

Moot Court, Pre- Trial Preparation and Participation in Trial Proceedings

This subject has been designed so as to have a thorough revision and a better understanding and knowledge of the provisions of Civil Procedure Code, The Code of Criminal Procedure, The Evidence Act, and acquaint with the practice of advocacy in the Court of Law.

The subject is divided into three sections which are as follows:-

Section – A (30 Marks)

Moot Court

This section consists of two parts:

- **Part I : Assignments**

Every student is required to maintain a Sessional diary wherein all the assignments taught and given are to be recorded. (List of assignments is annexed hereto)

- **Part II: Moot Court Practice**

Every student is required to attend and observe the moot court practices held in the college weekly. Apart from this every student has to participate actively in minimum three compulsory test Moots and record the proceedings thereof in their Sessional Diary, held during the academic session. The moot court will be on assigned problem.

Section – B (30 Marks)

Participation in Trial Proceedings/ Court Assignments

- **Part I : Class Assignments** (List of assignments is annexed hereto)

- **Part II: Court Assignment**

Observance of trial proceedings before the court of law. Each student has to attend the court trial in minimum **four cases** i.e. **two cases in civil and two in criminal side**. The student has to maintain record of his visits in his diary of Sessional work and enter the various steps observed by him during his attendance on different days in the court assignment.

Section – C (30 Marks)

Interviewing techniques & Pre-trial preparation

- **Part I : Class Assignments** (List of assignments is annexed hereto)

- **Part II: Panel Advocate's Chamber Assignment**

- a) Each student has to observe minimum **four interview sessions** of clients at Lawyer's office and record the proceedings in their Sessional Diary, and
- b) The student has to further observe and take active participation in the preparation of documents and court papers by the Advocate and the procedure for filing of the suit/petition, and record the same in their Sessional diary.

Section – D : Viva- voce

(10 marks)

Note:-

- Students are required to enclose a certificate from their Panel Advocate certifying their Participation in Trial Proceeding and Pre-Trial Preparation.

Detailed Syllabus

Section – A

Part I: Assignments

Chapter -1: Moot Court

- i. Meaning & Definition.
- ii. Importance of Moot Court.
- iii. Objectives of conducting a Moot Court
- iv. Distinction between a real court and a moot court.
- v. Manner of organizing or conducting the Moot Court:
 - a) Imaginary legal case
 - b) Decided case
 - c) Moot Court on Specific Legal Subject

Chapter – II: Judicial System in India

- i. Supreme Court of India
- ii. High Court (for every State)
- iii. Subordinate Courts
- iv. Tribunals

Chapter – III: Principles of Natural Justice

- i. Rules against Bias
 - a) Meaning
 - b) Forms or types of Bias:
 - Pecuniary Bias
 - Personal Bias
 - Bias as to subject- matter
 - (i) Partiality of connection with the issues
 - (ii) Departmental or official bias
 - (iii) Prior utterances and pre-judgment of Issue
 - (iv) Acting under dictation
- ii. Audi Alter am Partem: Stages involved
 - (a) Notice
 - (b) Hearing
- iii. Reason Decision (Speaking order)
- iv. Exclusion of Principle of Natural Justice:
 - a) Statutory Decision
 - b) Constitutional Provision
 - c) Legislative Act
 - d) Public Interest
 - e) Prompt Action Necessity or Emergency
 - f) Ground of Impracticability

- g) Confidentiality
- h) Academic adjudication
- i) No Infringement of right
- j) Interim Prevention Action
- k) Fraud

Part II: Moot Courts. (Prepare Memorials for both parties on the moot Court problems held in College)

1. Moot Court Problem related to.....
(.....Act.....).
2. Moot Court Problem related to.....
(.....Act.....).
3. Moot Court Problem related to.....
(.....Act.....).

Section –B

Part I: Participation in Trial- Proceedings (Court Assignments)

(a) Assignments: Civil Matters:

Chapter I: Procedure before Hearing

- i. Collection of facts of the case, statutory provisions, relevant sections, relevant case laws relevant evidence.
- ii. Essentials of a suit
- iii. Stages of suit
- iv. Place of suing (Section 15 to Section 25, C.P.C.)
- v. Suits in particular cases (Section 79 to Section 88, C.P.C.)
- vi. Parties to a suit (Order I, C.P.C.)
- vii. Institution of the suit
- viii. Pleadings (Generally) (Order VI, VII, VIII)

Chapter II: Procedure in suits during hearing

- i. Examination of parties by the Court (Order X, C.P.C.)
- ii. Discovery and Inspection (Order XI, C.P.C.)
- iii. Admissions (Order XII, C.P.C.)
- iv. Production, Impounding and return of Documents (Order XIII, C.P.C.)
- v. Determination and settlement of issues or issues agreed upon (Order XIV, C.P.C.)
- vi. Disposal of the suit at the first hearing (Order XV, C.P.C.)
- vii. Summoning and Attendance of Witnesses (Order XVI, C.P.C.)
- viii. Attendance of witnesses confined or detained in prisons (Order XVI - A, C.P.C.)
- ix. Adjournments ((Order XVII, C.P.C.)
- x. Hearing of the suit & Examination of witnesses (Order XVIII, C.P.C.)

Chapter III: Procedure in suits after hearing

- i. Judgement and Decree (Section 33 & Order XX)
- ii. Revision/Review/Reference/Appeal

Assignments: Criminal Matters:

Chapter IV: Basic but Important Concepts:

- i. Complaint & its preparation [Sec. 2(d), Sec. 26 & 27, Cr.P.C.]
- ii. Police Report [Section 2 (r), Sec. 173, Sec. 190 to Sec. 199, Cr.P.C.]
- iii. Bailable, non-bailable, cognizable & non - cognizable offence [Sec. 2 (a), Sec. 2(c),Sec. 436 to Sec. 450,Cr.P.C.]
- iv. Investigation, Inquiry and Trial Proceedings [Section 2 (h), Section 2 (g), Cr.P.C.]
- v. Summon case & Warrant case [Sec 2 (w), Section 2 (x), Chapter XIX & XX, Cr.P.C.]

Chapter V: Criminal Courts and its officers:

- i. Constitution and Powers (Section 6 to Section 35, Cr.P.C.)
- ii. Jurisdiction of Criminal Courts in Inquiries and Trial (Section 77 to Section 105, Cr.P.C.)
- iii. Conditions requisite for initiation of proceedings (Section 190 to Section 199, Cr.P.C.)
- iv. Complaint to Magistrate (Section 200 to Section 203, Cr.P.C.)
- v. Commencement of proceedings before Magistrates (Section 204 to Section 210, Cr.P.C.)
- vi. Trial before Court of Session (Section 225 to Section 237, Cr.P.C.)
- vii. Trial of warrant cases by Magistrates (Section 224 to Section 250, Cr.P.C.)
- viii. Trial of Summon cases by Magistrates (Section 251 to Section 259, Cr.P.C.)
- ix. Summary Trials (Section 260 to Section 265, Cr.P.C.)
- x. Evidence in Inquiries and Trial (Section 272 to Section 299, Cr.P.C.)
- xi. General provisions as to Inquiries and Trial (Section 300 to Section 327, Cr.P.C.)
- xii. Judgement (Section 353 to Section 365, Cr.P.C.)

Chapter VI: Other provisions

- i. Appeals (Section 372 to section 394, Cr.P.C.)
- ii. Reference and Revision (Section 395 to section 405, Cr.P.C.)
- iii. Transfer of Cases (Section 406 to section 411, Cr.P.C.)

(b) Court Assignments:

Civil Court:-

1. Observation in the Court of (Case for.....)
2. Observation in the Court of (Case for.....)

Criminal Court:-

1. Observation in the Court of..... (Case for)
2. Observation in the Court of..... (Case for.....)

Part II: Interview Technique and Pre- Trial Preparation

a) Assignments:

Chapter I: How to be a successful Advocate?

- i. **Essential requirements:** Hard work, Physical fitness, Value of time, Knowledge of English language, developing the habit of reading literature, knowledge of computers attractive with smiling face, mannerism, balance of temper, high aim.
- ii. **Seven lamps of advocacy:** honesty, courage, industry, wit, eloquence, judgment, fellowship.

Chapter II: Dealing with clients

- i. Dedication and loyalty towards profession,
- ii. Preparation of Case,

- iii. Pleading,
- iv. Art of Examination and Cross-examination,
- v. Preparation of arguments.

Chapter III: Contempt of Court proceedings:

- i. Meaning
- ii. Kinds
- iii. Proceedings of Contempt case

b) Interview Session and Pre-Trial Preparations.

1. Interview Session dt.....along with pre-trial preparation.
 2. Interview Session dt.....along with pre-trial preparation.
 3. Interview Session dt.....along with pre-trial preparation.
 4. Interview Session dt.....along with pre-trial preparation.
- Certificate of completion of Participation in Trial- Proceedings. (Court Assignments) and Interviewing Techniques & Pre-Trial Preparations Assignment work from the Panel Advocate along with his Registration Certificate.

Moot Court, Pre- Trial Preparation and Participation in Trial Proceedings

Section – A, Part II: Moot Court Practice:

Important Suggestive Headings for preparation of Memorials:

1. Memo of parties
2. Table of contents
3. List of references and cases
4. Statement of Jurisdiction
5. Statement of Facts
6. Statement of Issues
7. Statement of Arguments
8. Written Pleadings
9. Prayer

Relevant annexure may be attached to the memorial.

Section – B , Part II: Participation in Trial Proceedings

Suggestive headings:

1. Brief Introduction (visit to the Court)
2. Brief summary of the case (problem)
3. Question of law involved
4. Important provision of law (Article / Section)
5. Stage on which the case is fixed for the day: Evidence/ Examination of witnesses/Arguments etc.
6. General information of the suit pending and fixed for hearing:
 - o Name of the court
 - o Name of the presiding officer
 - o Case No.
 - o Name of the Parties
 - o Names of the Counsels
7. Proceedings at the Court room.
8. Cases cited (both side)
9. Principal rule of law dealt with in the case (Law point)
10. Summary of Judgment delivered by the judge of the Court
11. Participation / Observations in the case.
12. Analytical / Critical approach of the judgment arrived

Section –C, Part II: Interview Technique and Pre- Trial Preparation.

This part is to be completed by the student by visiting the **lawyer's chamber**, under the internship of practicing advocates of more than 10 years standing practice.

Minimum Four interview sessions along with their Pre – Trial preparations.

Suggestive Headings:

1. Name of the panel advocate with his office address
2. Name of the Client visiting the office of panel advocate, with his address.

3. Facts of the problem. (Brief Summary of the case)
4. Imp. Provision of Law (Section/Article) applicable upon the problem.
5. Question of law involved (Issues)
6. Collection of the relevant documents and Inspection.
7. Research for precedents (Cases to be cited)
8. Cause of action, Necessary parties to the case, Jurisdiction, Court fee, Relief to be sought, (Claim / Counter claim)
9. Drafting of the Complaint/ Written Statement / complaint.(Copy may be annexed)
10. Filing of the Complaint/ Written Statement / complaint with the Registrar (Munsarim) of the appropriate court for trial.
11. Over all Experience and Observation in preparation of the case

Note: The student has to annex a Certificate from the concerned Advocate to the effect that he has completed Part II & Part III of this Sessional diary under his supervision.

General Instructions

- Please go through the syllabus carefully.
- The sessional diary must strictly be prepared as instructed.
- Failure in doing so will make you liable from being prevented from appearing in the viva voce.
- The marks on sessional diary shall be strictly evaluated as in accordance with the syllabus as provided by the University. (Copy attached)
- If any student fails in this practical paper, and pass in all theory papers, he shall be taken to be failed, and shall have to repeat the complete semester again.
- Prepare your sessional diary at the earliest and get it checked regularly.
- Use only Blue/Black Ball Point pen.
- Use only blank FS (Legal) size Sessional diary (provided from the college).
- Assignments may be written on both sides of the page.
- Sessional Diary has to be handwritten.
- Attend the moot court sessions every Saturday compulsorily.
- No excuses shall be entertained.
- Minimum three Moot Court to be attended and submitted by each student

For any further inquiry relating to the Sessional Diary, please visit the college or contact : 9205985920

No calls regarding the subject shall be entertained by any faculty member over the mobile phone, at any time. Hence be regular to the college.

MOOT COURT PROBLEM

Facts of the case:

1. Amostra is a landlocked country located within South Europe and Central Asia. It has a population of approximately 32 million. The country has a history of civil war and has been the world's greatest illicit producer of methamphetamine (popularly known as "Meth") (a strong central nervous system (CNS) stimulant that is mainly used as a recreational drug), ahead of Myanmar, the "Golden Triangle", and Latin America since 1992.
2. Given its geographic location, Amostra has long been used as a staging and transshipment point for narcotics and contraband between Asia and European markets. Meth production in Amostra has been on the rise since 2001. More land is now used for Meth production in Amostra than is used for coca cultivation in Latin America. In 2007, 92% of the *non-pharmaceutical-grade* Meth on the world market originated in Amostra. This amounts to an export value of about \$4 billion.
3. Amostra has experienced increased in drug related violence in the past few decades, while many factors have contributed to the escalating violence, security analysts in Amostra trace the origins of the rising scourge to the unraveling of a long time implicit arrangement between narcotics traffickers and local governments, which lost its grip on political power starting in the late 1980s.
4. Amostra is the theater of the Global War on Drugs, an ongoing low-intensity asymmetric war between the Government and various drug trafficking syndicates. Since 2006, when intervention with the Amostran military began, the government's principal goal has been to put down the drug-related violence.
5. For over a year, the Amostra Drug Enforcement Administration ("ADEA") tried to track down the elusive drug lord Batista to no avail. Batista is the street name of the kingpin of the Amostra methamphetamine (a strong central nervous system (CNS) stimulant that is mainly used as a recreational drug) trade. His unique blue-colored methamphetamine (popularly known as "Meth") was more potent and addictive than any the ADEA had previously tested, and the demand was insatiable.
6. The ADEA was one step behind Batista for months. In January 2012, they discovered an old RV abandoned in the Amostra desert that had been his old lab. In October 2012, they found another one of his abandoned labs burned beyond recognition underneath a laundromat. In February 2013, the ADEA discovered that Batista had been creating mobile labs in empty houses falsely tented for fumigation. However, they never caught Batista, nor did they know his true identity.
7. The ADEA suspected Antonio Bragga ("Bragga") of being the elusive Batista. He had previously been a chemistry teacher at the local high school, where several pieces of lab equipment and chemicals commonly used in creating methamphetamine had gone missing. They also suspected that he worked with an accomplice, Lara Lightman ("Lightman"), who had taken Bragga's chemistry class and who was already known as a small-time methamphetamine dealer.

8. In April 2013, based on their suspicion, the ADEA applied for an administrative order under Section 5(2) of the Amostra Telegraph Act, 1885 (“ATA”) read with Rule 419(A) of the Amostra Telegraph Rules, 1951, to compel Bragga’s cellular phone service provider, Verizon, to provide the historical records of Bragga’s cell site location information (“CSLI”) from the beginning of January 2012 to the end of March 2013.
9. Whenever a transmission is made from or received by a cell phone, the phone connects to the nearest cell tower and thereby creates CSLI. This data is sent to the cell service provider, which archives the CSLI for business purposes such as tracking “roaming” charges. These historical CSLI records, then, can approximate the whereabouts of a cell phone at particular points in time in the past. By obtaining and combining this CSLI from cell service providers, law enforcement can create an approximate map of the previous movements of a suspect’s cell phone.
10. By using the CSLI to identify Bragga’s past locations, the ADEA was able to track Bragga’s movements between his home and the abandoned methamphetamine labs. The historical CSLI also showed that Bragga had been frequenting another location in March 2013. The ADEA then executed a search warrant and raided that location in late May 2013, and discovered that it was a currently-operating methamphetamine laboratory. While searching the lab, the ADEA found fingerprints and DNA evidence of both Bragga and Lightman. The ADEA also seized chemicals used in the methamphetamine manufacturing process and a laptop computer. However, the ADEA was unable to access the files on the computer because the computer was password protected and the contents of the hard drive were encrypted.
11. The ADEA officers later arrested Bragga and Lightman, neither of whom were at the scene when the laboratory was raided. In return for less jail time, Lightman agreed to a plea agreement to assist in the prosecution of Bragga. Lightman told the prosecutor that Bragga masterminded the methamphetamine operation and that Lightman acted as an accomplice by manufacturing methamphetamine, covering their tracks, and ensuring a constant supply of necessary materials. Lightman also told the ADEA that he saw Bragga use the seized laptop on several occasions, and that he believed that the laptop contained a list of contacts which included the chemical suppliers and drug dealers that Bragga worked with. Lightman told the ADEA that Bragga would look at the laptop and record their inventory and production, but Lightman never actually saw more than a quick glimpse of the screen.
12. The prosecutor was unable to access the contents of the encrypted hard drive, so they served a subpoena under section 69 of Amostra’s Information Technology Act 2000 on Bragga which required him to produce an unencrypted version of all files and data on the hard drive of the seized laptop. Bragga refused, citing Article 20 (3) of Constitution of the Amostra against self-incrimination. The district court judge ordered Bragga to produce an unencrypted copy of the encrypted hard drive. Bragga produced an unencrypted version of the hard drive, which contained incriminating documents related to the operation of the methamphetamine labs, including inventory documents, a list of contacts, and even Bragga’s personal notes and thoughts about the operations
13. Bragga attempted to suppress the CSLI evidence as having been gathered in violation of Article 21 of the Constitution of Amostra. Bragga also sought to have the decrypted documents suppressed on the grounds that their use would violate his right under Article 20 (3) of Constitution of the Amostra against self-incrimination. The District Court denied

Bragga's motion to suppress the historical CSLI at trial, finding that no violation occurred when the government obtained this information via an order and without a warrant. The District Court also denied Bragga's motion to suppress the decrypted versions of incriminating documents on the grounds that the existence of the files and Bragga's ownership and control of the laptop were "foregone conclusions," thus defeating Bragga's claim.

14. The trial judge allowed both the CSLI and the decrypted files to be admitted into evidence under section 65B of the Amostra Evidence Act 1872. Bragga was convicted under the Amostra's Narcotic Drugs and Psychotropic Substances Act 1985 and fight its violation through the Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act 1988. Bragga appeals his conviction, challenging the admissibility of the historical CSLI and the copies of decrypted files used against him at trial.

15. The Decision has been challenged by the |Bragga before the Amostra High Court. By an order of the Court, the Court has issued notice and certified Bragga appeal on the following discrete issues.

The issues in appeal before the high court are as follows:-

- a) Whether the Due Process was followed for obtaining the information from the Cell Phone Service providers?
- b) Whether the law requires investigative agency to acquire warrant before obtaining information from Cell Phone Service Providers?
- c) Whether Bragga's rights provided under Article 21 & 20(3) of the Constitution are violated?
- d) Whether the decrypted versions of incriminating documents from the laptop under ownership and control of Bragga constitute valid and admissible evidence?

Note: All laws in force in Amostra are in pari materia with those of India. Judgements delivered by the superior courts in India have a persuasive force in the courts in 'Amostra'.

Draft memorials on behalf of both the sides

Disclaimer: "All aspects of the moot problem do not bear any validity in facts. Any representations of the Governments and other institutions or persons are work of fiction only employed for academic purposes."

MOOT COURT PROBLEM

Facts:

‘Ranipur’ is one of the states in the Union of ‘Rajnagari’.

1. Ms. Manisha Mishra, a resident of Sripur, the capital of Ranipur, was selected and appointed as an air-hostess with Flysafe Airlines Ltd., [a government of Rajnagari undertaking] on 01/09/1996.
2. In accordance with the policy of the Airlines she was appointed on contract for a period of three years. The contract was renewed from time to time for three years at a time. It was the usual practice to give the airhostess or employee concerned, a brief three day orientation or training and to renew the contract. The last of such renewed contracts expired on 31/12/2014.
3. The same was not renewed further under the following circumstances:
 - a) Ms. Manisha had been diagnosed with Tuberculosis of bone in January 2013.
 - b) In her certificate dated 10/11/2013 issued by Dr. A B Das, a doctor on the Airlines’ panel stated that now (i.e 10/11/2013) Ms. Manisha is fit to resume her duties w.e.f. 11/11/2013.
 - c) However, when Ms. Manisha reported for duty the in-house doctor on the panel of the Airlines on 11/11/2013, categorized her as not fit on account of being patient of Tuberculosis.
 - d) By the certificate of the in-house doctor dated 11/11/2013 it was found that Ms. Manisha can apply for fitness certificate only on completion of therapy.
 - e) Ms. Manisha thereafter was advised further rest.
 - f) As per the records of the Airlines, the Medical Review Board certified that Ms. Manisha became fit for duty with effect from 7/11/2014.

She claims that the contract ought to have been renewed from 01/01/2015. However, the Airlines did not renew the contract.

4. Ms. Manisha challenged the non-renewal of her contract before the High Court of Ranipur by way of a writ petition which came up for final hearing on 22/09/2017.
5. Amongst others, Ms. Manisha has raised following grounds in her Writ Petition:
 - a) The decision not to renew the contract is unfair and unreasonable.
 - b) It is arbitrary having regard to Art 14 of the Constitution.
 - c) Various e-mail communications by which the Airlines was informed of the medical condition of Ms. Manisha are on record and are not disputed.

- d) The employer was thus informed about the inability of Ms. Manisha to join her duty.
 - e) The policy of engaging airhostesses on contractual basis, exposes female employees to the likelihood of arbitrary termination.
6. Ms. Manisha relied upon the judgment of the Supreme Court of India in the case of State Of Haryana and Others –Vs- Piara Singh and others, (1992) 4 SCC 118.
7. Ms. Manisha also wants to refer to and invoke the principles underlying different provisions [S. 2(h), 2(s), 3(3), 2(k) and 20(4)] of Rights of Persons with Disabilities Act, 2016.
8. In reply, the Airlines submitted that---
- a) As per the terms of the agreement, the fixed term contract automatically expired on 31/12/2014 unless the same was renewed by mutual written consent of both the parties.
 - b) There is no obligation on the part of the employer to renew the contract.
 - c) As per internal instructions issued vide circular dt. 01/01/2000 fixed term employment agreements of crew who indulged in unauthorized absence should not be renewed. The circular is not disputed.
 - d) From Jan 2013, Ms. Manisha stopped reporting for her duty without applying for medical leave. For the same reason her salary was not paid for that period.
- As per the contract, grant of leave is a matter of discretion of the employer.
9. Following terms of employment incorporated in the contract support the Airlines' case.

LEAVE

No leave can be claimed as a right and Grant of any leave shall be at the sole discretion of the management. Any absence without authorised or sanctioned leave shall be leave without pay and the employee will be liable for disciplinary action. All leave will be granted at the discretion of the Company and can only be availed, after the Competent Authority has approved/sanctioned the leave request.

CONDITIONS OF LEAVE

- (i) Prior written permission of the Competent Authority has to be obtained to leave station when availing leave. Permissible to leave station when on sick leave will only be granted if it is necessary for medical reasons.
- (ii) Leave for more than 2 days, on sickness grounds shall be supported by a Medical Certificate from a specialist Doctor/Registered Medical Practitioner under Allopathic stream. Moreover, the leave on medical

grounds for more than 5 consecutive days shall also require medical fitness certificate from the doctor/Registered Medical Practitioner from Allopathic stream.

- (iii) Any casual cum sick leave standing to the credit of the Employee as on 31st March shall lapse automatically and no accumulation will be permitted.
- (iv) Not more than 3 days of casual leave can be availed at a time with prior permission.
- (v) All types of leave will be entered in leave card and approved in advance except 4 sick leave (to be intimated at the earliest) which can be updated immediately on joining".

Note: - 'Rajnagari' is a country having its Constitution and laws and regulations identical with the Constitution of India and all the laws etc. in force in India. Judgements delivered by the superior courts in India have a persuasive force in the courts in 'Ranipur'.

Draft memorials on behalf of both the sides.

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