

**THE 23<sup>rd</sup> ALL INDIA MOOT COURT COMPETITION, 2012 FOR  
THE KERALA LAW ACADEMY TROPHY**

**MOOT PROBLEM**

**Amirthkumar v. State of Dhanyasthan**

Dhanyasthan is a State in the Indian Union having 95% literacy. There are 800 Arts and Science Colleges, 16 Law Colleges, 30 Medical Colleges and 700 Engineering Colleges in the State. Computer literacy of the State is 52%. Since 2008 the leading newspapers and news channels of the State have been publishing several reports regarding the misuse of social networking websites, like communication of obscene materials and personal harassment. The Annual Conference of the Principals of Engineering Colleges held in May 2011 passed a resolution, requesting the Government to take adequate measures to control the misuse of social networking websites. On 2-11-2011 Dhanyasthan Legislative Assembly passed Dhanyasthan Social Networking Safety Bill 2011. On 4-11-2011 the Governor of the State granted assent to the bill and the Dhanyasthan Social Networking Safety Act 2011 came into force on 5-11-2011. The provisions of the Act are as follows:

*1. Short title and Commencement*

- (1) This Act may be called the Dhanyasthan Social Networking Safety Act 2011.*
- (2) It extends to the whole State of Dhanyasthan.*
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.*

*2. Definitions*

- (a) "Abusive communication" means any communication which is directed at a specific person, serves no legitimate purpose, and a reasonable person would believe is intended to threaten, intimidate or harass another person.*
- (b) "Defamatory statement" means any statement punishable under Section 500 of the Indian Penal Code 1860.*
- (c) "Social networking website" means a website which is accessible to third parties and located on the Internet on which users located in Dhanyasthan may post or create a searchable profile, page or similar account that is accessible to other users or visitors to*

*the website and share personal information with other users or visitors, and through which third parties other users or visitors may communicate directly with such users.*

*(d) "Sexually offensive communication" means any communication which a reasonable person would believe is intended to solicit or request a person to engage in sexual activity, and any communication depicting or describing nudity, sexual conduct or sexual excitement when it: (1) predominantly appeals to a prurient interest in sex; (2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for the member of the society and (3) taken as a whole, is without serious literary, artistic, political or scientific value.*

**3. Sexually offensive communication to or about persons less than 18 years of age.**

*No person shall transmit a sexually offensive communication through a social networking website to or about a person located in Dhanyasthan who is less than 18 years of age.*

**4. Sexually offensive communication to or about any persons**

*No person shall transmit a sexually offensive communication through a social networking website to or about any person located in Dhanyasthan without obtaining the prior consent of that person.*

**5. Abusive communication or defamatory communication**

*No person shall transmit any abusive communication or defamatory communication through a social networking website about a person located in Dhanyasthan.*

**6. Penalties**

*Any person who violates any of the provisions of the Act shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.*

**7. Power to make Rules**

*The Government of Dhanyasthan shall make necessary Rules for the implementation of the Act.*

On 14-12-2011 Mr. Amirthkumar, first Year Medical Student of Dhanya Medical College filed a writ petition before the High Court of Dhanyasthan challenging the validity of the Dhanyasthan Social Networking Safety Act 2011 on the ground of violation of Art.14, Art.19(1)(a), Art.19(1)(c) and Art.21 of the Constitution.