

SURENDRANATH LAW COLLEGE

24/2, Mahatma Gandhi Road, Kolkata-700009

Phone No. 23503896

Email : snlcollege@gmail.com

Website : www.snlawcollege.ac.in

Ref. No. SNLC/IQAC/ACA/021/2022-23

Date : 18.04.2022

PRACTICAL ASSIGNMENTS OF 10TH SEMESTER

Paper-IV

PRACTICAL TRAINING-IV

It is hereby informed to the students of the 10th Semester to deal upon the following assignments which is appended below, in consonance with the practical training which consists of 90 marks in respect of :

1. Moot Court
2. Observation of Trial in two cases, one Civil and one Criminal
3. Interviewing Techniques and Pre-trial Preparation and Internship Diary

The students are hereby directed to submit their projects within 30th June, 2022 (Thursday) positively to Mr. Ramkrishna Dutta.

MOOT COURT

Every student is required to do to write one moot court memorial for both the sides i.e., for Plaintiff : Defendant / Appellant : Respondent or Petitioner : Respondent given out given two moot problems.

10 marks each for both the memorial and 10 marks for oral submission.

(10+10+10=30) marks

MOOT COURT PROBLEM CONSTITUTIONAL LAW

5 Years B.A./BB.A/B.Com LL.B Semester X

Maratha Butchers' Association, a Registered Society and Others ...Petitioner

vs.

State of Maratha and Others ...Respondent

The Republic of Indica is located in the South Asian Region of Asia. It is one of the ancient nations in the world. Till 1947, Republic of Indica was a British colony for about 150 years. It achieved independence in 1947. Now the Republic of Indica is a democratic country with a written Constitution which came into force in 1950. It has 29 States and 7 Union Territories. The Constitution has adopted Parliamentary system



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wherein President is the executive Head of the government. The majority of the population of the country belongs to Hindu religion. Buddhism, Christianity, Islam, Jainism and Sikhism are the other major religions followed by the people of Republic of Indica. The Republic of Indica is characterized by a diversity of religious beliefs and practices, dressing, cultural outlook, food-habits etc. Some religion like Jainism strictly follow the principle of non-violence and therefore stressed upon vegetarian food habit. This is not so in case of other religions. Under Hindu religion some are vegetarians and some are non-vegetarians. Throughout the Republic of Indica's history, religion has been an important part of the country's culture. The history of Republic of Indica has witnessed some prominent instances of religious disharmony amongst various religious groups.

The Constitution of Republic of Indica declares various rights as fundamental rights. Some of the fundamental rights are the right to freedom of religion, freedom to carry on any trade, profession and business, right to life and personal liberty etc. The fundamental rights are mostly enforceable against the 'State', The concept of 'State' is defined by the Constitution of Republic of Indica. The Constitution also incorporates some features of secularism. The Supreme Court of Republic of Indica, in its few landmark judgments has expanded the meaning of 'right to life and personal liberty'. Almost everything which has connection with person's meaningful life has been held as integral part of this right. Recently the Supreme Court of Republic of Indica held that right to privacy is a part of 'right to life and personal liberty'.

The Constitution on Indica also laid down some Directive Principles of State Policy. These directives are not enforceable in the court of law, nevertheless these principles are to be looked into while formulating any policy and enacting any law. One of those directives laid down that the **"State shall endeavor to organize agriculture and animal husbandry on modern and scientific line and shall take steps in particular for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle."** This directive was inserted in the Constitution of Indica after a long-heated debate. On the one hand the economy of the Republic of Indica is largely based upon agriculture and on the other hand cow is treated as 'Holy' under Hindu religion. Therefore, the above-mentioned directive was perceived to be an outcome of a compromise between the scientific rationality and religious sentiments of the majority Hindu citizens.

The Constitution on Indica also laid down some fundamental duties for its citizens. One of the fundamental duty of the citizens is to protect and improve the natural environment and to have compassion for living creatures.



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Since 1950 Republic of Indica and various States enacted laws for the protection of Cows. Some of these laws are enacted with specific object of protection of cow whereas some of them were enacted in the name of 'protection of animals from cruelty'.

State of Maratha is situated in western region of Republic of Indica and second most populous state of the Republic of Indica. In 1978 it enacted the Maratha Animal Preservation Act, 1978. In 1995, amendments were made in 1978 Act and Amendment Act of 1995 was reserved for the assent of the President. (Under the Constitution of the Republic of Indica, if on a subject-matter both the Republic as well as state legislature enacted a law, then the state law will prevail over the Republic Law only if it has been reserved for the President's assent and received such assent). These amendments sought to make following changes in the Act of 1978 :

1. It sought to extend the bans on the slaughter of cows and calves to bulls and bullocks.
2. It sought to prohibit the transport (from the State of Maratha to another state), the export, as well as purchase, sale and disposal of cows, bulls and bullocks for the purpose of slaughter.
3. It sought to prohibit the possession of the flesh of the cow, bull or bullock slaughtered in contravention of the provisions of the Act.
4. It also criminalizes the possession of beef *per se*, whether or not this was obtained through lawful slaughter from another state.
5. The amendment sought to put the burden on the accused that he/she was not in contravention of provisions of the Act.
6. The amendment also stipulated punishment for the contravention of the Act.

The Amendment Act, 1995 received the assent of the President in 2015 and came into force immediately. Meanwhile there was a political turmoil throughout the Republic of Indica. Various religious organizations started large scale mobilization against slaughter of cows. Few individuals were attacked on the accusation that they stored cow-flesh in their home. It created the tension between those who were beef-eater and those who were not. More particularly, a minority community 'X' was affected drastically as beef eating was their common food habit. Moreover, beef was less costly as compared to other non-vegetarian food. As the degree of poverty is higher in community 'X', beef eating was an easy source of protein for them. But with the new amended law by the state of Maratha, they were deprived of this source.



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In this background, writ petitions were filled by various associations and individuals before the Hon'ble High Court of State of Maratha challenging the constitutional validity of the Amendment Act of 1995. Maratha Butchers' Association, a Registered Society is one of the petitioner working for the protection of the interest of minority community 'X'.

This petition is posted for final arguments and for disposal on 20th January, 2018.

Note: The students have to frame the issues and make submissions by presuming that the Constitution of India and all other laws applicable in India are applicable in Republic of Indica. With reference to the Act of 1978 and amendment of 1995, the students shall refer to the Maharashtra Animal Preservation Act, 1978 along with the amendments made to it from time to time.

MOOT PROBLEM (CRIMINAL LAW)

The Democratic Republic of *Sidhia* is situated in Asian Subcontinent. *Sidhia* is a quasi-federal country comprised of 35 states with strong central Government. The Laws of *Sidhia* are in Pari-materia with the Laws of India. Pallavgarh is among one of the developed states of *Sidhia*. Mukesh and Jagitri are citizen of *Sidhia*. They are resident of *Fatehgarh*, a small town of *Pallavgarh*.

On dated 25th feb.2008, Mukesh, aged 29, S/O- Late Janardhan, R/O- 54/3- New Ext. Apartment, Fatehgarh, and Jagitri, Aged 24 yrs, D/O- Damodardass, R/O- Greater Ango Colony, Fatehgarh, were married according to their religious rituals. Their marital life was going smoothly. On some occasions they used to have few verbal quarrels with each other but they reconciled soon after the verbal fight. Two years after the marriage Jagitri gave birth to a baby girl on 4th September 2010. The girl was named as Jashoda. After few months of the birth of Jashoda, Jagitri observed certain changes in the behaviour of Mukesh. Mukesh started behaving in a rude way and he usually becomes violent on every petty issue without any reason. Initially Jagitri did not took the matter in a serious way but when the violent character of Mukesh continued Jagitri took her husband Mukesh to the doctor Anupam (DW1), who was a psychiatrist. The doctor advised Mukesh to have control over anger and to take certain medicines. The doctor diagnosed him to be suffering from first stage of Bipolar Mood Disorder (Bipolar disorder, also known as manic-depressive illness, is a brain disorder that causes unusual shifts in mood, energy, activity levels, and the ability to carry out day-to-day tasks. There are four basic types of bipolar disorder; all of them involve clear changes in mood, energy, and activity levels).



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In spite of the medical treatment the violent behaviour of Mukesh continued to exist. On slight issues Mukesh becomes violent and he also started to fight with Jagitri and he also use to beat her without any reason. On dated 5th December 2010 at 11am, loud noise of fighting, crying and shouting was coming from the house of Mukesh. On hearing the cry Dinesh (PW3) who was neighbour of Mukesh went in the house of Mukesh and found Jagitri lying unconscious on the floor pooled in blood with various injuries on her body. At that time Dinesh saw Mukesh hiding a 7 inch Iron Axe in the garden. Thereafter Dinesh called the police and Jagitri was taken to government hospital whereby she was treated by Dr. Anmol (PW2). Mukesh was arrested by police on the same day and was kept in police custody. On 6th December, 2010 Jagitri regained her consciousness and her statement was recorded by Jagdish (PW1) SHO of Fatehgarh Police Station. In her statement she told to the police that on 5th December at 10 am Mukesh came home and started fighting with her in a violent way and when she resisted Mukesh attacked him with axe kept in the garden. On 8th December Jagitri died because of the injury in her lower abdomen which proved fatal. Jashoda the daughter of Mukesh was sent to Government Child Care Centre.

On the basis of the statement of Dinesh and the dying declaration of Jagitri FIR was lodged against Mukesh vide. 733/2010 in Fatehgarh police station. Mukesh was prosecuted under Section 302 of IPC for the murder of Jagitri. During interrogation Mukesh stated that he was unconscious at the time when Jagitri was attacked. He told to police that when he regained his consciousness he found Jagitri lying on the floor and axe in his hand. He told to the police that he did not know from where the axe came and he also stated that he did not know how Jagitri died.

Final Report was submitted on 3rd Feb.2011 in which Mukesh was charged for murder of Jagitri under Section 302 of IPC. The case (State of Pallavgarh vs. Mukesh) was tried by the Session Court vide Session Trial No-57/2011.

The prosecution examined the material witnesses in the court as under:-

Prosecution Witness 1 (PW1) - Jagdish, SHO, Fatehgarh Police Station and Investigating Officer of the case deposed before the Court that the deceased Jagitri in her dying declaration blamed Accused Mukesh for the attack over her. PW1 also deposed before the Court that the axe used for attack was recovered from the garden of Mukesh on which there was finger print of Mukesh as per forensic report.



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Prosecution Witness 2 (PW2) - Dr. Anmol who treated the deceased deposed before the Court that the cause of death was due attack of the axe and the injury on abdomen proved to be fatal. He also deposed that Jagitri was in a mentally fit condition at the time of making dying declaration.

Prosecution Witness 3 (PW3) - Dinesh who was neighbour of Mukesh and informant of the case in FIR deposed that he saw the unconscious body of Jagitri on the floor and Mukesh trying to hide the axe in the garden.

The accused Mukesh took the plea that he was suffering from Bipolar Mood Disorder and for which he was being treated. He also stated that at the time when Deceased Jagitri was attacked he was suffering from the disorder and he was out of his conscience and he did not knew the nature of the act and therefore, he could not be made liable by virtue of Section 84 of IPC on ground of insanity.

The defence examined the material witnesses in the court as under:-

Defence Witness 1 (DW1) - Dr. Anupam who was treating accused Mukesh for Bipolar Mood Disorder stated before the Court that accused Mukesh was suffering from Bipolar Mood Disorder and the disorder was sufficient to enable a person to do any violent act under its influence.

Defence Witness 2 (DW2) - Mathew brother of Mukesh who stated before the Court that on various occasions Mukesh was very much aggressive and violent even for slight reasons.

On 3rd September 2014 Mukesh was found guilty of intentional murder of Jagitri and convicted under Section 302 IPC and sentenced to 10 years Rigorous Imprisonment.

The accused feeling aggrieved by the said judgment preferred an appeal before the High Court of Pallavgarh on dated 9th October 2014 vide Criminal Appeal No. 875/2014. The High Court relying on the version of the doctor treating the accused for Bipolar Mood Disorder found that the accused at the time of committing crime was suffering from both legal and medical insanity and accordingly the Court acquitted the accused from the charge of murder on dated 5th September 2016.

State of Pallavgarh preferred an appeal before the Supreme Court of *Sidhia* against the order of acquittal by the High Court of Pallavgarh on 17th of November 2016.



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The case of *State of Pallavgarh vs. Mukesh* is listed before the Divisional Bench of Supreme Court of *Sidha* for final hearing on 10th Jan.2017. The respective counsels are expected to submit their considerations on the following issues:-

1. *Whether sufficient ground of legal insanity exists so as to exonerate the accused from liability of murder.*
2. *Whether the burden of proof of legal insanity on the part of Defence is at par with burden of proof on part of Prosecution.*
3. *The parties may raise any other issue on the given facts to advance arguments upon.*

OBSERVANCE OF TRIAL IN TWO CASES, CIVIL AND ONE CRIMINAL

With reference to our earlier notification No. SNLC/247/2021-22 dated 14.03.2022 you are hereby directed to submit the Practical Diary maintaining two trial in the course of your court visit programme. You have to maintain a record and enter the various steps observed during your attendance on different days in the court assignment.

30 Marks

INTERVIEWING TECHNIQUES AND PRE-TRIAL PREPARATION AND INTERNSHIP DIARY

With reference to our earlier notification No. SNLC/247/2021-22 dated 14.03.2022 you are hereby directed to observe two interviewing sessions of clients at the Lawyer's Office/Legal Aid Office and record the proceedings in practical diary, which will carry 15 marks.

Each student will further observe the preparation of documents and court papers by the Advocate and the procedure for the filing of the Suit / Petition. This will be recorded in the diary, which will carry 15 marks.

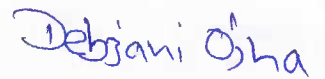
(15+15 = 30) Marks



Coordinator
IQAC
Surendranath Law College

Co-ordinator
IQAC
Surendranath Law College





DEBJANI OJHA



DIYALI ROY
Mentors - 10th Sem.