



SVKM's
JITENDRA CHAUHAN COLLEGE OF LAW

Date: - 15.01.2019

NOTICE

III.LL.B.

Practical Training 2018 - 2019

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: **14th January, 2019 to 31st January, 2019.**
Date of Submission of Journal: **22nd March, 2019 (on or before).**
Date of Written Examination: **8th April, 2019.**

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

A young Software Engineer Nalini working with one BPO Company Pune, 28 years old Married woman, in the prime her youth, having bright career lying ahead. She used to travel to her workplace and back by her company transport or Public Transport or by an Auto Rickshaw. On the evening of 07/10/2009 i.e. the day of the incident as she was working till late she missed the company transport and therefore near Reliance Mall on Nagar road she accepted the offer of lift by Sachin Mishra – Accused no. 1 in the cab driven by himself and in which the other two accused viz. Vikram Jadhav Accused no. 2 (Security Guard) and Aniket Salwi Accused no. 3 were already sitting and present in the cab. They promised to take her to her house in Katraj whereupon she placed total trust in these strangers. However, the brutes took advantage of the fact of her being the only woman in the cab, they abducted her to satisfy their insatiable lust. She was stripped naked and kept in that condition for hours committing gang rape on her repeatedly.

They picked up Nalini from Reliance Mall and subsequently drove her to Hadapsar by Magarpatta and from there onwards to Manjari Phata and then to Abalwadi. There onwards accused took her to Shankar Parvati Mangal Karyalaya on Nagar Road where they raped her. In mean time T. Ramlinga (Approver) joined them and he too raped Nalini. Then they drove to Dargah at Chandan Nagar where the four and further to Vadu Fata by Markal Road where they raped her again. Thereafter they drove her to Zarevedi Fata where the accused Sachin Mishra, Vikram Jadhav, aniket Salwi brutally killed her by first strangulating her by dupatta and then by crushing her face and head with heavy stones to camouflage her identity in order to destroy the evidence.

Trial took place against all these accused in the Trial Court, Pune. Trio accused in this case held guilty for the Gang Rape and murder and all the three accused were sentenced to death U/S 376 (A), 397, 302, 404, 120(B) of IPC for this horrific crime. But T. Ramalinga (Approver) was acquitted. All the three accused filed an appeal in the Bombay High Court against the decision of the Trial Court Pune to set aside the conviction and sentence.

Issues are as follows –

1. Whether the accused conspired to commit the said crimes and in pursuance of this conspiracy they carried out the criminal acts as charged by the prosecution?

2. Whether the prosecution has proved beyond reasonable doubt the common intention of the accused by bringing on record that the said acts were committed by several persons in furtherance of their common intention?
3. Charges of Kidnapping, Gang Rape and murder.

MOOT PROBLEM No. 2

A young woman named Seema (22) succumbed to injuries at a private hospital in Guwahati on 1st June, 2013 due to multiple organ failure as she had developed severe health issues due to swallowing acid. The incident leading to the death of Seema occurred at Guwahati Railway station on 1st May, 2013. The gruesome incident had set the local police on their heels as the man who threw acid had concealed his face at the time of attack. However, investigation by police, Guwahati crime branch, led to one Sanjay sharma (26) and his accomplice Mahesh Yadav (28) who were both neighbours of deceased Seema. Sanjay allegedly flung acid on Seema at the Guwahati railway Station when she was getting down from Rajdhani Express from Siliguri. Thereafter, Sanjay boarded the same train back to his home at siliguri.

According to the police, Seema had secured a nursing job with the Guwahati Medical College and Hospital (GMCH) in Guwahati. Sanjay Sharma was a hotel management graduate and despite his best efforts was unemployed. Sanjay's parents used to taunt him about his failure to get a job despite completing his education and always praised Seema because of her education and career.

Sanjay used to confide in Mahesh, who was his childhood friend and used to tell him about how Seema once rejected his marriage proposal and also how his parents had ill – treated him for not being able to secure any job. Apart from this, they were in all praises for Seema as she could fetch a very good job in a government hospital. Mahesh treated Sanjay as his younger brother and therefore could not bear the pain of Sanjay and suggested him that he should find Seema alone and pressurize her not to accept the job offer and to accept his marriage proposal. He, further, suggested sanjay to threaten Seema with a bottle of acid in order to pressurize her for the same. Sanjay wanted to disfigure Seema's face so as to destroy her career. To teach her a lesson, Sanjay procured a bottle of acid on 30th April, 2013 as soon as he came to know that Seema was leaving for Guwahati to join her new nursing job and he boarded, along with Mahesh, the same train taken by Seema and her family members to Guwahati on 1st May, 2013, when Seema was getting down from Rajdhani Express from Siliguri at the Guwahati railway station, Sanjay in opening the bottle and Sanjay allegedly threw acid on her face. Subsequently Mahesh and Sanjay fled easily covering their faces. Seema was taken to the hospital by her family members. The doctor immediately conducted the surgeries and opined that the injuries were grievous.

F.I.R. was lodged, statement of Seema was recorded. A case was registered against both the accused under sections 302, 326 B r/w 34 IPC, 1860. Mahesh absconded and was declared a proclaimed offender, while Sanjay was arrested by police from his home at Siliguri and the bottle of acid used in the crime, was seized from his possession. After investigation, he was put to trial before the sessions court, at Guwahati where he pleaded not guilty and claimed trial. As per the charge sheet Sanjay threw concentrated sulfuric acid at Seema as he envied her career growth. The session court held that Sanjay could not explain the scars which he had suffered as few drops of acid fell on his hands.

The sessions court convicted Sanjay for the offences punishable under sections 302 and 326 B of IPC 1860 and awarded him life imprisonment for the offences. Both the sentences were to run concurrently.

Sanjay, aggrieved by the aforesaid judgement, appealed before High Court seeking acquittal from the charges. Under the circumstance of the case, the sessions court had wrongly held Sanjay liable under Sec. 326 B IPC, by invoking Sec. 34 IPC, 1860 as no common intention to commit the offence of acid attack under sec. 326 B could be proved. Whereas, the state also filed an appeal against the decision of the Sessions Court, for demanding death penalty as the case is one of the 'rarest of rare cases'.

The case is listed for arguments before High Court. Argue for both sides.

Issues:-

- 1) Whether the judgement of Session's Court punishing accused no.1 under section 302, Section 326-B of IPC is correct?
- 2) Whether Punishment given by Session's Court to Sanjay (Accused no.1) u/s 326B of IPC by invoking Section 34 IPC is correct?
- 3) Whether the case is fit to be considered as rarest of rare?

MOOT PROBLEM No. 3

COLOURS vs. Union of India

Mr. Ramesh and Mr. Suresh are citizens of India. Both had gone to Ireland to pursue higher education and subsequently started working in Ireland. They were already into a relationship and eventually got married according to the Irish Laws during their stay in Ireland. They were in marital relationship for two years and were residing in Ireland. On 15th February, 2018 they shifted to India and both started staying in an apartment at Bandra, Mumbai.

On 10th September, 2018, Mr. Ramesh left the apartment and went to stay separately without informing Mr. Suresh. Despite several attempts of contact from Suresh, Mr. Ramesh did not respond. With no other option left Mr. Suresh tried filing a case but was not allowed to do it.

Aggrieved by this Mr. Suresh approached an NGO named Colours who works and fights for the rights to LGBTQI (Lesbian, Gay, Bisexual, Transgender, Queer, Intersex) section of society in India. Colours filed a writ petition after consultation with their panel of legal experts who through their research on the recent landmark Judgement dated 6th September, 2018 on decriminalization of sec. 377 of Indian Penal Code, where the Supreme Court held that Section 377 violates the right of members of the LGBTQI community to dignity, identity and privacy, all covered under Article 21 & 19 (1) (a). Due to plethora of issues related with recognition of same sex marriage like Domestic Violence, Cruelty, and Maintenance, Raging modesty.

Colours filed a writ Petition against Union of India in the Hon. Supreme Court seeking the recognition & Validity of same sex marriage & gender Equality.

Argue on behalf and against the Petitioner.

Moot Problem No.4

1. Dharmasthan is a secular country with cultural country with cultural, religious and linguistic diversities. Different communities like Hindus, Muslims and Christians freely live and practise their religion here. There is no intervention of the state in the religious matters. The Constitution of Dharmasthan provides for the right to freedom of religion as a fundamental right.
2. Being a secular country it gives importance to the religious practices of its minority community and for that Muslim community has, separate Personal laws governing the matters of Marriage, Divorce, Succession, etc.
3. The Laws and Constitution of Dharmasthan, as well as the courts and the Judicial System, are in parimateria to the laws and Constitution, Courts and Judicial System of India. Any law, legislation, amendments of any law and / or judgements by any courts, shall be pari passu with the laws, amendments and judgements in India.
4. In a landmark judgement in august 2017 the Supreme Court had set aside talaq-e-biddat or triple talaq, a type of unilateral divorce by Muslim husband as unconstitutional.
5. To give effect to that judgement the Union government has passed The Muslim Women (Protection of Rights on Divorce) Act 2018.
6. The Act in its statement of objects and reasons reads, “In spite of Supreme Court setting aside talaq-e-biddat, and the assurance of all Dharmasthan Muslim Personal Law Board, there have been reports of divorce by way of talaq-e-biddat from different parts of the country. It is therefore, felt that there is a need for State action to give legal effect to the order of the Supreme Court and to redress the grievances of victims of illegal divorce.” It was further stated that urgent suitable legislation was necessary to give some relief to the hapless married Muslim women who suffer from harassment due to talaq-e-biddat and this is essential to prevent this form of divorce, wherein the wife does not have any say in severing the marital relationship.
7. Union Government claims that this legislation would help in ensuring the larger constitutional goals of gender justice and gender equality of married Muslim women and help sub serve their fundamental rights of non-discrimination and empowerment.
8. Ms. Salma Bhanu, a renowned advocate and former Central Minister has challenged the constitutionality of this legislation by filing a writ petition before the High Court of New Vidharbha. She contends that the impugned legislation is violative of right to equality, freedom of religion and right to life on the following grounds.
 - a. While crime is a public wrong, the problems arising out of domestic relations like divorce give rise to ‘private wrongs’ for which prosecution is

not the appropriate remedy, unless domestic violence leads to abhorrent practices like seriously causing bodily injuries or killing within four walls or other inhuman acts.

- b. This Act, in its section 3, declares talaq-e-biddat as void and illegal and prescribes punishment of imprisonment (which may extend to three years) and a fine, in its section 4. But Supreme Court in the Shayara Bani vs. Union of India and others case declared this practice as invalid and doesn't dissolve the marriage, If the practice stands invalid and doesn't dissolve the marriage, it cannot end up being a criminal offence which should be severely punished as per Section 4 of this Act.
- c. Marriages in the Muslim community are considered a contract, and deviations are dealt with through civil laws than under the criminal laws. This is clear encroachment upon right to religion.
- d. Section 7 of this Bill makes the offence cognizable and non-bailable. But all offences relating to marriage are kept in the category of non-cognizable offences under the Code of Criminal Procedure. This amounts to the selective targeting of the people of a particular religion with stringent laws violating Article 14 of the Constitution.
- e. The Act is self-contradictory as it nullifies the pronouncement of triple talaq in its initial section and then goes on to presume that it actually results in divorce and brings up the issue of allowance and custody of children under its sections 6 and 7.
- f. This legislation is ill conceived as the Supreme Court issued direction for legislation by 2 / 3rd majority only.

The High Court of Vidharbha has dismissed the petition on the ground that there is no scope for intervention in the impugned legislation by it as the legislature has passed it in accordance with the law laid down in the Constitution.

Ms. Salma Banu has approached the apex Court challenging the action of High Court by way of Special Leave Petition.

The matter is fixed for final hearing before the apex Court.

(The provisions of the Muslim Women (Protection of rights on Divorce) Act 2018 are presumed to be similar to The Muslim Women (Protection of Rights on Divorce) Bill, 2017.