce market for adult or sex toys has experienced a boom due to a wide variety of such products being made available. Global Sex Toy market is projected to reach \$54.6 Billion by 2026. The global market for Sex Toys was estimated at US\$35.1 Billion in the year 2023, so this is not a new phenomenon.

The Constitution of Industan provides certain fundamental rights among which is the freedom to practice any profession or to carry out any occupation, trade or business to its citizens as per Article 19(1)(g) of its Constitution. Mr. Obito Roy was disappointed that his right to freedom of trade and business was violated repeatedly. Under these circumstances, Mr. Obito Roy decided to file a writ petition before the Supreme Court of Industan challenging the violation of his right to freedom of trade and business.

Keeping in mind all the aforementioned points and any other relevant ones, the grounds for filing writ petition, must be prepared for both sides.

Note:

- Only the laws of Industan are *pari materia* to the laws of the Republic of India and no such fact is *pari materia* to any country.
- This Moot Proposition is purely a work of fiction and resemblances to any such incidents are purely co-incidental.
- This Moot Proposition is purely intended for the Moot Court Competition an educational purpose amongst law students.
- The participants are required to prepare their submissions from both sides of the case.
- Teams are not allowed to put any additional information/document other than what has been provided under the moot proposition.