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CG Car Company and Others v. Union of India

1. The Republic of Indica (hereinafter referred to as Indica) is a democratic country situated in the Southern part of the Asian Sub Continent. It is the most populous country, the seventh-largest country in the area, and the biggest democracy in the world. It is a pluralistic, multilingual, and multi-ethnic society. The beginning of the 21st Century witnessed a boom in Indica in trade and commerce, infrastructural development, education, healthcare, and so on.
2. Indica has become a fast-growing major economy and a hub for information and communication technology (hereinafter referred to as ITC) services, sophisticated healthcare technologies, and the most advanced education systems, thereby proving itself to be one of the fastest-developing countries in the last two decades of the 21st century. The foreign investments in Indica rose from USD 2155 million in the year 2000 to USD 84.8 billion in 2022. The GDP increased from USD 468.39 Billion in 2000 to USD 3.5 trillion in 2022.
3. Indica signed various bilateral, regional, and multilateral agreements for the exchange of technology. Indica, being a prominent member of G20 Countries, is set to host the G20 meeting in 2023, and this has provided a notable position among world leaders and global politics.
4. The 21st Century also witnessed a number of changes in the social, economic, and legal landscape of Indica. The Parliament of Indica enacted various legislations to regulate the advancements that have occurred because of the changes that are taking place in the country due to its economic policies of liberalisation, privatisation and globalisation, which commenced in the last lap of the 20th century. One such prominent legislation was the Information Technology Act in the year 2000 (hereinafter referred to as IT Act, 2000) to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication. IT Act, 2000 was extensively amended in 2008.
5. The Government of Indica enacted the National Information and Technology Policy in 2015 with the objective to provide a clear ICT legal framework for every citizen and key stakeholder, to enhance the national level of awareness as to the role and potential of ICT, with emphasizes on sustainable development, in the empowerment of people and in enhancing governance.

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6. Indica has made reasonable progress in the last two decades towards the establishment of ICT infrastructure, enhancing the reach of electronic media and, extension of e-services in the finance, health, public distribution, and education sectors to ensure better governance.
7. State of Antartaka, which shares borders with the State of Santhra and the State of Aminadu, is one of the most developed states in the Republic of Indica. The state is famous because of the growth of the Information Technology (hereinafter referred to as IT) sector, especially in cities like Singaluru, which is often referred to as the Silicon Valley of Indica. Professionals from various parts of Indica have migrated to Singaluru and work in the IT sector and have gained the name of the IT capital of Indica. Its well-developed infrastructure, including spectacular tech parks, lavish hotels and restaurants, and huge shopping malls, testify to the genesis of a truly global and innovative metropolis, Singaluru has turned out to be the dream destination of millennials and Generation Z. Singaluru has a rich diversity in terms of language, culture, ethnicity, religion, and so on.
8. On 13th of August 2022, at about 7:00 am, a family consisting of a husband, wife, and a minor boy, on vacation, on the way to Sundarpur National Park, which is located at the Antartaka and Aminadu borders, saw a high-end Trudi car stopped on the side of the State Highway No. 106. They saw a body lying in a pool of blood on the road next to the car. The travellers, later identified to be Mr. Parth, an IT professional working with Cipra, along with his wife Jaya, and their 8-year-old son, informed the highway police about what they witnessed on the highway near the Kompala bridge.
9. The police arrived at the spot and after searching the premises and car, understood that the body was of Mr. Anand. The body was lying by the side of his vehicle (Trudi e-tron with registration number SK 47 BH 1234) stopped near the Kompala bridge on State Highway No. 106.
10. On preliminary search, the investigating officers identified that the body was in the *rigor mortis* stage and found a bullet wound on the right side of his forehead and a pool of blood on the floor near his face. The high-end smartphone of Mr. Anand was lying next to the body and there was no sign of the use of force inside the car or outside the car, where the body was lying. The fingerprint experts could not find any suspicious fingerprints from Mr. Anand's car or from his smartphone. After the inquest, the body was sent to the Government Hospital at Singaluru, for *post-mortem* examination.

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11. Meanwhile, relying on the powers under IT Act under Section 16 read with Section 69, the Central Government of India formulated the rules with respect to the use of cryptographic tools and was notified on 13 August 2022. The Rules mandated that the cryptographic algorithms that were proposed to be used for any purpose by anyone were to be submitted to “The Authority on Control and Regulation of Cryptography” (hereinafter referred to as “the Authority”) and the prior approval of the Authority was necessary for using the same. The Authority is to be provided with a copy of keys that could be used for decrypting, and they were bound to share the keys with the Government on demand.
12. On inquiry, the investigating officers collected the details of Mr. Anand and understood that he was serving as the Vice President of MATT Private Limited, an IT Firm in the city of Singaluru, and he used to stay alone in a duplex in the First City Residential Colony in Singaluru. His aged parents live in the village of Shankarpur in the State of Santhara and he was legally separated from his wife Niharika in the year 2017 and was not in contact with her thereafter. Mr. Anand was reported to be an introvert with not many friends and maintained a good track record in his professional life.
13. On further investigation, the police took note of the vehicles passed through State Highway No. 106 based on the time of death identified by the police surgeon. Police shortlisted a list of vehicles and concluded that there were not many vehicles that travelled through the highway during the said time period, as the highway led to the Sundarpur National Park, and traffic was not permitted after 6:00 pm to the National Park. The police identified the owners of those vehicles which travelled through the highway after 6:00 pm on 12 August 2022, and decided to investigate more into Mr. Ian, and his brand-new SUV, CG-Metron.
14. The main reason for the suspicion of Mr. Ian was that his vehicle took longer time for covering the distance, compared to the other vehicles. In addition, police could also establish that Mr. Anand and Mr. Ian used to frequent the same eatery, Art Café in Electronics City in Singaluru. However, the staff at the said café disclosed that they had never seen Mr. Anand and Mr. Ian in contact or conversation.
15. Mr. Ian was asked to report to the police station for interrogation. Mr. Ian admitted that he had seen Anand at the Art Café, but did not know any further details and also gave the statement that he was unaware of the car that was used by Mr. Anand, and had not seen him during his drive through the highway on 12 August 2022. Even though the

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explanations given by Mr. Ian were dispelling any doubts about him, police authorities were unwilling to drop the suspicion on Mr. Ian as he could not give a satisfactory reason for his travel through the highway during the specified time. Police confiscated Mr. Ian's car, and identified that the said vehicle had onboard ICT facilities which could show the movement and other details of the vehicle. The incident gathered a lot of media coverage as it was a high-profile case.

16. The automated system used in CG-Metron used blockchain technology for storing data. The same was encrypted using an asymmetric cryptographic technique and the access to the same was using the private key with the owner. The entire system was capable of being operated by the smartphone linked to the same, which was the phone used by Mr. Ian. The electronic modules used in the vehicle recorded information about driving and vehicle conditions, including braking, acceleration, and other related data. These modules also record information about the vehicle's features such as charging events and status, the enabling/disabling of various systems, diagnostic trouble codes, speed, direction, location, etc.
17. The investigating officers identified that the access to data was secured by password and could not be retrieved otherwise. The decryption of data can be made possible only by using the private key, which was in the possession of Mr. Ian. The investigating officers issued notice through proper channels to the manufacturers of the car to provide assistance to decrypt the said protection. Simultaneously, police arrested Mr. Ian and confiscated his smartphone as he was unwilling to cooperate with the authorities for retrieving the data. The CG Car Company, which has its headquarters in Germany, responded by saying that they cannot provide any assistance to the authorities because it was against the security offered by them to the customers and the owner of data in the instant case only Mr. Ian and thereby they do not have any role to play.
18. The investigating authority decided to proceed against the CG Car Company as well as Mr. Ian under section 69 of the IT Act, 2000 for decryption. In addition, police also sought the help of digital forensic experts for overcoming the security features of the CG-Metron, owned by Mr. Ian. They tried to hack into Mr. Ian's smartphone thereby trying to access the private key so as to decrypt the data. However, the digital forensic experts informed that the private key was stored in some other means, which could be accessed only by the owner of the vehicle. It was also communicated to the police that they were unsure of retrieving the data because there was an algorithm within the system

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that was capable of altering the data record if accessed using any means other than the provided security method.

19. Police proceeded against Mr. Ian as he was unwilling to share the private key. This proceeding was challenged by Mr. Ian under Section 482 of the Code of Criminal Procedure before the High Court of Antartaka, as the police tried to illegally hack into his system and for the infringement on his privacy. Mr. Ian also contended before the High Court of Antartaka that Section 69 of the IT Act, 2000 compelled him to do something that defeated his fundamental right against self-incrimination. He pleaded that the breach of security features of his car is violative of his right against self-incrimination under Article 20(3) of the Constitution of Indica.
20. Meanwhile the Head office of CG Car Company in India, located at Esplanade, along with other car manufacturers who manufacture and sell autonomous cars in India, filed a writ petition in the Hon'ble Supreme Court of Indica contending that Section 69 of the IT Act and the Rules made thereunder with regard to the submission of a copy of keys that could be used for decrypting, with the Authority on Control and Regulation of Cryptography, was in violation of the Constitution of Indica. The CG Car Company claimed that if the Government is imposing restrictions like this, it is likely to affect their business in Indica substantially, as the security features they offer to their cars are the feature that mostly attracts their clients. Further, they argued that the mandatory requirement to share the cryptographic techniques used in such vehicles with the Government is too restrictive in nature.
21. The Supreme Court of Indica ordered the transfer of the connected case, *Ian v. State of Antartaka*, from the High Court of Antartaka and decided to hear both the matters, along with the Writ Petition filed by the CG Car Company. The questions related to maintainability has been decided and the Supreme Court identified the following broad issues for consideration:
 1. Whether Section 69 of the Information Technology Act, 2000 is constitutionally valid?
 2. Whether governmental control over the use of cryptographic techniques is too restrictive in nature?

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Note:

- The Constitution and laws of the Republic of Indica are in *pari materia* to the laws of India.
- This moot proposition is a work of fiction. Names, characters, businesses, places, events, and incidents are either the product of the author's imagination or used in a fictitious manner. Any resemblance to actual persons, living or dead, or actual events is purely coincidental.
- The decisions of the organizers shall be final and binding.

The moot proposition is drafted by Dr. Veena Roshan Jose.