



**SVKM's**  
**JITENDRA CHAUHAN COLLEGE OF LAW**

Date: - 16.01.2020

**NOTICE**

**III.LL.B.**

**Practical Training 2019 - 2020**

**YELLOW JOURNAL**

**Paper VI (Practical Training – II)**

**Unit I**

Most court (minimum 3) oral argument / viva to be presented before the external expert / Teaching Staff members, as the schedule to be displayed and concise written arguments of any 3 moot problems (Moot Problems may be collected from the College Office).

**Unit II**

1. Moot Court arguments should be drafted in form of memorials, it should include qualitative research. (Sample memorials available in library)

- For every moot problem atleast 10 cases should be referred in all, which should be stated at the end of the arguments. (Questions on all these cases will be asked in the viva. Original source of the case law should also be mentioned in the journal)
- **Students those who copy the content from friends Journal shall be given zero marks.**
- For research students can use All Indian Reporters, Law Journals, Law Reviews, Law websites on internet.

**Unit III**

Court Assignment (Minimum one each)

- a. Criminal Trial- Recording of observation and co-relation with the relevant provision of law.
- b. Civil proceeding – Recording of observation and co-relation with the relevant provision of law.

Students must attend at least one matter each criminal and civil proceeding in court for 2 dates & write the “name of the court, parties, lawyer and date with the gist about the case and your observations”.

## **Unit IV**

Write a note on preparation required for drafting memorials and presentation of moot court problem.

**Note:** - The Journals will be issued by the college office on production of Identity Card from: **17<sup>th</sup> January, 2020 to 31<sup>st</sup> January, 2020.**  
Date of Submission of Journal: **7<sup>th</sup> March, 2020 (on or before).**  
Date of Written Examination: **4<sup>th</sup> April, 2020.**

**In case of any difficulty students may approach to Prof. Dr. Sharmila Ghuge.**

Students may collect moot problem from college counter.

1. NOTE : Kindly keep a photocopy of the Journal for yourself for Practical Training Examination.
2. NOTE : Moot Court Viva / Presentation shall be allowed only after Journal submissions.

**Sd/-**  
**Dr. Priya J. Shah**  
**(I/c Principal)**

## **MOOT PROBLEM No. 1**

### MS. RUCHIKA SEN Vs. KINDIA NATIONAL LAW SCHOOL

1. Mr. Avinash Bose – son of a High Court judge and Ms. Ruchika Sen – daughter of a bureaucrat, are students of the prestigious Kindia National Law School and are studying in the fifth year of the five year law course.
2. Avinash Bose and Ruchika Sen were seen as intelligent as well as sociable on the campus. On X August, when Prof. Sanath Raj was teaching the subject ‘Privacy Rights’, he noticed the inattentiveness of Ruchika Sen sitting in the front row. Prof. Raj quickly moved to her desk and seized a smart phone from her hand. He asked her – ‘What are you doing with the phone?’ Before she could answer, Avinash Bose, from his seat in the sixth row, said – ‘Sir, we were chatting’! Prof. Raj thundered – ‘What? What have you been chatting...?’ Ruchika Sen said – Sir.. Avinash Bose interrupted – ‘Sir you shouldn’t bother about what we chat. We are in a University.... Not in a School’. Prof. Raj felt humiliated. He stopped his lecture and went straight to meet the Vice Chancellor.
3. On taking the report of the incident from Prof. Raj, the Vice Chancellor referred the matter to the Student Disciplinary Committee (SDC). Both Avinash Bose and Ruchika Sen appeared before the SDC and admitted to have chatted in the class-room during class hours as was reported by Prof. Raj. However, both stated that ‘Prof. Raj acted impulsively and in a fit of anger’. The SDC in its Report found ‘the class room conduct of both Avinash Bose and Ruchika Sen, unbecoming of a student’and recommended their rustication from the School for the said semester term.
4. The disciplinary action invited strong reaction from the students as also section of the teachers, as an attack on academic freedom and, an imposition of totalitarianism.

---

The Moot Court Problem is prepared by Shri. Mohan V. Katarki, Advocate Supreme Court of India, New Delhi, alumni of University College of Law, Dharwad (now renamed as Karnataka University’s Sir Siddappa Kambli law Collge, Dharwad). Any attempt to contact the author may incur disqualification.

The Moot Problem is a fiction. Reference to Kinda is to be understood as Republic of India and Kindia National Law School as India National Law School.

5. Ruchika Sen decided to challenge the decision of rustication and filed a Writ Petition in the Supreme Court of Kindia. However, Avinash Bose, though he stood by her fully, could't challenge as he decided to join an international trekking of law students going to the Himalayas.
6. Ruchika Sen alleged that, the very act of Prof. Raj in seizing her smart phone was "...unwarranted and constituted a breach of her privacy". Among other grounds she also averred that – "class-room chatting cannot be treated as unbecoming of a student of the University, particularly the Law School". Besides praying for setting aside of the order of rustication, Ruchika Sen also sought a compensation of Rs. 1,00,000/- (rupees one lakh) from the School for breach of her privacy and for the humiliation and mental agony caused.
7. The Supreme Court of Kindia, by an interim orders dated Y August, 2018, stayed the order of rustication and posted the matter for final hearing on X October, 2018.

Note : The Mooters shall prepare a brief for the Petitioner Ruchika Sen and Respondent Kindia National Law School.

## **MOOT PROBLEM No. 2**

Govt. of Indora issued an ordinance and made an amendment to sec. 438 of Criminal Procedure Code on 21<sup>st</sup> April, 2018 said ordinance was repealed by passing Criminal Law (Amendment) Act, 2018 which received the assent of The President and published on 11<sup>th</sup> August, 2018 and it came into effect from 21<sup>st</sup> April, 2018. By this Amendment after sub section 3 in sec. 438 the following sub section '4' shall be inserted namely.

Sub section '(4)' Nothing in this section shall apply to any case involving the arrest of any person on accusation of having Committed an offence under sub section of 3 of sec. 376 or sec. 376 AB or sec. 376 DA or sec 376 DS of the Indian Penal Code.

On 5<sup>th</sup> September, 2018 the accused namely 'A' aged 25 years alleged to have Committed an offence of rape as against girl namely B whose age is 15 years 11. Accordingly, the F.I.R was lodged as against A under sec. 376 (3) of Indian Penal Code (newly inserted by Criminal Law Amendment Act 2018) and Section 8 of Protection of Children from Sexual Offences Act, 2012.

By the Amendment in Sec. 438 of Criminal Procedure Code, the powers of the Hon'ble High Court as well as the powers of the Hon'ble Court of sessions are taken away. Being aggrieved by this amendment accused A filed a writ petition before the Hon'ble High Court of Maharashtra State under Article 226 of the Constitution of Indora.

Note :-

- 1) The Teams are requested to raise the issue and prepare memorials but they have a relation of the above problem.
- 2) Law of Indora state is Similar with law of India.

### **MOOT PROBLEM No. 3**

#### **INDU TEMPLE OF LORD SHIVAPPA MAHADESHAM**

**Women Advocates Association and others**

**Versus**

**State of Mahadesham and others**

The Indu Temple of Lord Shivappa is located on the Sahyadri Mountain in the State of Mahadesham in Indostan. Numerous pilgrims visit the temple throughout the year. Pilgrims trek through the Sahyadri Mountain to reach the temple which has 24 sacred steps to worship Lord Shivappa after undergoing strict religious vows for 36 days.

The temple imposes a ban on girls and women aged between above 10 and below 50, i.e. females who are likely to be in their menstruating age from entering a temple

‘Women Advocates Association’ approached the Hon’ble High Court of Mahadesham against such gender bias, seeking a direction from the Hon’ble High Court to allow women an entry into the temple without any restrictions. Another group of women who head the ‘Justice for Women’ campaign also seeks the Hon’ble High Court’s direction to stop the selective gender discrimination for the entry in the Lord Shivappa Temple.

The above named Petitioners under the Article 226 of the Constitution of Indostan contended before the Hon’ble High Court of Mahadesham that discrimination in matters of entry into the Lord Shivappa temple was neither a ritual nor a ceremony associated with Indu religion. Any such discrimination on the grounds of gender was totally anti-Indu. The religious sentiments could only restrict entry into the sanctum sanctorum and could not prohibit entry into the Lord Shivappa temple in general thereby discriminating on the grounds of gender.

The Temple Trust Board maintained the stand that the ban was in accordance with centuries old tradition as Lord Shivappa was a Brahmachari (one who vowed to remain a celibate) and maintained distance from women. Another contention of the Temple Trust Board was that the women could not bear the physical hardship, severity and days of celibacy like men could, hence the selective ban on entry of women in the temple was justified.

The Hon’ble High Court of Mahadesham in its judgement held that :

- (1) ‘The restriction imposed on women aged above 10 and below 50 from trekking the holy hills of Lord Shivappa and offering worship at Lord Shivappa Shrine is in accordance with the usage prevalent from time immemorial.

(2) Such restriction imposed by the Temple Trust Board is not violative of Articles 14, 15, 25, and 26 of the Constitution of Indostan.

(3) Such restriction is also not violate of the provisions of Indu Place of Public Worship (Authorization of Entry) Act, 1965 since there is no restriction between one section.

and another section or between one class and another class among the Indus in the matter of entry to a temple whereas the prohibition is only in respect of women of a particular age group and not women as a class.

The Original Petitioner hereby prefer an Appeal against the Verdict to the Hon'ble High Court of Mahadesham in the Hon'ble Supreme Court of Indostan.

Kindly prepare memorials for both Appellant and Respondent before the Hon'ble Supreme Court of Indostan assuming that the Constitution and Laws of Indostan are exactly identical to the Constitution and Laws of India.

#### **MOOT PROBLEM No. 4**

Kamini is the only daughter to her parents, Yogish & Ambika. Yogish was a successful businessman in the city of Kudala, in Karnataka. The parents provided for her education and Kamini turned out from engineering college with BE degree. Parents of Kamini were on the lookout for a groom for their daughter. Kamini told her parents that she should have freedom to select the groom of her choice. The parents respected it though they said they would still search for one and leave it to Kamini to decide. Raja is the only son to his parents, Ramchandra, a wealthy landholder and Uma. They lived in the village of Kurupura, on the outskirts of city of Kudala. Raja had finished Engineering course. He wanted to settle down with his parents in his native place. The parents of Raja were thinking of arranging marriage of their son. While the parents of Kamini and Raja were on the lookout for alliance, one happened to know the other and naturally there was exchange of proposal between the parents of Kamini & Raja. It so happened that Raja was student in same college where Kamini had studied, though in different courses of engineering. As students of same college they knew each other. When elders finished their talks of proposal, the bride and groom were given choice to have their say. Kamini agreed to the proposal. But she wanted the freedom either to pursue higher studies or take up job. Raja and his parents had no objection for this. Thus the marriage was fixed and it took place January, 2010. After marriage, as usual, Kamini went to live with her husband in their house. On the first night, after Kamini began to live in her husband's house, she observed that Raja took some pills and soon thereafter went to sleep, without any word of talk with Kamini. Kamini had observed that even during day time Raja was talking less and was found to be as if in his own world of thought. But Kamini too being tired slept. Next day though Kamini woke up as usual, she found Raja still sleep. When Kamini went around the house, her mother in law, Uma, told her that Raja would sometimes sleep for even a day and not to worry. Uma was eager to see that Kamini would become adjusted to their household and learn the things first from the kitchen. When Kamini told Uma politely that she did not know cooking, Uma retorted to say that sooner she would better learn, now that she is married and has to take responsibility as a house-wife. Kamini could feel the sudden harshness of the voice of Uma and was slightly taken aback. Somehow Kamini managed the day, though Raja was fast asleep all the while and his parents also did not bother to wake him up. Later by evening Raja woke up and without so much as bothering about Kamini he ate food which his mother gave him. Again Kamini found something strange in his behaviour and when she enquired if he is not well or something, Raja

did not answer her, but ignored her. Another night also went by with same repetition. Next day Kamini summoned courage and asked her mother in law as to what is wrong with Raja and why he takes pills and sleeps. At this query, Uma became furious and told Kamini not to ask too many question so early after marriage. It dawned on Kamini that there was something wrong with Raja and she had stumbled in her choice in marriage. But she desired to see what would be in store for her. Next day when Raja woke up he appeared to be more composed. Kamini slowly discussed with him what was the problem. Then he revealed that once in a way he would become nervous and on such occasions he would take medicine to get full rest and then he would be alright. Thus life went on for Kamini for a day or two, though at night Raja would take pill and sleep and Kamini's expectations of first night with husband did not happen. After few days of living together in this kind of uncertainty Kamini took courage and asked Raja why he was not showing any affection towards Kamini. Then he broke down and mentioned to her that he was afraid to make amorous advances to Kamini. At this juncture the parents of Raja also intervened. It was then decided that Raja and Kamini would meet a doctor who can treat the problem. Accordingly, Raja and Kamini went to city of Kudala and sought advice from the well known psychiatrist, Dr. Prema. While narrating history Raja mentioned that he was getting treated by Dr. Ananth, another psychiatrist since few years after he entered Engineering college. The drugs mentioned by him as prescribed by Dr. Ananth indicated that it was treatment for schizophrenia. Dr. Prema suggested remedial measures and prescribed some medicine and asked to visit again after three days. However, during the marital duty to Kamini. At this stage it dawned on Kamini that the parents in law should be asked about the previous medication of Raja. When she confronted them, instead of explaining they flew into rage and started abusing Kamini without rhyme or reason. Raja who was sitting away suddenly came on Kamini and started beating her mercilessly and unmindful of where he was hitting her. Kamini yelled in pain and surprise at the sudden turn of events which she had not visualised. Uma was screeching as if Kamini was the cause for their problem. All of a sudden Raja stopped beating and straight went to store room and there he consumed Baygon spray which was kept as handy pesticide. This led to big commotion. Immediately Raja was taken to hospital by his father. Kamini found that it was end of her day to say in that house and she packed her things and inspite of protest from her parents in law she decided and accordingly returned to her parents' house. All these events happened within such short span of a month's time in her married life, thereby totally shattering her. She narrated the facts to her parents who were shocked beyond belief. One thing

led to another and finally Kamini and her parents decided to put an end to the marriage. Accordingly they consulted an able advocate of Kudala and in the first instance issued a legal notice and when there was no response to it. Filed the divorce petition against Raja in the Family Court at Kudala. Raja was treated in the hospital after he had consumed Baygon and was cured.

Kamini urged that it was an arranged marriage according to Hindu Marriage Act, that the previous chronic mental illness of Raja had been suppressed during the marriage proposal, that Raja was suffering from incurable mental illness and in particular schizophrenia, with suicidal tendency, and it would be not possible to live with him as wife and that he was impotent, that the marriage was not consummated and Raja was incapable to consummate also and he and his parents also treated Kamini with mental and physical cruelty and as such it will be great hardship for her to continue the marital status any longer and as such divorce should be granted to her marriage with Raja. After service of summons Raja contested the case. He urged that during college days Kamini and Raja knew each other well and there was no suppression of fact and that the marriage was done in the hope that Raja would be able to get over his illness once he has a companion for life and only after understanding this the marriage was fixed and that the parents of the respondent knew that for the entire wealth of Raja's parents he was the sole successor and with such idea marriage had been consented and as such divorce cannot be sought. Raja generally denied the assertions of Kamini in her petition and contended that his illness is curable and if companion of life co-operates he would get well soon. Raja denied that he was impotent or that he beat Kamini or that he consumed poison. He contended that the petition of divorce was premature. In the course of proceedings in the Family Court Kamini got summons medical evidence about past treatment of Raja for schizophrenia for several years. She examined Dr. Prema to prove about the impotency and schizophrenia treated by her. As regards records produced from Dr. Ananth's clinic evidence was given to prove handwriting and signature of Dr. Ananth because by this time he was no more. She also filed an application to make Raja available for physical examination before a panel of doctors to be appointed as commissioners and to give report about this impotency and mental illness as incurable in nature. This was opposed by Raja and the Court rejected the application. Kamini gave evidence narrating all that happened to her after marriage and also that illness of Raja was not known when proposal of marriage was talked about. Kamini denied any acquaintance with Raja during college days except knowing that he was studying in the same college. She withstood cross examination by lawyer of Raja. Kamini summoned the domestic servant who had

witnessed the beating of Kamini by Raja and his later consumption of Baygon. Medical evidence was also produced to show that he was treated for so attempting to commit suicide. When Raja's turn to give evidence came, after his examination in chief, he did not turn up for being cross examined though court gave several opportunities to him to come to the court. Finally, his evidence in chief examination remained incomplete. Court treated the evidence as incomplete and closed the case. Court heard arguments of advocates of both sides. The trial court rejected the divorce petition holding that impotency is not proved by medical evidence and that his illness was not shown to be incurable. Trial court held that there was no sufficient proof of cruelty to order divorce. The whole process of the case took about five years' time to conclude. Kamini was constrained to file appeal to High Court of Karnataka. The teams are advised to frame relevant issues and draft memorial for both the parties.