

Supreme Court, Division Bench
Honorable Justice Dr. Ananda Mohan Bhattarai
Honorable Justice Nahakul Subedi

Judgement

Date of Decision: 2079/9/17 (corresponding to 1 January, 2023)

074-CR-0246

Case: Offence under the Electronic Transaction Act

Appellant/Plaintiff: Through the FIR of Bhaktapur 1 (name changed) Government of Nepal

Vs.

Respondent/Defendant: Aakash B.C. son of Dhruva Kumar B.C. resident of Siraha District, Dhangadi V.D.C., Ward No. 5 currently residing at Bhaktapur district

- Unless a fact established through scientific testing is disproved by scientific testing, such fact cannot be held otherwise. Since the victim's deposition before the court does not place the scientifically established fact in a position capable of being rebutted, so long as such fact remains intact, the victim's testimony, in the context of the present case, shall remain of secondary importance.
- The act of displaying a woman's nude photograph on social media is not merely an act that infringes upon her dignity; it also constitutes an act that humiliates women at large and amounts to the publication of content contrary to public morality and decency, as prohibited under Section 47 (1) of the Electronic Transactions Act, 2063. Therefore, the accused cannot be acquitted solely on the ground that the victim-complainant did not appear before the court to record her deposition.
- Although it appears that the investigating and prosecuting authorities ought to have conducted investigation and initiated prosecution against other individuals who were present at the scene of the incident as well, adopting the view that the accused must be given the benefit of such technical lapses or shortcomings on the part of the investigation or prosecution, such as failure to carry out further inquiry in that regard would result in denial of justice to the victim, foster a culture of impunity in society, and lead to the defeat of justice. Therefore, rather than narrowly scrutinizing minor errors or deficiencies in the investigation as reflected in the case record, the adjudicator is required to render a decision in a manner that, viewed holistically, upholds and delivers a sense of justice.

(Para 9)

On behalf of Appellant/Plaintiff: Learned Deputy Government Attorney Mr. Arjun Koirala

On behalf of Respondent/Defendant:

Precedents Cited:

Relevant Laws:

Electronic Transaction Act, 2063

Court of First Instance

Honorable Justice Muhammad Junaid Azad
Kathmandu District Court

Decision at the Appellate Level

Honorable Justice Shiva Narayan Yadav
Honorable Justice Til Prasad Shrestha
Appellate Court, Patan

Decision

Honorable Justice Nahakul Subedi: Pursuant to Section 12 (1) (a) and (b) of the Judicial Administration Act, 2073, leave had been granted for revision of the present case wherein the had been registered accordingly, and considering the sensitive nature of the matter, it has been deemed necessary to maintain the confidentiality of the identity of the victim-complainant. Accordingly, in conformity with the Procedure Directive, 2064 relating to the maintenance of confidentiality of the party in proceedings of special nature, and Section 183 of the National Criminal Procedure Code, 2074, all particulars disclosing the identity of the victim have been kept confidential, and the pseudonymous designation “Redacted Name Bhaktapur 1” has been used. The summary of the facts and the decision is as follows:

Fact Section

The FIR filed by the complainant-victim “Redacted Name Bhaktapur 1” states, inter alia, that the accused Aakash B.C. had sent threats of character assassination nature from her Facebook ID to various fake Facebook IDs, and despite repeated requests, he did not desist from such acts. Thereafter, he deactivated and hacked her ID, and subsequently created obscene photographs of her and by creating fake Facebook IDs, and from 2070/10/01 (corresponding to 15 January, 2014) with the intent of assassinating her character started to send SMS messages containing vulgar and defamatory language to her relatives and friends through the message box of such IDs. Upon being informed of the same by her friends, she herself verified and observed these acts while checking the computer. As the accused has committed an offence punishable under the Electronic Transactions Act, 2063, the complainant has prayed for action against him in accordance with law.

The search and seizure memorandum states, inter alia, that the accused was apprehended on a public footpath within the four boundaries of a public place located in Kathmandu District, Kathmandu Metropolitan City, Ward No. 34, Baneshwor, Shantinagar bounded on the east by the road leading towards V.S. Niketan Boarding School, on the west by the metalled road leading towards New Baneshwor Chowk and Tinkune, on the north by the road leading towards the New Baneshwor Bridge, and on the south by the road leading towards Baneshwor Chowk, and that, upon search a Dell-brand laptop used by the accused was found in the bag he was carrying, seized, and the accused was taken into custody.

The police report states, inter alia, that in compliance with the order, while conducting a search for the accused, he was found on 2070/10/03 (corresponding to 17 January, 217) on a public road in front of the Shantinagar Gate, located in Kathmandu District, Kathmandu Metropolitan City, Ward No. 34, and was apprehended accordingly. Upon conducting a personal search of

the accused, one Dell-brand laptop used by him was also found and seized, and both the evidence and the accused have been produced before the concerned authority.

In his statement recorded at the time of investigation, the accused stated, that he did not create any fake IDs to issue threats to the complainant. He was aware of her Facebook ID since the complainant was his wife. Following their divorce, there has been no contact between them. He further states that the complainant did not make any request to him with regards to any alleged character assassination. He further stated that he has no knowledge whatsoever of the ID named "Owais Nazar" and that he saw the ID only upon appearing at the police office. He claimed that a friend request was sent from an ID named "Lbef Leak" on his Facebook ID "Chetri Akash" and upon opening that profile and seeing obscene photographs of the complainant displayed wherein, he closed his account without accepting the friend request. He further denied having sent any obscene SMS messages intended to defame the complainant. He further stated that photographs taken with the mutual consent of both parties, both prior to and after the marriage, were stored on his laptop, and that such photographs included some obscene pictures.

The statement submitted by Ambisha Shrestha (Pradhan) states, that it is true and correct that the accused Akash Budhathoki wrote and disseminated various obscene photographs and SMS messages of the complainant through the social media platform Facebook, thereby publicly defaming her. She further states that despite repeated requests to desist from such acts, the accused did not comply and continued to send the said obscene photographs and SMS messages even to the profiles of the complainant's relatives and friends, and therefore prays that the accused be subjected to the maximum punishment in accordance with law.

The incident report document submitted by Pradeep Adhikari states, states that the accused Aakash Budhathoki created various fake IDs and, through the social media platform Facebook, sent messages along with various obscene photographs of the complainant, thereby assassinating her character. It further states that despite being repeatedly counseled and requested to refrain from such conduct, the accused did not comply, and therefore prayed that the accused be subjected to the maximum punishment in accordance with law.

A charge-sheet had been submitted which contains the following: that the accused Aakash B.C. created a fake Facebook account and ID in the name of the complainant "Redacted Name Bhaktapur 1," wherein he uploaded obscene photographs and by inserting vulgar words in the message box of such ID, had sent the messages through electronic medium in a manner that defamed the complainant's character. These obscene photographs and SMS messages were also sent to the profiles of the complainant's relatives and friends. Since the have been substantiated through the evidence the prosecution requests that the accused Aakash B.C. be punished in accordance with Section 47 (1) of the Electronic Transactions Act, 2003, and that the Dell-brand laptop seized in connection with the offence be confiscated in accordance with Section 56 of the same Act.

The deposition made by the defendant Aakash B.C before the court is as follows: that he had a intimate relationship with the complainant "Redacted Name Bhaktapur 1," and that they had solemnized their marriage at the District Administration Office, Lalitpur, in the month of Jestha, of the year 2070. He further stated that after the marriage, the complainant began to engage in petty argument with him, and had filed for a divorce wherein a divorce settlement was reached between the defendant and the complainant. He denied having sent any threats via Facebook or having committed any acts intended to defame the complainant, as alleged by the complainant. He further stated that he had no reasons whatsoever to defame the

complainant's character after their divorce. Photographs of both the parties taken during their period of cordial relationship were stored on his laptop, but he did not upload those photographs on Facebook. He contended that the complainant has conspired to falsely implicate him and accordingly prayed for his acquittal asserting that he had not committed any offense as alleged by the prosecution.

An order had been set aside by this court on 2070/10/29 (corresponding to 12 February, 2014) directing that a bail amount of Rs. 30,000 (thirty thousand rupees) or an equivalent surety be deposited by the defendant and to release the defendant pending his trial and in the event the defendant fails to furnish such bail, the defendant be provided with a detention slip and be forwarded to the concerned prison office.

The deposition of Shankar Basnet, witness of the defendant before the court is as follows: that the allegations against the defendant are false. The complainant is the former wife of the accused and that it is not necessary for the defendant to upload pictures of his former wife on Facebook and send unnecessary SMS messages. It is a conspiracy to falsely implicate the accused, and that the defendant is innocent.

From the case file, it is evident that pursuant to the order of the trial court, no witness from the plaintiff's side have appeared and deposed before the court.

The decision of the honorable Kathmandu District Court dated 2071/02/18 (corresponding to 1 June, 2014) states, inter alia, that from the evidence it is evident that the complainant and the accused previously had a marital relationship, and that, as per the accused's deposition certain obscene photographs were taken with the mutual consent of both parties at that time. Since it could not be established that the obscene photographs were disseminated from the seized laptop, and where the complainant failed to appear before the court to testify or record her deposition regarding the alleged offense, the charges made by the prosecution of the Government of Nepal cannot be sustained against the defendant Aakash B.C. and the accused is hereby acquitted of the charges. Furthermore, the seized evidence namely a laptop shall not be confiscated and provided, the defendant submits an application for its retrieval, the same shall be returned to the defendant.

The appeal petition filed by the plaintiff, Government of Nepal before the Appellate Court, Patan is as follows: In his deposition, the defendant has admitted that private obscene photographs from his marital life were stored in his laptop and in his mobile, and that the said laptop remained in his possession. Section 47 of the Electronic Transactions Act, 2063 clearly and unambiguously provides that the act of publishing or disseminating obscene photographs via electronic means, including Facebook constitutes a punishable offense. That the computer branch of the Metropolitan Police Crime Division, upon examining the Dell Vostro 1014 laptop seized from the accused Aakash B.C. and his Facebook ID, found obscene photographs of the complainant stored in the folder D:/my doc/Trimester6. The forensic report further revealed that the complainant's obscene photographs and character-defaming messages had been transmitted from the accused's Facebook account to the Facebook ID of his friend, Pravesh K.C. Despite these findings establishing that the obscene photographs were disseminated on the Facebook social media platform by the accused, the trial court acquitted the defendant and since the decision of acquittal is erroneous, the appellant seeks the decision to be overruled and seeks the defendant to be punished pursuant to the charge-sheet.

The decision of the Appellate Court, Patan, dated 2072/10/12 (corresponding to 26 January, 2016) states, that the decision of Kathmandu District Court dated 2071/02/18 thereby

acquitting the defendant and non-confiscation of the evidence is hereby deemed valid and the said decision is hereby upheld by the court.

The Appellate Court, Patan, in its earlier decision, acquitted the accused solely on the basis of his categorical denial. However, the facts on record indicate that obscene photographs from the accused's laptop were posted on the Facebook account of his friend, Prabesh K.C., and publicly commented upon. This act caused serious harm to the complainant's morality, character, and self-respect. The accused failed to substantiate his claims that his Facebook account was hacked or that his mobile device was lost. Moreover, he admitted that the obscene photographs belonged to him, and forensic examination confirmed that the obscene messages and photographs were transmitted from the laptop ID used by the accused. In light of this physical evidence, the offense under Section 47 of the Electronic Transactions Act, 2063, is clearly established. Therefore, acquitting the accused solely based on his denial constitutes a serious legal error, and the case warrants rehearing.

The order of this court dated 2074/05/06 (corresponding to 22 August, 2017) states, that since the acts of the defendant adversely affected the dignity and reputation of the complainant, thereby establishing an offense under Section 47 (1) of the Electronic Transactions Act, 2063, the acquittal by the Appellate Court involved errors in the evaluation of evidence under Sections 3 and 54 of the Evidence Act, 2031, as well as Sections 184 A and 185 of the Court Proceedings (*Adalati Bandobasta*) of the Muluki Ain. Considering that the conditions under sub-sections (a) and (b) of Section 12 (1) of the Administration of Justice Act, 2073, are prevalent, leave is hereby granted for revision of the case.

Decision

The present case had been entered in the cause-list and submitted before the Bench pursuant to the rules for decision. Learned Deputy Government Attorney Mr. Arjun Koirala appearing on behalf of appellant/plaintiff, Government of Nepal, argued that the obscene photographs were posted on Facebook directly from the defendant's laptop and subsequently became public. Given that the accused himself admitted that the photographs were stored on his mobile and laptop, the acquittal by the Appellate Court, Patan, cannot be upheld. He submitted that the said decision should be set aside and that the accused should be punished in accordance with the charges.

In the present case, the prosecution alleges that the accused, Aakash B.C., created a fake Facebook ID in the name of the complainant "Redacted Name Bhaktapur 1" and publicly disseminated nude photographs that defamed her character, thereby committing an offense under Section 47 (1) of the Electronic Transactions Act, 2063, and sought punishment under the same section along with confiscation of the seized laptop under Section 56. It appears that the Kathmandu District Court having found that the prosecution's claim was not established acquitted the accused and allowed him to reclaim the seized laptop. Dissatisfied with this decision, the Government of Nepal filed an appeal before the Appellate Court, Patan. While the Appellate Court upheld the trial court's decision, the Government of Nepal contended that the decision involved an error in the interpretation of law and subsequently filed a petition before this Court seeking leave for revision of the case. Leave was hereby granted wherein it is noted that the matter has now been registered equivalent to an appeal petition.

Upon studying and examining the documents and the case file, the appeal petition and the argument presented therein, it is for this court to decide as to whether or not the decision of

the Appellate Court, Patan is sustainable and as to whether or not the appeal petition filed by the plaintiff Government of Nepal is tenable

2. Now, considering the matter for decision, it appears from the complaint filed by the complainant “Redacted Name Bhaktapur 1” that the accused, Aakash B.C., repeatedly issued threats, created obscene photographs of the complainant, and, through the message box of a fake Facebook ID, had sent messages containing profane language to her relatives and friends, thereby defaming her character wherein, the complainant “Redacted Name Bhaktapur 1” had filed an FIR seeking to punish the defendant pursuant to the Electronic Transaction Act, 2063, and it is noted that the present case has originated on the basis of this complaint. It appears that the accused, in his statements before the court and competent authorities, denied sending the complainant’s nude photographs and SMS messages via the social media platform Facebook with the intent to defame her character. However, it is also evident that the defendant admitted that some nude photographs of the complainant while they were married were taken and stored on his laptop. Additionally, in his statement, the defendant stated that he had received a friend request in his Facebook ID, Chettri Aakash, from an ID named Lbef Leak. Upon opening that profile, he observed obscene photographs of the complainant and subsequently closed the profile. He also stated that obscene photographs and messages of the complainant had appeared on the Facebook account of his friend, Pravesh K.C.
3. It is noted from the seizure memorandum attached with the case record that a Dell Vostro 1014 laptop was recovered from the possession of the defendant. Upon examination of his Facebook ID, Chettri Aakash, the forensic report no. 1366 dated 2070/10/15 (corresponding to 29 January, 2014) from the Computer Branch of the Metropolitan Police Crime Division revealed that the photographs stored in the folder D:/Mydec/Trimester6 on the laptop were transmitted from the defendant’s Facebook ID, Chettri Aakash, to the Facebook ID pravesh.kc.3 of his friend, Pravesh K.C., along with accompanying messages. The technical examination confirmed that the photographs submitted by the complainant with her complaint were indeed stored on the accused Aakash B.C.’s laptop and were sent from his Facebook ID to the Facebook Id of Pravesh K.C.
4. Additionally, upon examination of the exchanges of dialogues made between the defendant Aakash B.C.’s Facebook ID, Chettri Aakash, and his friend Pravesh K.C.’s Facebook ID, pravesh.kc.3, on various dates reveals the defendant saying “What have you sent”, and “Check Kiran’s Facebook messages and see the pic” and has used highly profane and abusive language against the complainant and even instructed to show the photographs to the complainant’s parents, sending messages such as (“**Show her mom that she was with me that night in Kulekhani**”), thereby causing mental distress to the complainant. This demonstrates that the defendant, with the intent to violate the personal dignity and reputation of the victim, deliberately transmitted the photographs stored on his computer to another person’s account and made them public.
5. To determine whether the acts committed by the defendant constitute an offense under the Electronic Transactions Act, 2063, it is essential to understand the nature and character of crimes committed through electronic means. Cybercrime primarily involves criminal acts carried out via information systems, computer systems, their networks, and the Internet (cyberspace)¹. Such acts are typically committed with the criminal intent to harm the

¹ Crimes that take place through computers, computer technology or the internet is known as Cyber Crime.” Black’s law Dictionary

reputation or dignity of an individual, group, or community, or to cause physical or mental suffering, or to directly or indirectly inflict loss or damage to any person or institution. These offenses are carried out contrary to the victim's will, often invisibly and without the use of physical force, by manipulating computer or internet systems. They may involve actions such as unlawfully acquiring, creating, transmitting, distributing, stealing, or destroying information or content related to the victim. Although it is neither possible nor practical to determine an exhaustive list of offenses under electronic crime, the European Convention on Cybercrime, 2001 (Budapest Convention) categorizes certain acts as cybercrimes, including: illegal access to a computer or its network, illegal interception, data interference, misuse of devices, computer-related forgery, computer-related fraud, obscenity/child pornography and copyright infringements. These acts are recognized internationally as offenses falling within the ambit of electronic crimes².

6. Although the Electronic Transactions Act, 2063, enacted in Nepal in B.S. 2063, does not explicitly define what electronic crimes are, its Preamble indicates that the Act was promulgated to ensure the reliability and security of transactions conducted through electronic data exchange or other electronic communication media. The Act aims to regulate the creation, production, processing, storage, flow, and transmission of electronic records, and to certify the authenticity, integrity, and reliability of such records. It also seeks to control the unauthorized use of electronic records or any illegal modification thereof. Therefore, while defining computer-related offenses under Section 9 of the Act, such definitions must be interpreted in light of the objectives outlined in the Preamble.
7. Against this background, considering the charges brought by the prosecution, the Government of Nepal, against the defendant in the present case, it appears that the defendant disseminated nude photographs of the complainant, "Redacted Name Bhaktapur 1," on the social media platform Facebook, thereby committing an offense under Section 47 (1) of the Electronic Transactions Act, 2063. At the time of the incident, Section 47 (1) of the Act prohibited the publication or display, or causing the publication or display, via computers, the Internet, or other electronic communication media of content that is prohibited under prevailing law, including: materials contrary to public morality and decency, content intended to incite hatred or animosity against any individual, or material likely to disturb harmonious relations among various ethnicities, castes, or communities. In light of the unprecedented developments in information technology, increased access to the Internet, and the growing use of social media platforms such as Facebook and Twitter, it is evident from the data that cybercrimes are also on the rise. In this context, the prevailing law under Section 47(1) of the Electronic Transactions Act, 2063, clearly prohibits the publication or display, or causing the publication or display, on social media of content that is prohibited from being published or displayed under existing law, contravenes public morality and decency, spreads hatred or animosity against any individual, harms the reputation or dignity of a person; or insults, harasses, or abuses any individual. Any act falling within these parameters attracts liability under Section 47(1) of the Act. The phrase "content contrary to public morality and decency" and "spreading hatred or animosity against any individual" used in the section clearly encompasses acts intended to harass, demean, or otherwise cause distress to women, including sending obscene words or nude photographs with such intent. In this context, it is evident that the defendant's indecent conduct against the complainant via social media

² European Convention on Cyber Crime, 2001

constitutes a prohibited offense under Section 47 (1) of the Electronic Transactions Act, 2063.

8. In the present case, the defendant has claimed that he lost his mobile phone and that his Facebook account was hacked, suggesting that the photographs stored on his laptop might have been publicly disseminated through the lost mobile or the hacked account. However, there is no evidence that the defendant immediately informed anyone or filed a complaint regarding the alleged loss or hacking. Section 28 of the Evidence Act, 2031, provides that the burden of proof as to any particular fact lies on that person who wishes to the court to believe in its existence. In this context, the burden of proving that the complainant's photographs were publicly disseminated due to the defendant's lost mobile or hacked Facebook account rests on the accused. However, the accused has failed to produce any credible evidence to substantiate this claim. Instead, the exchanges between the defendant Aakash B.C., and his friend, Pravesh K.C., clearly indicate that the defendant had sent the complainant's nude photographs to Pravesh K.C. with the intent to publicly humiliate and defame the complainant, "Redacted Name Bhaktapur 1. From the transcription of the said exchanges, it is evident that the defendant instructed that the photographs be shown to the complainant's parents and relatives, citing grievances during their marital relationship. This demonstrates that without the involvement of the defendant, there would have been no reason for the other person, Pravesh K.C., to publicly disseminate the complainant's nude photographs. It is evident that the defendant did not directly publish the complainant's nude photographs on Facebook from his mobile or laptop; instead, he sent them to another user, Pravesh K.C., and technical examination confirms that the photographs were made public from the Facebook ID pravesh.kc.3. Given that the accused is well-versed in information technology, it is established that he deliberately used another person to disseminate the complainant's nude photographs in order to circumvent the law and evade liability for his criminal conduct.
10. In this situation, it is noted that the trial court and the then Appellate Court primarily based their decision on the fact that the complainant did not appear in court to record her deposition, and accordingly held that the prosecution's case could not be established, resulting in the acquittal of the accused. Upon this, the Government of Nepal filed a petition, and leave was granted for revision of the case on the ground that an offense under Section 47(1) of the Electronic Transactions Act, 2063, was clearly established and subsequently a summon was executed in the name of the defendant wherein the defendant failed to appear. Pursuant to the law, provided, the accused fails to appear after being duly served a summon, the court must evaluate the disputed issues by examining the evidence submitted with the case file to determine as to whether or not the prosecution's claim can be established. The forensic report dated 2070/10/15 from the Computer Branch of the Metropolitan Police Crime Division confirms that the photographs submitted by the complainant with her complaint extracted from social media were transmitted from the defendant's Facebook ID to Pravesh K.C.'s Facebook account. The defendant has not been able to refute this fact, and therefore, this must be regarded as a fact established by scientific evidence. Unless a fact established through scientific testing is disproved by scientific testing, such fact cannot be held otherwise. Since the victim's deposition before the court does not place the scientifically established fact in a position capable of being rebutted, so long as such fact remains intact, the victim's testimony, in the context of the present case, shall remain of secondary importance. The act of displaying a woman's nude photograph on social media is not merely an act that infringes upon her dignity; it also constitutes an act that humiliates women at large and amounts to the publication of content

contrary to public morality and decency, as prohibited under Section 47 (1) of the Electronic Transactions Act, 2063. Therefore, the accused cannot be acquitted solely on the ground that the victim-complainant did not appear before the court to record her deposition. Although it appears that the investigating and prosecuting authorities ought to have conducted investigation and initiated prosecution against other individuals who were present at the scene of the incident as well, adopting the view that the accused must be given the benefit of such technical lapses or shortcomings on the part of the investigation or prosecution, such as failure to carry out further inquiry in that regard would result in denial of justice to the victim, foster a culture of impunity in society, and lead to the defeat of justice. Therefore, rather than narrowly scrutinizing minor errors or deficiencies in the investigation as reflected in the case record, the adjudicator is required to render a decision in a manner that, viewed holistically, upholds and delivers a sense of justice.

10. Thus, having established that the accused, Aakash B.C., committed an offense under Section 47 (1) of the Electronic Transactions Act, 2063, it is noted that Section 56 of the same Act provides that “any computer, computer system, floppy, compact disk, tape, drive, software, or other auxiliary device used to commit a computer-related offense under this Act shall be confiscated.” Accordingly, the Dell Vostro 1014 laptop recovered from the accused, which was used in the commission of the offense, must also be confiscated. Although the charges included a claim for compensation to the complainant, since the complainant did not appear in court to record her deposition and thus did not provide the necessary cooperation to the judicial process, there is no basis at this stage to order compensation in accordance with the prosecution’s claim.
11. Therefore, based on the above-mentioned grounds, reasons, and legal provisions, it is established that the defendant Aakash B.C., has committed an offense under Section 47 (1) of the Electronic Transactions Act, 2063, as per charges submitted by the prosecution. Since the decision of the trial court, which acquitted the accused, and the decision of the then Appellate Court, Patan, dated 2072/10/12, which upheld the said decision is not sustainable, the said decision is hereby overruled and accordingly the defendant Aakash B.C., pursuant to Section 47 (1) of the Electronic Transaction Act, 2063, shall be liable to pay a fine of Rs. 25,000 (Twenty-Five Thousand Rupees) and the Dell Vostro 1014 laptop recovered from the defendant, that was used in the commission of the offense, shall pursuant to Section 56 of the same Act be confiscated. It is hereby ordered to do as per the particulars.

Particulars

As per the findings noted above in the decision section, the decision of the then Appellate Court, Patan, is hereby reversed, wherein the defendant Aakash B.C. pursuant to Section 47 (1) of the Electronic Transaction Act, 2063, has been fined Rs. 25,000 (twenty-five thousand). It is hereby directed to maintain a record of the penalty and notify the Kathmandu District Court to recover the said amount.

It is hereby held that the Dell Vostro 1014 laptop recovered from the defendant Aakash B.C., shall be confiscated in pursuant to Section 56 of the Electronic Transactions Act, 2063. Accordingly, the Kathmandu District Court is hereby directed to confiscate the said laptop.

It is hereby directed to provide a copy of the decision to the Office of the Attorney General, Kathmandu and to the defendant Aakash B.C.

It is hereby directed to remove the case file from the case registry and upload the decision in the electronic system and to submit the case file to the record section.

Consenting to the above Opinion

Honorable Justice Dr. Ananda Mohan Bhattarai

Bench Officer: Karna Bahadur Rai/Shiva Wagle

Dated Year 2079 of the Month of Poush Date 17 Day 1

(Corresponding to Year 2023 of the Month of January Date 1 Day 1)