

LL.B. VI/B.B.A.LL.B. X/ B.A.LL.B. X – Semester

**Practical Paper – Moot Court, Pre-Trial Preparations &
Trial Proceedings**

Memorial Rules

Memorial must contain the following parts:

- Cover Page (आवरण पृष्ठ)
- Table of Contents (विषय सूची)
- Acknowledgment (आभार)
- Index of Abbreviations (सार संक्षेप की सूची)
- Provision involved (सम्मिलित प्रावधान)
- Statement of Facts (तथ्य)
- Issues Involved/Ground (वाद-बिन्दू/आधार)
- Summary of Arguments (बहस)
- Cases cited (संदर्भित वाद)
- Prayer (प्रार्थना)
- Annexure, if any (संलग्नक, यदि हों)

Note:-

1. Use the legal size (FS) page for the memorial. (केवल legal size (FS) का ही प्रयोग करे)
2. Leave margin of 1 inch from all the four side. (पेज के चारो तरफ से एक इंच छोडकर लिखे।)
3. The memorial should be on one side of the page only. (पेज एक ही तरफ लिखे)
4. Number of pages should be atleast 20 in each memorial. (प्रत्येक समस्या की फाइल में कम से कम 20 पेज होने चाहिये)
5. Use only blue or black ball point pen for making the file. (केवल नीले अथवा काले पेन का प्रयोग करे)
6. On the date of presentation the entire group should be present. (प्रेसेन्टेशन की तिथि पर ग्रुप के सभी छात्रों को उपस्थिति रहना होगा)
7. The student should follow the dress code. (सभी छात्र-छात्राओं को प्रैसेन्टेशन के दिन कालेज यूनिफार्म में उपस्थिति रहना होगा)
8. The student is directed to submit the file on the date of presentation otherwise he/she will get negative marks. (सभी छात्रों को निर्देश दिया जाता है कि वह अपनी फाइल प्रैसेन्टेशन के दिन जमा करेंगे अन्यथा उनको नकारात्मक अंक प्रदान किये जायेंगे)
9. The presentation and submission date shall be announced in the month of April 2020. (जमा करने और प्रैसेन्टेशन तिथि अप्रैल 2020 में घोषित की जायेगी)
- 10^p Files can be collected from the library on the date of presentation. (फाइल प्रैसेन्टेशन की तिथि पर लाइब्रेरी से ले सकते है)

Moot Problem – I (2020)

Constitutional Law

Sudhir Manohar.....Petitioner

Vs

Union of India.....Respondent 1

Frugal.com.....Respondent 2

The Indian Espresso.....Respondent 3

1. On 9th February 2006, India witnessed the release of its biggest blockbuster in history of Indian cinema: "Scatterbrained: The Final Semester. The global audience was left in awe of the film's brilliant direction and compelling narrative. Almost every member of the film crew shot to Instant fame within a week of its release. Director Sudhir Manohar even received the 'National Award for Best Director for his work on the film.
2. Overwhelmed, Sudhir threw a huge party on 30^o February 2006 at his Pune residence to celebrate the film's success. The party boasted of the finest foods and alcoholic beverages for all to Indulge In. Ms. Shanaya Ghosh, a struggling young actress, confidently stood out among the many known celebrities present at the party. She was determined to land a role In Sudhir's next project. Shanaya mustered the courage to initiate a conversation with Sudhir and managed to turn it into a professional proposal. At one point, Sudhir jokingly stated that she would bag the role if she can clear his Impromptu audition at that very instant. Surprisingly. Shanaya agreed to this proposal and they commenced this audition in Sudhirs personal studio after all other guests had left the party.
3. Sudhir woke up with a heavy head and had very little recollection of what happened on the previous night. At around 2PM, he was shocked to see three policemen at his doorstep. He was arrested by the police on the charge of molestation pursuant to a complaint filed by Ms. Shanaya. Subsequently, he was granted bail by the appropriate court and resumed his normal course of life. However, this incident did not go unnoticed.
4. The Indian Espresso (TIE), a national daily, reported this incident in Its print and online version within hours of Sudhir's bail application being granted. TIE stated In Its piece that 'stellar director Sudhir Mishra has been accused of molesting a budding actress. This struggling actress claims that this incident took place at his residence sometime after all guests left from Sudhir's success party for Scatterbrained." The piece, titled 'Scatterbrained Director in Tatters, Accused of Molestation', saw a huge number of hits on the online version of the article ("the Online Article"). Eventually, the link to the online version of the piece became so popular that a search for the words 'Sudhir Mishra' on the search engine Frugal.com would always yield the link to this piece as the first result.
5. 10 years later, this phenomenon still causes immense distress to Sudhir Mishra since he was completely acquitted by the appropriate court in 2016 and in relation to this incident and cleared of all charges whatsoever. Even today, any search for 'Sudhir Mishra' leads first to the link for the Online Article despite the fact of his acquittal. When he approached the concerned persons from Frugal.com, they directed him to communicate with TIE to take the link down. However, TIE refused to take it down since every detail in the Online Article was true to their knowledge.
6. Aggrieved, Sudhir has now moved the Supreme Court against the Union of India, Frugal.com and TIE. He has filed a writ under Article 32 of the Indian Constitution to seek a redressal for the violation his right to be forgotten under Article 21. Argue on behalf of the Petitioner or Respondents.

Moot Problem – II

Family Law

Devesh.....Appellant

Vs

Kirti.....Respondent

1. The marriage between the Appellant –husband (Devesh), an engineer and the Respondent –wife (Kirti) a draftsman, both working in the office of Andaman Public Works Department took place on rd March 1994 as per the Hindu traditions and they lived together in the matrimonial home.
2. A son was born in the wedlock on 24. January 1996.
3. The appellant alleged that immediately after marriage, the relationship between the spouses was not cordial and the respondent did not want to live with husband, family and wanted to live separately. She insulted and abused the husband calling him 'dhobi' and the minor child as 'dhobi's son'.
4. During their cohabitation the couple had changed their residence thrice. The appellant alleged that it was due to the rude behaviour of the respondent with the landlord and the neighbours. Respondent rejected these allegations and stated that the shifting was necessitated once because the husband desired so and on two other occasions due to increase in rent demanded by the landlord and absence of sufficient quantity of water to the rented premises.
5. The respondent alleged that since her father was working as 'chowkidar', the appellant's family was ill-disposed towards her and they used to taunt her for not bringing enough dowry.
6. Respondent filed a case under Section 498-A of Indian Penal Code against the appellant but the complaint was later withdrawn by her.
7. Respondent also levelled an allegation of extra marital affair against the appellant with a woman who was working under him and claimed that whenever she confronted him in this respect the appellant would shout and abuse her.
8. In 1997, the respondent left the matrimonial home and started to live with her parents. and upon legal notice sent by her husband she returned back to the matrimonial home.
9. Then again in March 2003, the respondent left the matrimonial home to live with her parents and has not come back since.
10. The appellant filed for divorce in Matrimonial Suit No. 27 of 2005, District Court, Andaman and Nicobar Islands, on the ground a cruelty and desertion under Si 13(1) (ia) and 13(1) (ib) of the Hindu Marriage Act, 1955. After hearing the parties, the learned District Judge passed a Decree of Divorce dated 14. July 2008.
11. The respondent appealed to the High Court of Calcutta – Circuit Bench at Port Blair by the respondent in F.A No. 003 of 2008. The Honourable Court also heard the spouses in chamber for exploring whether any reconciliation was possible or not. While the respondent was agreeable to return forgetting past incidents, the appellant did not agree. The Court then requested the appellant to have a conversation with the respondent outside the Court during the weekend so that if the differences are sorted out, the marital bond could be saved. While before the Court the appellant agreed, he

did not contact her. After the failed endeavor to bring about a reconciliation, the Honourable Court outside the appeal on merits and the decree of Divorce was set aside.

12. Thus, being aggrieved by this decision, the petitioner has preferred an appeal before this Honourable Court. Argue on behalf of appellant or respondent.

MOOT PROBLEM - III (2020)

(Criminal Law)

Ridhima Gupta.....Appellant

vs.

State of Delhi.....Respondent

1. Armaan Mallik and Ridhima Gupta are students of CBIT Engineering College, Delhi. They are pursuing their II year. Armaan is a very unruly person and a known prankster. He once set off fire crackers in the class when the lecturer was teaching. Ridhima, on the other hand, is an introvert and was known to have temper issues. Armaan always used to tease Ridhima, who was obese, and would refer to her as a “moti bhains”. He spread rumours about Ridhima saying that she is a drug addict. On one occasion, she lost her temper and slapped Armaan too. From then on, she made the fact that she hated him known explicitly.

2. On 5th November 2012, at around 5:45 pm, Armaan texted Ridhima from her friend and classmate’s phone asking her to come to the college auditorium immediately to talk about something very important. Ridhima rushed to the auditorium and on reaching, she found it empty. As soon as she entered, at around 6:00 pm, Armaan turned off all the lights, cut off the power supply and locked the auditorium from outside. Ridhima panicked and started banging at the doors. She cried for help and ran around looking for an exit. She remained in that state for about half an hour. At around 6:30 pm, on hearing someone at the door, she hid behind it, holding a wooden stick she found in the auditorium. As soon as Armaan entered, she administered a blow on his head from behind with that stick. Soon after Armaan collapsed, she dropped the stick, ran out and locked the door from outside. The CCTV footage obtained from the camera positioned outside the auditorium, towards the entrance, clearly captured Ridhima entering, Armaan entering and thereafter Ridhima leaving. The wooden rod used was recovered from the garbage bin nearby. Ridhima’s friends stated that on finding her nervous, they questioned her persistently about what was wrong. However, they said, she refused to answer, took a tranquilizer and went to sleep.

3. On 6th November, at around 8:00 pm, Armaan Mallik was found lying in a pool of blood in the auditorium by a group of students. According to the post mortem report, he gradually bled to his death due to the wound at the back of his head. Ridhima Gupta has been arrested and an FIR filed against her. She is sought to be prosecuted for the murder of Armaan Mallik.

4. The Session court of Delhi found Accused Ridhima Gupta guilty under Section 302 of Indian Penal Code and passed the sentence of imprisonment for 10 years.

5. The appellant Ridhima Gupta filed an appeal against the sentence before Delhi High Court. Argue on behalf of Ridhima Gupta (Appellant) or State of Delhi (Respondent).

Relevant provisions of the Indian Penal Code, 1860:

Section 299. - Culpable homicide Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Section 300. - Murder Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

Secondly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or

Thirdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

Fourthly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Exception 1.—When culpable homicide is not murder.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation: Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.