



## **MOOT PROBLEM**

1. The Union of Inida is a country that follows the principles of a constitutional democracy and the doctrine of separation of power as a part of its basic structure and thus, calls for a division of power between the judiciary, executive and legislature. The Constitution of Inida intended for Inida to be a country governed by the rule of law. It provides that the constitution shall be the supreme power on the land and the legislative and executive shall derive their authority from the constitution. Anything that goes against and beyond the Constitution's purview is considered illegal.
2. Vikas Tiyagi was one of the history sheeter gangster and an alleged notorious figure turned politician based in Manikpur District of Usan Pradesh. His first notable crime dates back to 1990 when he assaulted some men in the neighboring village. The first case against Vikas Tiyagi was registered in 1993 for robbery and criminal intimidation at Police Station in Manikpur. In 2000, he killed Sanjeev Pandey, the assistant manager of an Inter College in Manikpur. In 2001 Tiyagi killed a minister named Shubham Shukla within the premises of police station for which he was pronounced not guilty by the Trial Court owing to "lack of evidence" and "absence of eye witness" as more than a dozen police officers present at the time of crime turned hostile. In 2004 he killed Manish Dubey a cable businessman. There were more than 60 FIRs registered against Vikas Tiyagi at the Chauhanpur Police Station in Manikpur.
3. On 3<sup>rd</sup> July 2020, eight policemen, including a Deputy Superintendent of Police (DSP), three Sub-Inspector and four constables were killed by Vikas Tiyagi and his men during a post-midnight operation in Mikru village where the team of UP Police had gone to arrest Vikas Tiyagi. Following the death of eight policemen in Mikru encounter the use of weapon from rooftops reflected that criminals had a tip-off regarding the police raid. Brajesh Tiwari (SHO) of Chauhanpur and beat-in-charge K.P. Sharma were arrested on charge of allegedly providing the tip-off to Vikas Tiyagi.

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4. On the same day Tiyagi's uncle Prince Praduman Pandey and Cousin Amit Tiyagi gunned down in an alleged encounter. The encounter was done while the investigation and search were going on. A service gun and a country made gun were discovered from their personal belongings.
5. On 4<sup>th</sup> July 2020, Vikas Tiyagi's house was demolished by police in Mikru village with some earth movers (JCB) used by criminals to block the police vehicles arriving in Mikru village. Two tractor and two SUV's of the gangster destroyed. The police subsequently lodged a FIR against 25 people, mostly resident of Mikru village and 50-60 unidentified people in connection with the killing of the eight police personnel.
6. On 5<sup>th</sup> July 2020 Vikas Tiyagi's aide Abhijeet Agnihotri alias "Kallu" arrested by UP police from Dimapur locality of Manikpur, after he was shot at his leg in retaliatory firing by police when he tried to attack them and flee. He later told that, Tiyagi had got a call from someone in the police department informing him about his imminent arrest and after that he called his men for a face to face confrontation with the police.
7. On 6<sup>th</sup> July 2020, a purported letter written to Senior Superintendent of Police sent by David Mishra. The circle officer of Mikru village who was killed in the failed raid in Mikru village surfaced on social media and went viral. The letter which surfaced on social media on 6<sup>th</sup> July, Mishra informed the then Manikpur Senior Superintendent of Police (SSP), that Brajesh Tiwari, the Chauhanpur station officer who has been suspended and arrested was protecting harden criminal Vikas Tiyagi whose gang ambushed eight police personnel on July 3<sup>rd</sup>. Tiwari was saving the gangster who faced 60 criminal cases and inaction could led to a major incident; the letter said while doubting the integrity of the now arrested officer who has been booked for criminal conspiracy. The letter was verified by the concerned police department and after that on 7<sup>th</sup> July UP STFDIG Kapil Dev was transferred to the Provincial Armed Police (PAC) unit in Moradabad for not taking action against Brajesh Tiwari when he was the SSP of Manikpur. On the same day the notorious gangster was reportedly spotted in hotel in Hasnabad, Haraina. However, Tiyagi allegedly fled before the police could nab him.
8. In operations across Manikpur and Hasnabad several of Vikas's aids were arrested including 6 men and women who were his relatives, including Vikas's brother-in-law Bunty Sharma along with his son were arrested and picked up after which his son was detained by the police. Other

than, Vikas's neighbor Rohan Raj and house help Ritu Devi were arrested. Ritu's husband Aditya Shankar, a key associate of Vikas was arrested at Abtabad area on 8<sup>th</sup> July 2020. Meanwhile Rinku Yadav, Vikas's bodyguard, who was allegedly part of the group that was involved in a shootout on 3<sup>rd</sup> July 2020, was killed by the policemen in Fikohabad district near Manikpur, early on 8<sup>th</sup> July 2020.

9. On 9<sup>th</sup> July 2020, two more aides of Tiyagi, Saurabh alias Prabhas and Priyanshu alias Baba Tiyagi who were wanted in connection with the Manikpur ambush, were killed in separate encounters in UP. On the same day almost a week after the shootout in Manikpur, Vikas Tiyagi got arrested in the premises of the Mahabaleshwar temple in Unnain, Maha Pradesh where according to MP police he had bought a Rs 400/-ticket for VIP Darshan at temple and while leaving he was identified by security personnel of the temple. Ultimately Vikas disclosed his identity by shouting "I am Vikas Tiyagi of Manikpur alleged in shootout". Then he was taken into custody by MP police for interrogation by senior officers. Hour after Vikas's arrest, his wife Richa Tiyagi and son were arrested by UP STF (Special Taste Force) at Nawabgarh.
10. On 10<sup>th</sup> July Vikas Tiyagi was handed over to UP Police by MP police. A vehicle while carrying Vikas Tiyagi along with the policemen overturned on the wet highway, after which Vikas tried to escape the cops. According to the police, Vikas tried to escape by snatching a gun from them but was shot down dead like his fellow accomplice who previously had also tried to escape. According to the Special Taste Force (STF) who was responsible for Vikas escorting, further explained that while taking a turn to avoid herds of cattle, the car flipped.
11. Meanwhile from an unknown criminal, Vikas Tiyagi got viral in almost one week and become most discussed individuals in the nation. From suspension of police officers, to Vikas's sensational arrest, to eventually his encounter, the case was firmly trailed by national media with an extraordinary intrigue. The stakes were especially high on the grounds that Vikas was accused of being a significant part of the existing political nexus of the concerned state. Some on Twitter even conjectured that Vikas would be shot down in an "encounter" so as to cover the tracks of those whom he had close binds with.
12. After the encounter of Vikas Tiyagi the country got divided into two state of mind. One group of people of the country believes that encounters and extra judicial killings lead to present itself as a

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black spot on the face of democracy. The position of rule of law is also violated and disrespected even though encounters hinders the citizen's right to have free and fair trial in Judicial System. The other group of people believes that the act done by policemen are correct and justified as there are some dreaded criminals against whom no one would dare to give evidence which is abundantly clear in the case of Vikas's past charges, and the only way to deal with them is through encounters.

13. Various members of the media, press and the public came together and filed Petition before the Hon'ble Supreme Court of Inida contending that the encounter done by the police department to kill Vikas Tiyagi is fake encounter performed during his transit. The petitioners further stated that the action was a violation of the fundamental rights of an accused under the Constitution along with a violation of Vikas's legal rights under the Criminal law namely the presumption of innocence, a right to be taken before a magistrate without delay, a right to free, fair and speedy trial.
14. Taking into account the gravity of the situation, Hon'ble Supreme Court of Inida was pleased to admit the petition.
15. This Moot Proposition is purely a work of fiction and resemblance to any such incidence shall be purely co-incidental. The above set of facts is only for the purpose of conducting memorial writing competition and educational purpose amongst law students. Any representations of the Governments and other institutions or persons are work of fiction only employed for academic purposes.

**(PARTICIPANTS NEED TO FRAME THEIR OWN ISSUES. MINIMUM OF FOUR ISSUES ARE ALLOWED)**