

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 6th 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 colour ball pen for writing the Practical File.
- Cover Page shall be printed in colour on glossy paper.
- Complete **file shall be submitted** without spiral to the subject teacher for inspection and checking till **31st Mar'24**. **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 (2023-24)

Submitted to

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Submitted by

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Father's Name.....

Roll No.....

Enrollment No.....

Session.....

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Date:

Signature



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Moot Proposition-I (Matrimonial)

Anad Sharma v. Sangeeta Sharma

Sangeeta got married to Anand Sharma on 20th January 2011 according to Hindu rites and ceremonies in the presence of relatives in Ghaziabad. Soon after the marriage there were temperamental differences and clashes arose between the spouses. Sangeeta did not stay for more than five months in the matrimonial home. She left the matrimonial home when she was three months pregnant and gave birth to a son in her parental home in Aligarh. Anand visited her in the hospital at the time of the birth of their son but she refused to let him see the child and did not accept the sweets and gifts he brought.

After staying apart for six years, Anand filed a case in the Family Court of Ghaziabad seeking divorce on the ground of desertion and cruelty under Section 13 of the Hindu Marriage Act, 1955 and irretrievable breakdown of marriage. He pleaded that his marriage was solemnized at an early age without his consent at the persuasion of his parents. In reply to the petition, Sangeeta stated that Anand's family members had been abusive to her due to cultural differences between her and them. She was a well-educated girl brought up in a family with modern values; while Anand's family was very conservative. She bore with the abuse for five months and things crossed the limit when his family members beat her up and Anand's brother kicked her in the stomach. It was on that day that she left her matrimonial home despite being three months pregnant. It is Anand who was guilty of desertion and cruelty, and for failure prevent her ill-treatment.

The Family Court of Ghaziabad found in favour of Sangeeta and held that Anand was guilty of desertion and cruelty. It refused to consider the plea of irretrievable breakdown of marriage as no such ground existed in the Hindu Marriage Act. In addition, the Family Court of Ghaziabad said that Anand's plea could not be entertained as he was the wrong doer.

Anand appealed against the Family Court of Ghaziabad decision to the Allahabad High Court. He took the plea that both the parties to the marriage are living separately for the last ten years and there was no use in keeping such marriage intact. He pleaded that divorce be granted on the ground of irretrievable breakdown of marriage. Anand argued that in recent years Courts have exercised their discretion in many cases to dissolve the marriage on the ground of irretrievable breakdown of marriage. On this ground, it was not necessary for the Court to go into the question of which party was at fault, for granting the decree of divorce. The only thing needed to be proved before the Court was that relations between the husband and wife had reached such a breaking point that there was no possibility of reconciliation.

Sangeeta took the plea that under the Hindu Marriage Act,1955 divorce could not be granted on the ground of irretrievable breakdown of marriage. She also pleaded that divorce would cause hardship to her and her son and that it was the principle of natural justice that one should not be allowed to take advantage of one's own wrong.

The Allahabad High Court upheld the decision of the Family Court of Ghaziabad and held that the law relating to grant of divorce on the ground of irretrievable breakdown of marriage was not settled.

Anand has now appealed to the Supreme Court of India with the permission of the Allahabad High Court.

The case is listed for arguments before the Division Bench of the Supreme Court of India.

Moot Proposition-II (Criminal)

Nalini, a 28-year-old Software Engineer was working with one BPO Company Pune. 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 07/10/2019 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 on 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. However, Nalini's parents successfully followed up with the investigation team and upon registration of the crime on 08/10/2019 and with assistance of further investigation all accused person were arrested on 14/10/2019. The Trial took place against all these accused in the Trial Court, Pune. Trio accused in this case were 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 vide order dated

20/07/2021. But T. Ramalinga (Approver) was sentenced to 7 years imprisonment. 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 appeal against conviction is maintainable?
2. 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?
3. 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?

Moot Proposition-III (Civil)

1. Siddhartha, a sixteen-year prodigy, citizen of India was the recipient of the "Sensational Voice of the Nation" award. He was an astounding singer, extremely talented not only in Rap, Rock, Hip-Hop and Jazz but also in Classical and Folk. He wanted to develop his musical career by releasing fusion albums combining different genres and by engaging himself on world music tours. So, he wanted a multi-purpose, ultra-modern architectural marvel where he could have his recording studio, theatre - for live musical performances and a roof top pool for hosting parties. He misrepresented himself as a major and put the task out to tender.

2. M/s. Singhal & Singhal was a leading building constructor and infrastructure provider. They offered to do the entire work for Rs.10,00,000/-. Both the parties knew that this was an unrealistically low-price contract and the amount will be paid in installments in order of the completion of different phases of the assigned work.

3. Siddhartha accepted their offer and entered into a contract for construction of the multi-purpose building and for providing all amenities therein. According to the contract, the ground floor was for parking, the first floor was for the music theatre, the second floor was for the recording studio and the last floor for the roof top pool.

4. M/s. Singhal & Singhal completed the construction of the ground floor and first floor and ran out of money and materials for further construction. They informed Siddhartha that they could not complete the construction unless further capital was made available to them.

5 Siddhartha had arranged a poolside party to which he had invited top music directors, producers and other renowned individuals in the music industry whom he believed would fund for his dream music albums and music tours. So, he was desperate to have the construction of the roof top pool completed as stipulated. He had requested for the continuance of the construction work and further requested to spend the remaining amount of Rs.7,00,000/- on the work out of their own funds and assured them that the money would be paid to them as soon as his album is released.

6. The roof top pool was completed and the party was a success. Siddhartha entered into a contract with Veegha Producers who agreed to fund for the fusion albums and world tours. Siddhartha told Ms. Asha Singhal, the Manager of M/s. Singhal & Singhal “Madam, you have saved my career. Don’t worry about Rs.7,00,000/-.” Having this as a promise, M/s. Singhal & Singhal started a new project. However, Siddhartha’s new fusion music album was a disastrous flop. Social media enthusiasts and meme pages massively trolled him for his raucous and bizarre fusion music. He then found himself unable to pay the amount of Rs.7,00,000/- to M/s. Singhal & Singhal.

7. Ms. Asha Singhal compelled Siddhartha to render a music performance in her daughter’s birthday party. Apart from relatives and friends she had also invited rich people, in order to secure contracts regarding building, construction etc. and in return she agreed to release Siddhartha from paying the debts of Rs.7,00,000/-. Siddhartha agreed on this point and was ready for the music performance in the party. He also wanted to get back his lost reputation and start his career afresh. However, before the party, he suffered from a severe sore throat due to over-repetition of rehearsals. Then he did not perform in Ms. Asha’s party on the advice of his doctor.

8. On Siddhartha’s eighteenth birthday, both the parties, on grounds of humanity, decided to alter the contract. Siddhartha acknowledged the debt taken from M/s. Singhal & Singhal for rendering past services and further both agreed on the same point that Siddhartha would pay the debt through easy monthly installments (EMIs) of Rs. 20,000/- per month till the repayment of the amount of Rs.7,00,000/-.

9. Siddhartha, later on, felt that the work done by M/s. Singhal & Singhal was not performed as he had specified. He further pointed out that the material used for constructing was substandard and not satisfactory. He estimated that this would have cost them Rs.3,00,000/- only. He claimed that he had paid the money already.

10. Siddhartha then decided to dispose off his property, without paying a single dime to M/s. Singhal & Singhal. When all this foul play came to their knowledge, they tried to restrain him by putting enormous pressure in order to recover their money amounting

to a total sum of Rs.7,00,000/- which they spent on the construction and amenities. Even after such prolonged period and altered mode of payment, M/s. Singhal & Singhal could not recover the debt from Siddhartha. As a last resort, they sent him a legal notice, stating that the money shall be repaid within 15 days. However, Siddhartha did not send any correspondence or reply to the said notice.

11. In this context, M/s. Singhal & Singhal finally decided to seek remedy from the Court of Law in this regard. The suit was filed by M/s. Singhal & Singhal before the Civil Court of Ghaziabad, in the State of India on the ground that they had constructed the building as per the terms of the contract and had taken all the diligent steps to recover the loan made available to Siddhartha for Rs.7,00,000/- but now he refused to pay the said amount and alleged fraud against him. They also prayed for injunction restraining Siddhartha from selling the property until the suit was disposed off.

12. The Civil Court of Ghaziabad heard the matter and held that a minor's contract is void ab-inito and thus set Siddhartha free from all his liabilities towards M/s. Singhal & Singhal by upholding the judgment passed in Mohori Bibee v. Dharmodas Ghose. The plea of restitution raised by the Plaintiff was rejected and injunction was not granted.

13. M/s. Singhal & Singhal preferred an appeal before the High Court of Uttar Pradesh. The High Court granted injunction and decided to hear the case on merits. The following are the **issues** framed for consideration:

- i. Whether there is a valid contract between Appellant and Respondent?
- ii. Whether the judgment passed in Mohori Bibee v. Dharmodas Ghose needs reconsideration?
- iii. Whether the Civil Court of Ghaziabad was correct in rejecting the plea of restitution?