

PEOPLE'S EDUCATION SOCIETY'S
ADV. BALASAHEB APTE COLLEGE OF LAW

Prin. N.M. Kale Marg, Off. Gokhale Road (S), Dadar (W), Mumbai- 400 028.

Date: 20th September, 2024

NOTICE

MOOT PROBLEMS FOR PRACTICAL TRAINING (PT-III)

EXAMINATION FOR

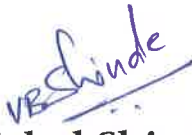
FIFTH YEAR B.A. LL.B. AND THIRD YEAR GEN. LL.B.

A.Y. 2024-25


All Students are hereby informed that two moot court problems are provided herewith. Students must prepare Moot Memorial and oral submission on any one of the following Moot Problems of their choice.

Instructions:

1. All even roll numbers shall prepare from the Plaintiff/Petitioner's side.
2. All odd roll numbers shall prepare from the Respondent's side.
3. Moot Memorials are to be written in the Journal to be provided by the College. Journals are to be collected by students from office window on payment fee Rs. 100/- between 1st to 5th October (on Working Days only) 11.15 am to 01.00 pm.
4. Detailed schedule for the Moot Court to be published later.


Vishal Shinde
Asst. Professor (Law)




Vaishali Gurav
I/C Principal
IN-CHARGE PRINCIPAL
ADV. BALASAHEB APTE COLLEGE OF LAW

Notice displayed on date:- 20/09/24

Notice to be removed on:- 05/10/24

Moot Problem No. 01

Facts:

Aria Mehra, an Architect, aged 32 years and Roshan Sachdeva, a marketing professional, aged 35 years, tied a knot on July 10, 2017 in Mumbai. Aria, a resilient and ambitious individual, was very dedicated to her career and she was working on some really prestigious architectural projects across Maharashtra. Roshan always supported and encouraged Aria's passion for her work. While Roshan was the driving force behind Aria's professional confidence, Aria was his companion during the highs and lows of his marketing career. They had a harmonious marital relationship characterized by mutual respect, shared interests, and a genuine understanding of each other.

Aria and Roshan had a great relationship with their in-laws. In fact, Aria regarded Roshan's father as her own, and likewise from Mr. Kaushal's (Roshan's father) end. In fact, to realize Mr. Kaushal's dream of establishing an eco-tourism resort on the foothills of the Dalma range, Aria had taken a loan of INR 25 lakhs. This was known to Roshan as well, and he could not support his father's dream for ideological differences. The eco-tourism investment at first looked slow, however, Aria with her brilliant designs of the Resort and Roshan's contact, the project flourished. During this time, Aria and her father-in-law became very close, more like a father-daughter relationship. In addition, though Roshan resisted on the project initially, however, seeing the closeness between her beloved Aria and his father, he understood she is the best he could have ever asked for. Aria and Mr. Kaushal generated a tremendous revenue out of the business and everything had been running smoothly.

Their marital bliss encountered unforeseen challenges when Roshan lost his job during the COVID lockdown. This happened owing to Mr. Kaushal gifting Aria and Roshan a flat at a well-known locality in Bandra. Since Mr. Kaushal had spent a fortune purchasing the flat, almost INR 1 crore. Roshan and Aria took a home loan to pay back every penny to Mr. Kaushal, even upon his resistance. The flat was registered in Roshan's name. Roshan and Aria both bought insurance for the property. In the same, Aria was the nominee to the flat. Thus, if anything happens to Roshan, Aria would be entitled to the principal amount as per the insurance policy. The principal amount was 1.5 times the price of the flat. This move was appreciated by both the families.

Matters got worse when overwhelmed by stress, Roshan resorted to alcohol, leading to the emergence of anger management issues, which led to him losing his job too. During this tough time, Aria found support from her friend and colleague, Pooja Chopra. Pooja played an important role in helping the couple navigate through their hardships through emotional and financial support. She also assisted Roshan in securing a new job through her links and contacts. Pooja, having become a close acquaintance, frequently visited the couple's home, maintaining an amicable relationship with both Aria and Roshan.

Despite everything, Roshan's struggles with alcohol and anger persisted. The marital stress started to adversely affect Aria's focus on work. As a result, Aria lost a prestigious architectural project that



she had been working on for months. However, when Mr. Kaushal got to know of this, he consoled Aria and assured her a new Project in Pune, which turned into a reality within a fortnight: On October 18, 2021 Roshan enrolled in anger management counseling sessions with Dr. Suraj Kapoor, a renowned psychiatrist in Mumbai, and an expert in behavioral issues. Dr. Kapoor conducted multiple individual and couple therapy sessions with Aria and Roshan. This was unknown to both their families. Since Aria and Roshan wanted to resolve the issue within themselves and not spoil the sweetness between both the families.

Roshan was also determined to get this professional and personal life back on track. He wanted to work both on his marriage and his anger, which was affecting everything around him. During this time Aria's Father's health had gone down and he had been hospitalized for 10 days. During this time, since Aria had been busy with the new Project, he shifted to Aria's home in Ranchi and helped her Father recover at the earliest. He ensured all the medical bills were paid by him. Every evening, they used to go for a drive and after about a fortnight he returned to Mumbai.

Upon Roshan's return as well things did not become as rosy as before. Observing this, Pooja suggested that Aria should take some time off to relax. Aria, feeling the strain, agreed to Pooja's advice and went on a 7-day girls' trip to Pondicherry on November 21, 2021. Pooja, being a part of the group, accompanied Aria on the trip. However, upon Aria's return, a noticeable change in her behavior disturbed Roshan. He found Aria reluctant to share the details of her experience of the trip which triggered Rohan's suspicions. On January 16, 2024, while Aria was busy in the kitchen, Roshan, suspecting infidelity, decided to check her phone. To his shock, he discovered objectionable and extremely private texts and pictures exchanged between Aria and Pooja.

Overwhelmed by anger and feeling betrayed, Roshan confronted Aria about the messages, leading to a heated argument. Even though Aria denied all the claims, signing them off as friendly fun banter and tried to calm Roshan down, Roshan didn't listen and had made his mind up about Aria's infidelity. In a moment of rage, Roshan resorted to physical violence, slapping Aria. Feeling hurt and humiliated, Aria immediately left the house and sought refuge in Pooja, Aria chose to distance herself from Roshan and shifted to Pooja's home.

On January 18, 2024, upon realizing the gravity of his actions he was extremely ashamed of his behavior. Roshan tried to apologize to Aria and tried to make the marriage work. He sent multiple messages and made many phone calls to Aria assuring her that this behavior would not repeat again. Roshan even tried to plan a vacation to the Sundarbans and upon return a visit to both their parent's homes.

However, on January 27, 2024, Aria filed for divorce citing cruelty as the grounds for separation. Roshan, unwilling to accept the end of their marriage, tried to talk to Aria and change her mind, however, all efforts were futile. Finally, on February 9, 2024 he invoked Section 9 of the Hindu Marriage Act, for restitution of conjugal rights. Despite Roshan's multiple efforts, Aria declined the reconciliation, and continued living with Pooja. Despite repeated multiple attempts when Aria didn't respond, Roshan felt extremely humiliated and somewhere felt his suspicion was correct and started making drunk calls and texts to her hurling abuses.



On July 10, 2024, their 5th wedding anniversary, Roshan, in a state of intoxication, made a phone call to Aria. In a heated argument, Roshan said "Aria, if you do not come back, I can't bear it anymore. I might just end myself tonight." To which Aria responded, "You're the one who ruined everything, Roshan. I can't be held responsible for your mistakes", in a very harsh tone and disconnected the call.

The same night, at around 11:30 pm, Aria decided to visit Roshan's home in Bandra and Pooja offered to drive her down. While Pooja waited in the car, Aria went inside. After about 70 minutes, she returned to the car, visibly disturbed and she found the car to be locked. She tried calling Pooja, and Pooja came running out of the apartment. The next day, Roshan's parents, residing in Jamshedpur, failed to reach him for the entire day. They tried getting in touch with Aria, however there was no response. Even Mr. Kaushal was trying to get in touch with either Roshan or Aria. However, there was absolutely no contact for about 48 hours.

Mr. Kaushal reached out to the apartment's security and the security professionals made multiple attempts to get a response by ringing the doorbell, but they received no answer. Fearing for Roshan's safety, the security professionals, with the family's consent, decided to break open the door. However, they realized that the door was open.

Upon entering Roshan's apartment, the security professionals found Roshan lying dead in his bedroom. There were pieces of wine glasses that had been broken and lying around. There were 3 broken glasses along with a knife. The knife had no stains of blood but was lying on the pool of blood. They informed both Roshan's family and the local police about Roshan's mysterious death.

A security guard informed the Police that Aria was the last recorded visitor to Roshan's house and after her exit nothing has been seen and heard from Roshan's residence. The Police initiated an investigation into the circumstances surrounding Roshan's death. However, Roshan's family accuses Aria for murdering Roshan and on July 15, 2024, they filed an FIR against Aria under Section 99, 101, 106 & 107 Bharatiya Nyaya Sanhita.

During the investigation the police found in the CCTV footage that the Security had seen Aria enter and then he himself had left. The footage also shows Pooja walking into the society premise. Strangely, the footage does not show Pooja coming out of the entrance to the society. The CCTV over the back gate was not functional. The footage shows Aria and Pooja met outside the compound in Pooja's car and left from the spot. Their clothes weren't that visible since it had been raining heavily.

The finger print report from the knife matches Roshan's hand and one vague print was also there on the knife's handle. The forensic report confirmed that Roshan died around 2:30 am on July 11, 2024, owing to severe blood loss and getting hit with a sharp object. There were pieces of glass found near his wound too.

Based on all these preliminary findings the Police arrest Aria on the crime of killing her husband. The



Police notice that she has a bruise along with a cut on her forehead. There is also a cut on her hands. Aria has pleaded not guilty before the Sessions Court Judge at Kalaghoda, Mumbai. During the course of the trial based on the evidences produced by the Prosecution, Aria has been convicted for the murder of her husband, Roshan. The trial Court has heavily relied on the testimony of the Security Guard, who had seen Aria being the last visitor in her home where Roshan's dead body was found.

Aggrieved by the decision of the Court of Sessions, Aria has now appealed this conviction before the Bombay High Court. The matter has been accepted by the Court and is listed for hearing on 17/01/2024. The following issues have been finalized to be submitted before the Hon'ble Bombay High Court.

Issues:

1. Whether the Petition is maintainable before this Hon'ble Court?
2. Whether the Appellant's mens rea and criminal intent has been proved in the current case?
3. Whether the Appellant has been convicted merely on the basis of circumstantial evidence?
4. Whether the Appellant fulfills the essential elements to be convicted under the following sections of the Section 99, 101, 106 & 107 Bharatiya Nyaya Sanhita?



Moot Problem No. 02

Facts:

Hindia is a Sovereign, Socialist, Secular and Democratic Republic situated in South Asia. A former British Colony, Hindia achieved independence in the year 1947 through various means which included protests, negotiations, art, journalism and violence.

Post-Independence, Hindia adopted their constitution which is pari-materia to the Constitution of India. Given that the British Administration was very oppressive towards media and the Hindian Freedom Fighters used media to further the cause of independence, the independent Hindia celebrated the role of media in its democracy and journalists, authors and media persons were revered as the fourth pillar of democracy. Media was given a lot of independence and freedom of press was recognized as an implicit part of freedom of speech and expression.

As the country continued to grow, various media outlets came up and journalism as a profession continued to grow. However, things changed with the saturation of the market. The competition in the sphere of journalism caused the media outlets to get creative, and figure out new ways to attract readers. Catchy headlines, unusual news, and catering to a particular population, all became tools to get more viewership.

Slowly, with the advent of the 21st century, the era of yellow journalism in Hindia began. The race for maximum TRP, and viewership began. Journalists started calling controversial figures to their channels, stories of hate speeches and inflammatory statements became a media staple, and minor controversies were exaggerated and presented as national issues.

Sometimes, the media did their duty as well. In 2002, a case of rape and murder was suppressed by the police authorities, and evidence were erased, resulting which the accused was acquitted. An investigative journalist Suman Singh of PARSO TAK NEWS, unearthed the sinister plot and brought it to limelight, which led to massive protests across the country. In appeal, the High Court doubted the investigation and transferred the matter to Central Bureau of Investigation, and with new evidences in hand which earlier were hidden, convicted the offender and brought justice to the society. For his brave journalism, Suman Singh was given 'Hind ke Sitara' Award, the Highest Civilian Honor in Hindia.

On 1st January 2022, a rape occurred in Buradabad Village of the National Capital of Nelli. The issue was highlighted in media since the victim and the offender were from two different communities, and the media repeatedly telecasted their names. On 3rd of January a communal riot occurred in the village of Buradabad, that led to the death of 150 innocent people.

Thirty people were convicted by a special court and their conviction was upheld by the High Court of Nelli. In the judgement, the High Court observed that while the media should have reported the crime and maintained its decorum, its repeated telecast of names was nothing but a latent attempt



to attract TRP out of someone's misery, and were directly responsible for fanning the entire issue into a riot that led to the death of many. The Hon'ble Supreme Court also approved the convictions and reaffirmed the observation of the high court regarding the role of media in the issue.

At 8:00 AM, 15th July 2022, a man named William Smith, a citizen of USA, who came to Hindia as a tourist, suddenly fell ill and was immediately hospitalised. The video of 6 feet 4-inch-tall white man coughing violently and falling in the middle of Surajni Chowk of Nelli, immediately became viral on social media platform 'Y' (formerly known as Quitter) and caught mainstream media's attention. Journalists on news channels like HINDIA TOMORROW, MOMENTS NOW, etc. began discussing if William Smith was infected with a new and deadly variant of COVID-19, and William was immediately dubbed as a harbinger of COVID-22 or 'COVID Megatron'. The news left the entire country petrified and gripped in terror.

At around 1:00 PM, the same day, protests began in front of AHIMS, the premium Hospital of Nelli where William was being treated, and protestors demanded immediately throwing William out of the country, fearing spreading of infection and a new disease in the country.

Media covered the news and the protest extensively, and the protest kept on growing. By 4:00 PM, the protestors, wearing masks and gloves, entered the hospital and dragged William out, while William physically protested. Amidst the scuffle, a fist fight occurred between William and the protestors, and William was lynched to death by the protestors. The death of William was also widely shown in media and Kadak Singh, a popular leader of Hindia People Party or HPP, even called it a blessing, and remarked that the country saved itself from another disaster.

On 16th July, 2022, William's medical report came and it was found that William was a patient of Tuberculosis and not any variant of COVID. The Hon'ble High Court of Nelli took Suo Moto Cognizance of the matter and asked the Central Government if they can bring forth a Statute to control fake news and abuse. Even though the Central Government submitted an affidavit stating that they cannot formulate such a Law, in the year 2022, the State of Gopur, passed "The Fake News (Prohibition and Punishment) Act, 2022".

On 27 February, 2023, Senior Journalist Suman Singh of PARSO TAK NEWS posted on 'Y' (Formerly known as Quitter) that Babloo Escobar, a notorious Drug Lord had supplied a large consignment of cocaine to Dravidian Khan, a popular film star of Gopur Film Industry and tagged the Narcotics Department in the tweet. Based on that information, the Narcotics Department of Gopur raided the Mansion of Dravidian Khan and he was apprehended.

The entire search operation and apprehension of Dravidian Khan was live telecasted on PARSO TAK NEWS. However, after a thorough investigation and trial that continued for 3 months, on 1st June 2023, Dravidian Khan was acquitted. In the judgement, the Special Court noted that the Narcotic Cell had no shred of evidence against Dravidian Khan except a false story posted by Journalist Suman Singh.



Immediately after release from Custody, Dravidian Khan filed a complaint against Suman Singh for spreading false news against him.

Suman Singh was tried by Judicial Magistrate First Class of competent jurisdiction in Maunpuri, Capital of Gopur, and on 4th August, 2023 was sentenced to two years of rigorous imprisonment and a fine of Rs. 4,00,000/- for spreading false news against Dravidian Khan, alleging him of Drug Dealing, and live telecasting the entire false narrative. The Court noted that telecasting the whole event and earning massive brownie points out of it, shows that there was nothing bonafide in it. Suman Singh was stripped off his award and sent to imprisonment.

While Suman Singh's appeal against conviction was pending, the Enforcement Directorate found the bank account of Babloo Escobar under a false name and found that hundreds of microtransactions were made between Babloo Escobar and the Bank Account for Chamber of Cigarettes, a pub owned by Dravidian Khan.

Subsequently, on 8th of October 2023, the Narcotic Cell raided Chamber of Cigarettes and seized Cocaine worth 86 Lakh Rupees. On 5th January, 2024, Suman Singh was acquitted by Court of Sessions. The Court noted that Suman Singh bonafidely believed that Dravidian Khan was involved in Drug peddling and had proper information, and hence should be acquitted. On 1st June 2024, Suman Singh filed a PIL in the Hon'ble Supreme Court of Hindia challenging the Constitutionality of THE FAKE NEWS (PROHIBITION AND PUNISHMENT) ACT, 2024 on chiefly two grounds State has no power to make a law of such kind as it falls under Union List, item 31. Such law is violative of Freedom of Press.

The State of Gopur has filed a reply defending the Statute on two Grounds Public Order falls in the State List and it's the responsibility of the State to curb disruption of public order through fake news. The Law has various safeguards and does not violate freedom of press.

The Case is now listed to be argued on merits in the Supreme Court of Hindia.

The following issues have been framed:

- 1. Whether the present petition is maintainable in the Hon'ble Supreme Court**
- 2. Whether State of Gopur has power to make the impugned legislation when "Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication" fall under Item 31, Union List of 7th Schedule**
- 3. Whether the impugned legislation is violative of any of the fundamental rights guaranteed under the Constitution of Hindia**

