

MOOT PROPOSITION

1. Republic of Senapita is a country in South Asia. In terms of land mass, it is the world's fifth largest country. However, it is the most populous country with different religions, languages spoken with more than 60% of its population working in the agriculture sector which rely on traditional methods of agriculture. Geographically, the country is bound by sea on three sides i.e., east, west, south, and the highest mountain range on its north, the country enjoys unique geographical and ecological benefits.
2. Senapita gained independence from Varselia around 75 years back. The Constitution of Senapita (hereinafter referred as 'Constitution') declares Senapita to be a sovereign, socialist, secular, democratic republic, assuring its citizens of justice, equality, and liberty. Senapita takes great pride in the Constitution which draws inspiration from various countries and several international conventions. The Constitution of Senapita is quasi-federal in nature. The country has multi-party's political set-up with 6 national parties, 54 state parties, and 2,597 un-recognized parties.
3. The Union government was formed by the party named Rashtrawadi Janta Party (hereinafter referred as RJP) with 340 out of 560 seats. The RJP is one of 6 national political parties. First time, it came into power on 2014 with full majority securing a total 340 seats making an electoral promise to bring back the black-money deposited in foreign countries and to curb the problem of corruption and money laundering. The RJP government has made several amendments in the various laws related to the money laundering and prevention of corruption since it gained power. One of such amended laws is 'Senapita Prevention of Money Laundering Act, 2002' (hereinafter referred as SPMLA, 2002). The laws become more stringent after various additional powers given to the investigating and prosecuting agencies. To fulfill its electoral promise, the RJP government has given a free hand to the investigation agencies to investigate and prosecute the offenders.
4. In 2019, RJP come into power again with a huge majority of 400 out of 560 seats and promised the public to take more stringent actions against the individuals and organization who were involving in corruption, illegal foreign funding and money laundering.

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5. Post 2019, the Special Enforcement Agency (hereinafter referred as SEA) has conducted a record number of raids. The raids conducted by the SEA are always in the news as the RJP government claims that the agency is taking action against the criminals and the opposition parties alleges that all these raids are conducted to create a fear among the oppositions party's leaders and falsely implicate them under the political vendetta.
6. Recent research by a Research Think Tank of national repute, 'Society against Corruption' based in Delhi presented a research report before the Supreme Court of Senapita. The research report found that the SEA officials have secured only 9 convictions after conducting more than 1700 raids and 1569 specific investigations since 2011. The opposition parties are alleging that the SEA is doing a fishing expedition on leaders of opposition parties. The main opposition party Senapita Rashtriya Congress (hereinafter referred as SRC), President Nalluswami Periyar lashed out at the RJP alleging that 95% of raids conducted are on the opposition leaders, particularly of his party.
7. The manner in which the SEA conducted the raids has become a topic of public discussion that SEA is working on the instruction of the present Union government as majority of raids were conducted on the opposition party leaders. Further, it has to be noted that the Appellate Tribunal constituted under IPMLA, 2002 is lacking the presiding officers, staff and other basic facilities. As on 16th Feb 2022 only one member of the five-person committee was serving. It was averred that non-functioning of the Appellate Tribunal acts as a serious impediment in securing remedy for unjustified attachments made by SEA officers.
8. In recent judgment by the Supreme Court of Senapita, in case of Vijay Madanlal Choudhary & Ors. Versus Union of Senapita & Ors. Delivered by 3 judge bench which upheld the provisions of SPMLA, 2002 related to the power of arrest, attachment and search and seizure conferred on the SEA. The Court upheld the constitutionality of the provisions of Sections 5, 8(4), 15, 17 and 19 of the SPMLA, which relate to SEA's powers of arrest, attachment, search and seizure. The Court also upheld the reverse burden of proof under Section 24 of the Act and said that it has "reasonable nexus" with the objects of the Act. The court also observed that money laundering is a serious offence and it promotes terrorism and drug trafficking.

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9. The President of RJP, Mr. S.P Padda welcomes the decision of the Supreme Court in ‘Vijay Madanlal Case’ and opposition parties expresses its disappointments over the decision as it will increase its misuse. The Director, SEA has argued that the SPMLA, 2002 has a robust system of check and balances on the its various powers provided under the Act. He denied all the allegations about the misuse of the powers by SEA as most of the allegations are politically motivated in some or other form.
10. In another judgment of Y. Balaji versus Karthik Desari & anr., the two-judge bench of the Supreme Court of Senapita, rejected the plea for larger bench reference, citing principles of judicial discipline and the doctrine of stare decisis (regarding binding nature of previous decisions) as the case of Vijay Madanlal Choudhary was rendered by a larger bench comprising three judges.
11. Another controversy related to the SEA is about the extension of tenure of the its chief. It is to be noted that a new chief will be chosen by a collegium of Prime minster, Leader of opposition and Chief Justice of Senpita. Recently, the Supreme Court of Senapita put a stay on the centre’s extension of the tenure of SEA director Kumar Sarvan.
12. This was the third extension for the SEA chief. While pronouncing the judgment the court has made the arguments “Is there only one person in the country who is competent enough to head the SEA? Is it not demoralizing for the entire force that the Department can’t function in the absence of a single person?” Still, the court passed order allowing Kumar Sarvan to continue as SEA Director until 15th September 2023 keeping in mind the “larger public interest” in view of the ongoing review of Senapita by the Financial Action Task Force (FATF). The opposition parties allege that the SEA chief has close relation with the Prime Minister of Senapita as he was serving under him since the current PM was a chief minister of one of the states in Senapita.
13. In January 2021, a national newspaper, ‘The Future Morning’ published an investigative report that a thousand of aspirants were promised of job for money by Mr. Sugam Kumar, Health Minister of Paschim Pradesh and member of Paschim Pradesh Public Service Commission (hereinafter referred as; PPPSC) during 2012-17.

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14. In June 2021, the Paschim Pradesh Police registered an FIR under Section 420 Senapita Penal Code, 1860 (hereinafter referred as; SPC, 1860) against Mr. Sugam Kumar for his alleged role in job scam. The FIR was registered on the complaints made by two complainants i.e.; Mr. Suresh Kumar and Ms. Rajrani. Both alleged that they have given 5 lakhs each for getting job in Health department in 2017. Now, he is leader of opposition party i.e.; Senapita Socialist Party raided by the SEA on 31st April 2023. A cash amount of 5.5 Crores were recovered during the raid. He submitted before SEA that the money is kept for payment of a land deal made by the company owned by his son and it was not his money. His son also denied title over the said money during preliminary investigation. Subsequently, Mr. Sugam Kumar was taken into custody by SEA for further interrogation about the proceeds of crime.
15. Before the charge-sheet was filed, Mr. Ramesh filed a petition before Court of Sessions submitting that all allegations against him were based on a fictitious story. He also submitted that the Chief Minister of Paschim Pradesh with his ill intent wanted to destroy his political career. The Court of Sessions allowed compounding of the alleged offence stated in the FIR under Section 320 of the Senapita Code of Criminal Procedure, 1973 as complainants admits that they were pressurized by some influential people to file a case against Mr. Sugam Kumar.
16. Subsequently, Mr. Sugam Kumar approached the Special Court for quashing of the case filed by the SEA. The Special court denied the relief and allowed the SEA to proceed with the investigation on the cash recovered during the raid. He approached the High Court of Paschim Pradesh for setting aside the case pending before the Special Court under SPMLA, 2002. The High Court struck down the decision of the trial court and restricted the SEA to proceed with the case. After this, the SEA has approached the Supreme Court of Senapita through a Special leave petition (hereinafter referred as SLP) against the order of the High court.
17. In another case, the Union Government of Senapita issued a tender notice for construction of 16 lane highway between Senapita capital, Lumbi to Nombay- financial capital of the country in 2020. The total estimated cost of project was around 2.5 lakh crore. Mr. Suban Nirwan and Rosemary David were special officers appointed for implementation of the highway project and sanctioning

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authority for issuing tenders. The Ann Highway Pvt. Ltd and Benn Road Constructors, finally got the joint-tender approved for the construction of the highway.

18. An information was received by Mr. Prasad, Transport and Highways Minister of Senapita that the both special officer got Rs. 100 crores as a bribe for issuing the tender. He ordered a departmental enquiry and primarily it was found that there were irregularities in process of issuing tender. Based on this, the Lumbi Anti-Corruption Bureau filed a case under relevant Sections of the Senapita Prevention of Corruption Act, 1988 (hereinafter referred as SPCA, 1988) against Mr. Suban Nirwan and Rosemary David, directors of Ann Highway Pvt. Ltd and Benn Road Constructors respectively.
19. Mr. Nageshwar Bath, Jeetu Kalmadi and Mahindroo Das were claimed to be biggest hawala operators and all of them were in direct touch with Mr. Suban Nirwan and Rosemary David, directors of Ann Highway Pvt. Ltd and Benn Road Constructors at relevant point of time.
20. The SEA has registered an Enforcement Case Information Report (hereinafter referred as ECIR) against all the seven parties mentioned above on the basis of previously registered FIR under the SPCA, 1988. Subsequently, the bank accounts of all including Mr. Suban Nirwan and Banish Sisomia, directors of Ann Highway Pvt. Ltd and Benn Road Constructors and Mr. Nageshwar Bath, Jeetu Kalmadi Mahindroo Das were seized under the relevant provision of SPMLA, 2002.
21. SEA raided the farmhouse and other properties belonging to all three hawala operators and a total cash amount of 7.3 crores along with 9.3 Kg gold and 35 Kg silver were recovered. The preliminary investigation and evidence collected concludes that Mr. Nageshwar Bath, Jeetu Kalmadi and Mahindroo Das acted as mediator for the alleged 100 crore bribe and helped the directors of Ann Highway Pvt. Ltd and Benn Road Constructor for grabbing the tender from the special officers. The investigation done by the Lumbi Anti-Corruption Bureau failed to collect sufficient evidence against the accused.
22. During trial in the case before the Special Court constituted under the SPCA, 1988, the court observed that no direct and sufficient evidences in support of the alleged offence were found in

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the process of issuing the tender. The trial court acquitted all the accused persons. However, the trial court mentions a special finding that there was some form of tempering with the tender allotment procedure and left it open for SEA to investigate and unearth any criminal act with regards to the tendering process and to trace the proceeds of crime.

23. On the basis of the acquittal, Mr. Suban Nirwan and Rosemary David, directors of Ann Highway Pvt. Ltd and Benn Road Constructors and Mr. Nageshwar Bath, Jeetu Kalmadi Mahindroo Das challenged the freezing of the bank accounts under Section 17(1)(A) of IPMLA, 2002 and plead for issuance of appropriate writ to restrict SEA to act against them before the High Court, Lumbi. The High Court allowed the writ petition upholding there was no conspiracy in the predicate offence. Hence, no SEA proceedings can be continued in accordance with law.
24. SEA, aggrieved by the order of the High Court, has preferred an SLP before the Supreme Court of Senapita and submitted that both are different offences (predicate offence and the offence of money laundering) under different statues and it is in the interest of justice that the case under SPMLA, 2002 should be investigated further so that the property derived from the criminal activities mentioned in the scheduled offences can be confiscated.
25. In another case, Mr. T. Balaji, personal assistant of Mr. P. Ramaswamy, Transport Minister of State of Teluna Pradesh got a notice under Section 50 of SPMLA, 2002 from Director SEA. On his appearance, he was examined by the officers of SEA on oath. His statements were subsequently used by SEA in the court against Transport Minister, Mr. P. Ramaswamy and Mr. T. Balaji in a money laundering case. He has filed a writ petition challenging the constitutional validity of Section 50 as it violates various constitutional rights recognized for fair trial in a criminal prosecution.
26. After hearing the arguments from the parties in the above-mentioned cases, the Supreme Court held that all these writ petitions maintainable as all these petitions raise similar substantial questions of law pertaining to constitutional validity and interpretation of certain provisions of the SPMLA, 2002. The Supreme Court of Senapita has clubbed all writ petitions and referred it before the 5 judges' constitutional bench.

27. The Hon'ble Supreme Court has issued notices to the parties and has fixed the matter for hearing on the following issues:

- I. Whether the Section 50 of IPMLA, 2002 violates various constitutional provisions recognizing rights relating to fair trial in a criminal prosecution or not?
- II. Whether SEA has powers to investigate and prosecute under SPMLA, 2002 when the accused has secured an acquittal from the trial court in predicate offence under Section 320 of the Senapita Code of Criminal Procedure, 1973 or not?
- III. Whether SEA has powers to proceed with prosecution and investigation under SPMLA, 2002 when a person is not made accused of the predicate offence but found to be involved in the proceeds of crime flowing from the predicate offence and investigation by SEA is still pending under the IPMLA, 2002 or not?
- IV. Whether the High Court, Lumby was erred in issuing the writ petition against an order of seizing of bank account under Section 17(1)(A) of IPMLA and discharge of the accused or not?

Notes: The parties are allowed to raise and plead the additional issues incidental to the facts of the moot proposition.

The national and international laws, policies, obligations/ commitments (inter alia relating to criminal procedure, bail conditions etc.) of Senapita are pari materia to that of Republic of India. Parties are independent to cite case laws from Indian Courts having precedential value.

Disclaimer: This case is purely fictional. Any resemblance to names, properties and associations is purely co-incidental.