

## RULES REGARDING PRACTICAL FILE

Following Instructions are to be observed and followed by the students in respect of the Practical File of the Subject **Moot Court, Pre-Trial Preparation and Participation In Trial Proceedings (K-6008)**. Practical File is to be prepared strictly as per the list of Contents (Index) and Instruction being provided herewith.

Rules and Instructions for Preparation of File:

- The File must be prepared by each student **in his/her own handwriting** only.
- The File shall carry **90 Marks and viva carry 10 Marks (100 in total)** in your 6<sup>th</sup> Semester Exam.
- The File shall be prepared on **A4 size paper (one sided only)** with proper spacing without borders but margin will be set on the left side (1.0”) and right side (0.5”) of the paper. The paper should be plain (pages with lines or drawing papers are not allowed).
- There shall be no writing on the back side of the page.
- Students will only use black and blue color ball pen for writing the Practical File.
- Cover Page shall be printed in color on glossy paper.
- Complete **file shall be submitted** without spiral to the subject teacher for inspection and checking till 31<sup>st</sup> March 2025. **No File shall be evaluated after the aforesaid date for any reason whatsoever.**
- Students are suggested to submit complete file on or before aforesaid mentioned date. Correction(s) can be allowed after checking but no one will be allowed to submit the pending or remaining work, which was not submitted at the time of first submission.

***Those who will fail to follow the above-mentioned instructions are personally liable for the further consequences.***



# Modern College of Law, Ghaziabad

(Affiliated by CCS University, Meerut, Approved by BCI, Delhi & Recognized by the State Government of Uttar Pradesh)



## Moot Court, Pre-Trial Preparation & Participation in Trial Proceedings

A Practical file for the Partial fulfillment of LL.B. Degree  
(K-6008)

Session (2024-25)

Submitted to

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Submitted by

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**Date:**

**Signature**

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***Part-1***

***(Preliminary)***

**Part-II**

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## **Moot Proposition-I (Matrimonial)**

### **Aurobindo vs Bulbul**

Aurobindo Rai and Bulbul Ghosh got married in February, 2018 as per the Hindu rites and rituals. Both the spouses are highly qualified. Aurobindo is a M.Sc. Ph.D. and Bulbul is M.A. in Social Work. Before this marriage took place, the father of the bride wrote a letter to the father of the groom stating that his daughter had a bad attack of sun stroke which affected her mental condition for some time. This fact could be checked from Noor Mental Hospital or Dr. Aurica Bhattacharya and that he should discuss the matter with the Husband. But the husband or his father did not check it and the marriage was solemnized.

Till March 2021, two daughters were born out of this wedlock. In Jan, 2022, the wife went to Pune to attend the marriage of her brother in law. Her husband took her to Dr. Joseph William, a psychiatrist for getting her examined but Dr. Joseph William wanted some more time. Aurobindo left her there and came back to Delhi on March 11, 2022 alone.

Bulbul felt that her husband wanted to build up a case that she was of unsound mind and that she was being lured to walk into the trap. She did not visit Dr. Joseph William again and two days later, she went straightaway to her parents house in Delhi. On March 15, the Aurobindo wrote a letter to the Police asking for protection as he feared danger to his life from his wife's parents.

On March 19, 2022, a meeting was held to resolve the matter amicably. After a brief meeting, she left her matrimonial home for reasons best known to her. On March 23, 2023, Bulbul wrote to her husband complaining against his conduct and asking for money for maintenance of self and the daughters. She also wrote to the Secretary of the Ministry where her husband was serving that he had deserted her and had treated her with extreme cruelty and asking for maintenance for her and her daughter is fair. But nothing came out of that, a third daughter was born in 19<sup>th</sup> August, 2023.

Husband filed a divorce petition on Feb, 19, 2024 against his wife on grounds of desertion by her which was later followed by a petition for maintenance being filed by the wife under the concerned laws.

The District Court while rejecting the husband's petition for divorce vide order dated 30<sup>th</sup> Aug 2024, found that there was no desertion done by the wife and also granted the wife maintenance amount of Rs. 16,000/ Month, stating that the wife is not eligible to maintain her three daughters and herself.

Aggrieved from the judgment of the Hon'ble District Court, the husband challenged the aforementioned judgment of the Hon'ble District court via filing an appeal in the concerned High Court.

The respective counsels are expected to submit their considerations on the following issues:-

- 1. Whether the appeal against the judgment of the District court is maintainable or not.*
- 2. Whether the divorce on the ground of desertion not granted to the husband, shall be considered a judgment in accordance to the law.*
- 3. Whether the maintenance allowed to the wife is according to law.*
- 4. Whether the District Court was right in considering the wife as ineligible.*

*The parties may raise any other issue on the given facts to advance arguments upon*

**Moot Proposition-II (Criminal)**  
**State of Pallaka vs. Michael**

The Democratic Republic of *Amphissa* is situated in Asian Subcontinent. *Amphissais* a quasi-federal country comprised of 35 states with strong central Government. The Laws of *Amphissa* are in Pari-materia with the Laws of India. Pallaka is among one of the developed states of *Amphissa*. Michael and Jenny are citizen of *Amphissa*. They are resident of *Flemingo*, a small town of *Pallaka*.

On dated 25<sup>th</sup> feb.2008, Michael, aged 29, S/O- Late John, R/O- 54/3-New Ext. Apartment, Flemingo, and Jenny, Aged 24 yrs, D/O- Defrado, R/O- Greater Ango Colony, Flemingo, 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 Jenny gave birth to a baby girl on 4<sup>th</sup> September 2010. The girl was named as Jennifer. After few months of the birth of Jennifer, Jenny observed certain changes in the behaviour of Michael. Michael started behaving in a rude way and he usually becomes violent on every petty issue without any reason. Initially Jenny did not took the matter in a serious way but when the violent character of Michael continued Jenny took her husband Michael to the doctor Alfered (DW1), who was a psychiatrist. The doctor advised Michael 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). In spite of the medical treatment the violent behaviour of Michael continued to exist. On slight issues Michael becomes violent and he also started to fight with Jenny and he also use to beat her without any reason. On dated 5<sup>th</sup> December 2010 at 11am, loud noise of fighting, crying and shouting was coming from the house of Michael. On hearing the cry Daniel(PW3) who was neighbour of Michael went in the house of Michael and found Jenny lying unconscious on the floor pooled in blood with various injuries on her body. At that time Daniel saw Michael hiding a 7 inch Iron Axe in the garden. Thereafter Daniel called the police and Jenny was taken to government hospital whereby she was treated by Dr. Andrew (PW2). Michael was arrested by police on the same day and was kept in police custody. On 6<sup>th</sup> December, 2010 Jenny regained her consciousness and her statement was recorded by Jaison (PW1) SHO of Flemingo Police Station. In her statement she told to the police that on 5<sup>th</sup> December at 10 am Michael came home and started fighting with her in a violent way and when she resisted Michael attacked him with axe kept in the garden. On 8<sup>th</sup> December Jenny died because of the injury in her lower abdomen which proved fatal. Jennifer the daughter of Michael was sent to Government Child Care Centre.

On the basis of the statement of Daniel and the dying declaration of Jenny FIR was lodged against Michael vide. 733/2010 in Flemingo police station. Michael was prosecuted under for the murder of Jenny. During interrogation Michael stated that he was unconscious at the time when Jenny was attacked. He told to police that when he regained his consciousness he found Jenny 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 Jenny died.

Final Report was submitted on 3<sup>rd</sup> Feb.2011 in which Michael was charged for murder of Jenny. The case (State of Pallaka vs. Michael) 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)**- Jaison, SHO, Flemingo Police Station and Investigating Officer of the case deposed before the Court that the deceased Jenny in her dying declaration blamed Accused Michael for the attack over her. PW1 also deposed before the Court that the axe used for attack was recovered from the garden of Michael on which there was finger print of Michael as per forensic report.

**Prosecution Witness 2 (PW2)**- Dr. Andrew 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 Jenny was in a mentally fit condition at the time of making dying declaration.

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

The accused Michael 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 Jenny was attacked he was suffering from the disorder and he was out of his conscience and he did not know the nature of the act and therefore, he could not be made liable by virtue of insanity.

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

**Defence Witness1 (DW1)**- Dr. Alfered who was treating accused Michael for Bipolar Mood Disorder stated before the Court that accused Michael 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 Michael who stated before the Court that on various occasions Michael was very much aggressive and violent even for slight reasons.

On 3<sup>rd</sup> September 2014 Michael was found guilty of intentional murder of Jenny and sentenced to 10 years Rigorous Imprisonment.

The accused feeling aggrieved by the said judgment preferred an appeal before the High Court of Pallaka on dated 9<sup>th</sup> 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 5<sup>th</sup> September 2016.

State of Pallaka preferred an appeal before the Supreme Court of *Amphissa* against the order of acquittal by the High Court of Pallaka on 17<sup>th</sup> of November 2016.

The case of *State of Pallaka vs. Michael* is listed before the Divisional Bench of Supreme Court of *Amphissa* for final hearing on 10<sup>th</sup> Jan.2017. The respective counsels are expected to submit their considerations on the following issues:-

1. *Whether the appeal against acquittal is maintainable*
2. *Whether sufficient ground of legal insanity exists so as to exonerate the accused from liability of murder.*
3. *Whether the burden of proof of legal insanity on the part of Defence is at par with burden of proof on part of Prosecution.*

*The parties may raise any other issue on the given facts to advance arguments upon.*

**Moot Proposition-III (Civil)**

**Sohan vs. Mohan**

Mohan and Sohan were long standing acquaintances who regularly had business dealings with one another. On 1st November, 2012, Mohan, from his home address in Hyderabad, wrote to Sohan at his address in Bhillai, offering to sell him his customised Volkswagen Polo motor car, (which he has long admired), for Rs 5,00,000 the offer to remain open until 5th November, 2012. On receiving the offer on 2nd November, Sohan left Bhillai on a business trip to Lucknow. On the 2nd of November, Mohan sold the car to Kamal and posted to Sohan a revocation of his offer. This was delivered to Sohan's Bhillai address on 3rd November. On 4th November, Sohan posted an acceptance of the offer from Lucknow, addressed to Mohan at his business address, (which was the address from which Mohan usually conducted dealings with Sohan) in Kondapur, Hyderabad. It was delivered there on 5th November but as Mohan was absent from his office on that day, it wasn't read by him until 6th November. On 7th November, Sohan returned home and read the letter of revocation.

Sohan filed a case in the civil court claiming that a contract had been formed between himself and Mohan, in that he had accepted the offer either on 4th November through the application of the postal, or on the 5th November when the letter was delivered to Mohan's place of business. Both events took place before the offer lapsed and before Mohan's letter of revocation was communicated to him. Hence, Mohan selling the car to Kamal was in breach of the contract.

The respective counsels are expected to submit their considerations on the following issues:-

1. *Whether there is a valid contract between Petitioner and Respondent?*
2. *Whether the communication of offer and acceptance was complete?*
3. *Whether the Postal Rule is applicable?*
4. *Whether the revocation was a valid revocation?*
5. *Whether Sohan's claim that Mohan breached a contract by selling the car to Kamal is valid ?*

*The parties may raise any other issue on the given facts to advance arguments upon*