



Marathwada Legal & General Education Society's
MANIKCHAND PAHADE LAW COLLEGE, AURANGABAD.

NAAC Re-Accredited with 'A' Grade (2013)

16th Rank of **OUTLOOK** India's Best Professional Colleges (Law) 2016

Dr. Ch. N.V. Manikyala Rao,

B.Com, M.L. Ph.D.

Principal

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Ref. No. MPLCA/2016-'17/

Date: 13/12/2016

To,

The Registrar/Director/HOD/Principal,

Respected Sir/Madam,

It gives us immense pleasure to invite your institution to participate in the **XVII National Moot Court Competition -2017** to be held on **11th & 12th Feb. 2017** at **M. P. Law College, Aurangabad, Maharashtra.**


We kindly request you to confirm the participation of your institution by sending registration form duly filled at the earliest before the scheduled date.

We kindly request you to advise your College team to read rules of the competition carefully.

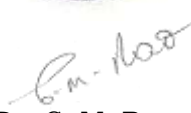
With warm regards,

Coordinators:

1. Prof. Dinesh Kolte
2. Prof. Abhay Jadhav
3. Dr. Amol Chavhan


Dr. B. V. Paranjpe
IQAC Coordinator




Dr. C. M. Rao
Principal

**M.P. Law College,
AURANGABAD**

- Encl.:-**
1. Rules of the Moot Court Competition
 2. Problem No. 1 & 2 for the preliminary and final round respectively
 3. Registration Form & Travel Plan

Glimpses of XVI National Moot Court Competition - 2016





MARATHWADA LEGAL & GENERAL EDUCATION SOCIETY'S
Manikchand Pahade Law College, Aurangabad.

XVII National Moot Court Competition-2017

11th & 12th Feb. 2017

☞ RULES FOR THE COMPETITION:

1. Each team shall comprise of 3 (Three) participants **only** (Mooter 1, Mooter 2 and Researcher) and it must not be less or more than 03 participants.
2. Competition is restricted to bonafide regular students of Law School / College/ University. All participants must be students of either from LL.B. 3 years or 5 years degree course & one team from one college.
3. The participants will have to bear the travelling and all other incidental expenses.
4. Free lodging will be provided to the team of three participants only on the days of the competition i.e. **10th Feb. from 9.00 pm to 12th Feb. 2017 up to 9.00 pm** and boarding will be provided on the days of Competition i.e. 11th & 12th Feb. 2017. The Participants should follow disciplinary rules at the accommodation where they will be boarded.
5. Each Team shall pay an entry fee of **Rs. 1000.00** (One Thousand Rupees only) by way of a Demand Draft drawn in favour of **The Principal, M.P. Law College, payable at Aurangabad, Maharashtra State.**
6. The dress code shall be as prescribed for Advocates.
7. The home team will be competing in this competition.

☞ PHASES OF THE COMPETITION

8. The competition will have **TWO** Rounds (i.e. Preliminary and Final), the preliminary round will be held on **11th Feb. 2017 from 9.00am** onwards and Final round will be held on **12th Feb. 2017 from 9.00 am** onwards.
9. The best **FIVE** teams from the overall preliminary round will be qualified for the **FINAL** round.
10. In both the rounds, one participant from each team shall argue on behalf of the petitioner, and the other on behalf of the respondent.
11. **There will be direct performance of petitioner of a team against respondent of another team according to lots drawn in different Court Halls. There will be exchange of memorials of each round on previous day of the respective rounds.**
12. Problem No. 1 and 2 are for the preliminary and final rounds respectively.
13. In case of a tie, both the teams will be considered qualified.

☞ MEMORIALS

14. All teams shall submit their written memorials / submission for both sides along with synopsis in English.
15. All teams shall submit typed / computerized memorials fulfilling the following specifications.
16. The memorials shall be typed on A - 4 size paper with prescribed margin on both sides in the "Times New Roman" font size 12 with double line spacing.
17. Memorials not following the above specifications will be penalized.
18. Each team shall send three copies of memorials for each side for both rounds. **Neither the name of the student nor the name of the Institution shall reflect on the memorials.** However, the said details shall be mentioned in the covering letter.

19. The cover page shall be coloured differently i.e. *Gray for Petitioner* and *Blue for the Respondent*. **Use of chart paper instead of plastic sheets or transparencies, would be highly appreciated. For binding use staples or cotton thread stitches instead of spiral binding.** Teams which have not sent memorials for both the rounds within specified time shall be disqualified.
20. Participants shall send the Registration form, Travel plans, Demand Draft of Rs. 1000.00 and Memorials so as to reach the organizing college on the following address as per the scheduled prescribed at the end.
**The Principal, M.P. Law College,
 Samarth Nagar, Aurangabad - 431 001 (M.S.)**
21. Participants shall send the soft copies Registration form, Travel plans and Memorials on the following e-mail id :
mplcmootproblem@gmail.com
22. Participants should carry their personal copies of memorials for their own use. The Copies of the memorials submitted to the organizing college, will not be returned.
23. Each participant shall have time of 15 minutes to present their oral submission and 05 minutes for **rebuttal. Rebuttal is mandatory for each Mooter.** No Mooter will be allowed to address the court for more than the prescribed time without permission of the Court. The oral submission and Rebuttal shall be in English.
24. Five minutes before the completion of the allotted time, for each participant, a warning bell will be given and at the completion of the allotted time there will be a final bell.
25. All teams are expected to carry with them the case laws and authorities which they intend to refer.

ASSESSMENT CRITERIA

26. The following will be the assessment criteria

Knowledge and application of law	25
Presentation and perusal of facts	10
Answer to court queries	15
Advocacy / Court Etiquettes	25
Written Memorials / Drafting	15
Rebuttal	10
TOTAL MARKS:	100

27. All the participants are expected to maintain the decorum of the court during the competition and are expected to conduct themselves in a manner befitting the legal profession.
28. The organizers reserve the right to take appropriate action for any unethical, unprofessional and immoral conduct.
29. **The organizer's decision as regards the interpretation of rules or any other matter relating to the competition shall be final.**
30. If there is any situation, which is not contemplated in the rules, the organizers decision shall be final.
31. For any query or clarification regarding moot problems please contact
 ➤ **Prof. Shrikishan Morey - 9325228041**


PRIZES

32. There shall be cash prizes as follows along with trophies

I) **Winner Team cash prize of Rs. 7000/- from college and Late Adv. Shri. Sudhakarrrao Deshmukh Trophy.**

II) **Runner Up Team cash prize of Rs. 5000/- from college and Late Adv. Shri. Sudhakarrrao Deshmukh Trophy.**

III) **Individual Prizes & Trophies.**

- ❖ **Late Adv. Shri L. N. Sirsamkar- Best Petitioner from final round cash prize of Rs. 2000/- and Trophy.**
- ❖ **Best Respondent from final round cash prize of Rs. 2000/- and Trophy from college.**
- ❖ **Late Adv. Shri. Sudhakarrrao Deshmukh Trophy for Best Mooter in both rounds.**
- ❖ **Ghate Foundation, Aurangabad – Best Mooter Trophy for Preliminary Round.**
- ❖ **Diamond Jubilee Best Memorial Prize for Final Round**

© **DATES TO REMEMBER – SCHEDULE OF COMPETITION**

33. Submission of registration form along with travel plans and demand draft.	22 nd Jan. 2017
34. Submission of memorials	30 th Jan. 2017
35. Date of Preliminary Round.	11 th Feb. 2017
36. Date of Final Round.	12 th Feb. 2017

Coordinators:

Prof. Dinesh B. Kolte	09423160612
Prof. Abhay Jadhav	09404202278
Dr. Amol D. Chavhan	09420706040

Dr. B. V. Paranjpe
IQAC Coordinator & Vice Principal
M P Law College, Aurangabad

Dr. C. M. Rao
Principal
M. P. Law College
Aurangabad.



MARATHWADA LEGAL & GENERAL EDUCATION SOCIETY'S
Manikchand Pahade Law College, Aurangabad.

XVII National Moot Court Competition-2017

11th Feb. 2017

Moot Problem for Preliminary Round

1.

Date- 25-12-2014

Time- 04.30am

Name- Lakshmi Nitin Bhalerao, Age-29, Occ. - Housewife, Add. - Ganesh Nagar, Aurangabad.

"On 24-12-2014, I was alone at home; my daughters were at my parents' house on that day. Same day at about 10.00 pm, my husband Nitin Bhalerao came home drunk. When I asked him as to why he is drunk; he started beating me by wooden stick that was lying on the floor & also pressed my throat very tightly.

Thereafter he took one kerosene can kept near the stove in the room in his hands, poured kerosene on my person and set myself on fire by match stick. I started shouting for help, at that time my husband tried to shut my mouth by keeping his hands on it due to which he sustained burns, so he went out of the house hurriedly. After few minutes he came back along with my parents. My parents and husband brought me to the hospital. My husband tried to kill me by burning."

Statement is correct as per my say.

(At the end of the page, there is a impression of right hand thumb. Statement was written on a single blank paper. This 1stwritten Dying Declaration of Lakshmi was recorded by Head Constable Santosh Mane)

2. Above statement of Lakshmi was treated as an FIR by the police and accordingly Crime No. I-484/2014 was registered against her husband Nitin Bhalerao for the offences punishable under sections 307, 325 of Indian Penal Code on 25-12-2014 and the investigation of this Crime was assigned to P.S.I. Shri. P. D. Ranade
3. A lady namely Lakshmi, age-29, got married to one Nitin Bhalerao in the year 2008. The couple had two minor daughters from the wedlock. Lakshmi was housewife whereas her husband Nitin was a primary teacher in non-granted

private school in a village near Aurangabad. Lakshmi was Anemic. Nitin was socially active person but at the same time he was little short tempered. They were living in a rented one room (12 x 12Sq.Ft.) house at Ganesh Nagar, Aurangabad. Couple was living a happy life. Parents of Lakshmi were also residing in the same locality at the distance of 200 meters from their house.

4. On 24-12-2014, Lakshmi was brought burnt and admitted to the City Civil Hospital by her husband and parents at about 11.00 pm. As it was the case of burning, her admission to the hospital was reported in writing to the CIDCO Police Station, Aurangabad at about 4.00 am on 25-12-2014. In pursuance of the said report, inquiry thereof was assigned to the Head Constable Shri. Santosh Mane. HC Santosh Mane went to the hospital &, after getting it confirmed from the Medical Officer in writing that Lakshmi is in a condition to give statement, recorded her statement in writing. He started the recording of statement at about 4.30 am. He took 20 minutes to record the above statement.
5. On 25-12-2014, at about 7.00 am, investigation officer P.S.I. Ranade recorded the statement of father of Lakshmi u/s 161 of Cr. P. C. In the statement he stated as follows:-

“On 24-12-2014, I, along with my wife and granddaughters, was at home. At about 10.30 pm, my son in law Nitin Bhalerao came to my house and informed me that Lakshmi had got burnt as she was caught by fire of stove while she was cooking. I along with my wife and son in law immediately rushed to their house. We took Lakshmi to the City Civil Hospital by one loading rickshaw that was arranged by Nitin.

We reached the hospital at about 11.30 pm. Though Lakshmi was fully burnt, she was conscious. She was not able to talk in a coherent way. Doctor Shri. S. S. Kulkarni was treating Lakshmi. He told me that Lakshmi is 90% burnt and chances of her life are very less.

My wife was sitting near Lakshmi. I was sitting outside the ward wherein Lakshmi was admitted. At about 3.00 am, when my wife came out, I went to see Lakshmi and asked her as to how this incident happened with her; at that time she told me that,

(“Yesterdays night I was alone at home; at about 10.00 pm, Nitin came home drunk. When I asked him as to why he is drunk; he started beating me by wooden stick that was lying on the floor & also pressed my throat very tightly. Thereafter he took one kerosene can kept near the stove in the room in his hands, poured kerosene on my person and set myself on fire by match stick. I started shouting for help, at that time Nitin tried to shut my mouth by

keeping his hands on it due to which he sustained burns, then, he went out of the house hurriedly. After sometime you along with mother and Nitin came there.”)

After telling me these facts she slept and woke up at about 7.00 am. These facts were not told to me by my son in law Nitin Bhalerao. He tried to kill my daughter by burning.

(Portion in bracket is the Oral Dying Declaration of Lakshmi made before her father.)

6. P.S.I. Ranade arrested the accused Nitin Bhalerao on 25-12-2014 at about 8.00 am from the hospital itself as he was also admitted therein. On the same day P.S.I. Ranade had sent a letter to the Special Judicial Magistrate with a request to record the statement of Lakshmi.
7. On 26-12-2014, a Special Judicial Magistrate Namely S A Gaikwad went to the City Civil Hospital &, after getting it confirmed from the Medical Officer in writing about the fitness of Lakshmi to give statement, recorded her statement.

(Statement given below is the 2nd written Dying Declaration of Lakshmi recorded by Special Judicial Magistrate)

In the statement, Lakshmi stated as follows: -

Date- 26-12-2014

Time- 10.00 am

Q. What is your name?

Ans. Lakshmi Nitin Bhalerao

Q. Age?

Ans. 29

Q. Occupation?

Ans. Housewife

Q. Address?

Ans. Ganesh Nagar, Aurangabad.

Q. Can u tell me that how you are burnt?

Ans. “On 24-12-2014, I was alone at home; my daughters were at my parents’ house on that day. Same day at about 10.00 pm, my husband Nitin Bhalerao came home drunk. When I asked him as to why he is drunk; he started

beating me by wooden stick that was lying on the floor & also pressed my throat very tightly. Thereafter he took one kerosene can kept near the stove in the room in his hands, poured kerosene on my person and set myself on fire by match stick. I started shouting for help, at that time he tried to shut my mouth by keeping his hands on it due to which he sustained burns, then, he went out of the house hurriedly. After few minutes he came back along with my parents. My parents and husband brought me to the hospital. My husband tried to kill me by burning.”

Statement is read over to me. It is correct as per my say. Time- 10.20 am

Thumb impression of right legs' thumb of Lakshmi Signature of SJM

8. On 26-12-2014, Lakshmi succumbed to the injuries at about 4.00 pm in the City Civil Hospital. P.S.I. Ranade prepared the Inquest panchnama of dead body. He then referred the dead body to Medical officer for conducting postmortem examination. According to Dr. Munde, Lakshmi died due to burns.
9. P.S.I. Ranade seized the cloths of Lakshmi and Nitin. He also seized the kerosene can and match box. The wooden stick by which Lakshmi was allegedly beaten was not found on the spot of incident. Statement of mother of Lakshmi was not recorded during investigation.
10. After the completion of investigation, P.S.I. Ranade had sufficient material with him to book the accused Nitin for the offence of committing murder of Lakshmi. Accordingly, he filed the charge sheet against the accused Nitin Bhalerao for the offence punishable under section 302, 325 of Indian Penal Code in the Court of Ld. JMFC at Aurangabad on 01-02-2015.
11. The offence under Section 302 of the Indian Penal Code being exclusively triable by the Court of Sessions; the learned Magistrate committed the case to the Sessions Court.
12. The case of prosecution was entirely dependent on oral dying declaration of the deceased made before her father and the dying declarations made before Head constable Santosh Mane & Special Judicial Magistrate S. A. Gaikwad.

Prosecution examined in all six witnesses in support of their case.

i) Father of deceased Shankar Shinde ii) Head Constable Santosh Mane iii) Special Judicial Magistrate S. A. Gaikwad iv) Dr. S. S. Kulkarni v) Dr. Munde vi) P.S.I. Ranade

13. Father of deceased deposed in the Court as per his statement before police. There were few inconsistencies in his evidence in respect of timing. In cross

examination, witness admitted that, Nitin is a good person and he had maintained his daughter very well since the time of marriage. Witness further admitted in cross examination that he has not seen Nitin anytime while consuming alcohol in last five years. Witness denied the suggestion that, when accused came home, Lakshmi was cooking and suddenly an open kerosene can fallen down that was kept near stove, kerosene therein came into contact with the flame of the stove and the flame became bigger which set the Lakshmi on fire and due to which she died. Witness stated in cross examination that, Dr. Kulkarni examined the deceased at about 3.30 am on 25-12-2014 lastly and then he came in the evening only on that day and in the morning at 10.00 am on 26-12-2014.

14. Head Constable Santosh Mane did support the case of prosecution; but there were several contradictions & omissions in his entire evidence before the Court. He admitted in his cross examination that, he could ask some more preliminary questions to the deceased. Witness denied the suggestion that, when he reached the hospital, Lakshmi was sleeping. Witness denied the suggestion that, dying declaration recorded by him was recorded as per the say of father of deceased. Witness admitted in cross examination that, Lakshmi was fully burnt; her hands were also burnt from both sides. Witness denied the suggestion that, hands of accused were burnt when he tried to extinguish the fire in order to save the deceased. Witness denied the suggestion that, he did not read over the statement to deceased. Witness stated in cross examination that, for want of space on the paper, he did not write that vital clause in the end of statement. Witness had to admit the factual position in his cross examination that the other side of the single paper on which the statement was recorded was blank.
15. Special Judicial Magistrate S. A. Gaikwad deposed in the Court wisely. He stated in his cross examination that health of deceased was consistently falling down on 26-12-2014 and she was losing her consciousness sometimes. Witness stated in his cross examination that, deceased was replying to his questions slowly & in short sentences. Witness stated in his cross examination that, the deceased answered all the questions put to her very firmly and on her own. Witness stated in his cross examination that, there was no one near the deceased at the time of recording her statement. Witness stated in his cross examination that, as the hands of deceased were burnt, he took the thumb impression of right legs' thumb of the deceased. Witness denied the suggestion that, as the Dr. Kulkarni was not available in the ward, he could not confirm in writing about the fitness of the deceased to give statement.
16. Dr. S. S. Kulkarni was the expert witness before the Court. He stated in his cross examination that, the deceased was 90% burnt and her hands were also

burnt. He stated in his cross examination that, deceased was conscious enough to talk till 26-12-2014. He stated in his cross examination that, deceased was suffering from anemia as such level of hemoglobin in her body was very low due to which she could not sustain the pain. Witness stated in his cross examination that, Head Constable Santosh Mane & SJM S. A. Gaikwad requested him to opine in writing about the fitness of deceased and accordingly he opined in writing. When asked to show the endorsement written by him, witness failed to show the record in his cross examination. But witness showed the endorsement that he made on the paper on which the SJM recorded the statement of deceased. He stated in his cross examination that, he did not found alcohol in stomach of accused at the time of treatment. He stated in his cross examination that, accused was burnt upto 35%.

17. Dr. Munde was an important witness for prosecution in order to prove the cause of death of the deceased. He deposed in his evidence that, death of the deceased was not of suicidal nature. He deposed in his evidence that, deceased died due to burns. He stated in his cross examination that, he cannot say as to whether deceased is burnt by a person or she is burnt accidentally. He stated in his cross examination that, he did not found any external injuries of assault on the dead body of deceased.
18. P.S.I. Ranade deposed properly before the Court. He deposed in his evidence that, he recorded the statement of father of deceased. He requested the SJM to record the statement of deceased and accordingly SJM recorded the statement. He deposed in his evidence that, the circumstantial evidence collected by him and the statement of deceased made before Head Constable Santosh Mane were pointing towards the accused; therefore he arrested the accused Nitin. He further deposed in his evidence that, after the death of the deceased, he collected the necessary evidence and then filed the charge sheet against the accused for committing murder of the deceased Lakshmi. He denied the suggestion that, accused has been falsely implicated in the case by father of the deceased. He denied the suggestion that, hands of accused were burnt when he tried to extinguish the fire in order to save the deceased. Witness denied the suggestion that, when accused came home, Lakshmi was cooking and suddenly an open kerosene can fallen down that was kept near stove, kerosene therein came into contact with the flame of the stove and the flame became bigger which set the Lakshmi on fire and due to which she died.
19. That the accused, from the very beginning of the case had put up the defense that death of the deceased Lakshmi was an accident. It was argued by the accused that, on 24-12-2014, he came home at about 10.15 pm. When he entered the house; he saw deceased was cooking food on stove. At that time,

the deceased shouted at him and asked as to why he came late, he told deceased that he had to be in school for extra time to complete the work and due to which he missed his regular bus. Accused further argued that, then he went to the bathroom which is at the backside of the house, there he heard, deceased was shouting; accused immediately came in the room and saw that deceased Lakshmi was caught by fire & was burning near the stove and kerosene can was lying on the floor in an open condition. Accused tried to extinguish the fire by his hands, at that time, his hands and legs were also burnt. Thereafter, he with his in laws brought the deceased to the hospital.

Accused further argued that, the prosecution has failed to prove their case. Accused submitted that he was a savior but police made him culprit. Accused argued that, prosecution has brought nothing on record to show that he was under the influence of liquor at the time of incident because of which the whole alleged incident took place as per the story of prosecution. Moreover there is no eye witness to the case. It is on record that he was also burnt in the incident. It shows that he tried to save the deceased.

It is further argued by the accused that, dying declarations of deceased were not genuine, trustworthy and reliable. The dying declarations were not recorded in the proper manner. It has come on record that the deceased was 90% burnt, thus it is impossible for anyone to speak in such situation. The deceased was admitted in hospital at about 11.30 pm, father of the deceased was there with the deceased since beginning then why he waited till 3.00 am to ask the deceased as to what happened with her and how she got burnt and even the deceased did not tell anything about the incident to her father till he asked. This conduct of the deceased and her father was not normal and thus it was very much doubtful. Moreover accused had no reason to kill his wife as they were living happy married life. Prosecution has failed to bring on record any motive because of which the accused would commit the murder of his wife. Dying declarations are nothing but the result of afterthought and ill imagination of the father of deceased to which police unfortunately encouraged.

Finally it was submitted by the accused that, the case is wholly based on the dying declarations of deceased which are not recorded properly by police or SJM. There was no other independent witness or evidence to corroborate the dying declarations of deceased. In such case, where dying declarations are doubtful and untrustworthy, it cannot be the base for conviction of accused. In the circumstances the accused prayed for his acquittal from the charges levelled against him.

20. The Learned Additional Sessions Judge held that, the prosecution has partly proved their case. It can be said on the basis of evidence of Doctor that, the death of the deceased was not of suicidal nature.

The Learned Additional Sessions Judge further held that, the prosecution has failed to prove that the accused had any intention to murder his wife. The dying declarations of the deceased are not fully trustworthy and reliable but at the same time they cannot be simply discarded. It can be gathered from the circumstances and the dying declarations that the accused might have attempted to set his wife on fire by pouring kerosene on her out of anger. It does not necessarily mean that accused had an intention kill his wife.

The contents of dying declarations are consistent in all three statements of deceased. Though it lacks somewhere on the count of procedural aspect, the dying declarations cannot be just neglected and thrown away without consideration as it inspires confidence to some extent in the mind of Court.

The Learned Additional Sessions Judge held that, the dying declaration recorded by the SJM was recorded in much proper manner and thus it can be relied upon.

The Learned Additional Sessions Judge held that, the father of the deceased admitted in his cross examination that, accused is a good person; he had maintained her daughter very well since their marriage. This evidence is being hurdle in case of prosecution. It is not the case of prosecution that, accused was ill-treating his wife at any point of time, thus it is hard to believe that, in a sudden quarrel between accused and deceased, accused would have an intention to murder his wife that too by burning.

The Learned Additional Sessions Judge held that, after carefully scrutinizing the evidence, I have arrived at the conclusion that the prosecution has succeeded in their case partly by proving that the death of the deceased to be homicidal death. I further hold that, though prosecution has proved as above, they have failed to prove the essential ingredients of S. 300 of IPC in order to attract the punishment u/s 302 of IPC. Prosecution has brought on record nothing that would show the motive behind the alleged act of the accused. Motive is an ulterior intention and thus it plays very vital role in proving the alleged commission of crime. In absence of any such motive, the accused person who is a teacher and socially active person would have no intention as such to murder his wife. Therefore in absence of ill intention on part of the accused to murder his wife, his alleged act has to be seen from different angle and thus he cannot be convicted under section 302 of IPC.

21. The Learned Additional Sessions Judge held that, as stated above the prosecution has proved the death of the deceased to be homicidal; I hold that the circumstances and the dying declarations raise the finger towards no other than the accused Nitin.

The Learned Additional Sessions Judge held that, the accused in this case might not have an ill intention to murder his wife but at the time of doing an alleged act, he had full knowledge that his alleged act could cause death of his wife or such bodily injury allegedly caused by him could result in death of his wife. This itself is sufficient to hold the accused guilty for the offence punishable under section 304 Part II of the IPC.

22. The Learned Additional Sessions Judge held that, in the circumstances, after going through the evidence on record in form of dying declarations, I have reached to the conclusion that, the accused had no ill intention to murder his wife. Thus accused cannot be convicted for the offence punishable under section 302 of IPC.
23. The Learned Additional Sessions Judge held that, the evidence brought on record by the prosecution reflects the commission of offence punishable under section 304 Part II of IPC at the hands of accused. Thus, I proceed to pass following order.

Order

Date:- 15-06-2016

The accused Nitin Bhalerao is hereby convicted for the offence punishable under Section 304 Part II of the Indian Penal Code.

The accused Nitin Bhalerao is sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs. 10,000. In case of default, in payment of fine, accused to suffer rigorous imprisonment for 5 months.

24. The accused Nitin Bhalerao, being aggrieved with the decision of the Sessions Court, has approached the Hon'ble Bombay High Court, bench at Aurangabad by way of filing an appeal against conviction. His appeal is admitted.
25. The father of the deceased, Shri. Shankar Shinde, who is claiming to be the victim and being aggrieved with the decision of the Session Court of convicting the accused for a lesser offence, has approached the Hon'ble Bombay High Court, bench at Aurangabad by way of filing an appeal under section 372 of Criminal Procedure Code. His appeal against the decision of the Session Courts is admitted.

26. The Hon'ble High Court has tagged both the matters together and issued notice to the State. The matter has been kept for final hearing. The counsel appearing for the father of deceased Shri. Shankar Shinde, shall also represent the State of Maharashtra for the sake of convenience.

27. The Hon'ble High Court has partly heard both the parties on factual aspects of the case at length. The arguments on the points of law are yet to commence before Hon'ble High Court. The Hon'ble High Court has directed both the sides to prepare themselves & argue and satisfy the Court on following issues.

- Whether the Dying Declarations recorded during investigation of the case are just, proper & trustworthy in the eyes of law?
- Whether the conviction under Section 304 Part II of IPC is legal in the eyes of law?
- Whether it is legal & proper to base the conviction on the basis of circumstantial evidence?

28. Criminal Appeal No. 32 of 2016, Nitin Bhalerao v. State of Maharashtra & Shankar Shinde shall be finally heard by the High Court Of Judicature of Mumbai Bench At Aurangabad on.....

Instructions:

- * The participants are at liberty to frame one more legal issue if they so desire.
- * The participants are expected to advance their arguments on the points of law only.
- * The participants are expected to tender, before the Court, the judgements of various courts as citations in support of their case.

(This Problem is set by Adv. Akshay Radikar, Advocate High Court of Bombay bench at Aurangabad.)



MARATHWADA LEGAL & GENERAL EDUCATION SOCIETY'S
Manikchand Pahade Law College, Aurangabad.

XVII National Moot Court Competition-2017

12th Feb. 2017

Moot Problem for Final Round

Humanity Improvement Venture (HIV)

V.

Union of Humania

Facts of the case:

The Union of Humania is a Sovereign, Socialist, Secular, Democratic Republic State having its mixed economy promoting both Public Sector Undertakings and Private Sector Undertakings.

Ms. Priya, was working in one of these Private Sector Undertakings, as Head of Department in an Advertising Company named- Pioneer Advertising Solutions Pvt. Ltd. She was highly qualified, efficient and hard working women. She had worked with many advertisement companies during the initial years of her career and was rewarded for her work.

Pioneer advertising Solutions Pvt. Ltd. was established and Chaired by Mr. Amit Saxena. Mr. Saxena was like a father figure to Ms. Priya as she had lost her father in an accident. They had a father daughter relation. Ms. Priya was appointed by Mr. Saxena on the 20th of August, 2010. She joined in the Company as an Assistant Designer and later on she was promoted as Head of Department (Designing). She handled many big advertising projects and continued to get rewards for her work. Working with this Company, she could attain her desire for creative independence and a global reach.

After working in the company for four years, in the year 2014 she fell ill. Since then she has been taking many leaves. Her work in the office was pending during all the days of her leave. During this period the company lost two minor and one major advertising projects. This continued till January 2015.

Knowing about her frequent leaves Mr. Saxena had visited Priya's house. During an annual medical check-up, she came to know that she is an HIV positive. Priya told Mr. Saxena about her disease. He was shocked to know that she was infected with HIV. Mr. Saxena had no words and left her house in shock. He never contacted her again.

In 2015, the Company decided to dismiss her from the job. When Ms. Priya enquired about her sudden dismissal Mr. Saxena replied by saying that her termination letter would explain it all and she was asked to leave. The termination letter stated that the reason for her dismissal was incompetence at her work.

Ms. Priya was in search of help from different organizations. She approached the Humanity Improvement Venture (HIV), an NGO which works exclusively for the rights of HIV infected individuals.

She told the Humanity Improvement Venture (HIV) that she was dismissed from work because of her illness. She believes that her fundamental rights under Article 21- Right to live with human dignity and right to livelihood are violated. She has also stated that the Company has not followed any rules or procedures for her termination. She was humiliated by her boss- Mr. Saxena and colleague who tagged her by saying a woman of bad character.

Now, the said NGO i.e. Humanity Improvement Venture (HIV) has filed a Public Interest Litigation seeking directions to the Union of Humania for enacting the law to protect rights of HIV infected employees in Private Sector Undertakings.

Note: *The Constitution of Humania and all other laws and policies resemble to that of India. Participants shall prepare brief and shall argue on behalf of Petitioner and Respondent. They are at liberty to frame the issues inter alia.*

(This Problem is set by Miss. Shyama Nair, NLC IV yr. Student of M P Law College, Aurangabad)



MARATHWADA LEGAL & GENERAL EDUCATION SOCIETY'S
Manikchand Pahade Law College, Aurangabad.

XVII National Moot Court Competition-2017

11th & 12th Feb. 2017

Registration Form

Name & Address of Participating Institution:-

Phone No.

E-mail ID

Name of the Mooter - 1 :-

Class

Address

Mobile No.

E-mail ID

Passport

Size

Photograph

Name of the Mooter - 2 :-

Class

Address

Mobile No.

E-mail ID

Passport

Size

Photograph

Name of the Researcher :-

Class

Address

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E-mail ID

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Photograph

Particulars of Demand Draft

D.D. No. _____ **Date** _____

Bank Name _____ **Branch** _____

Mooter	Preliminary Round	Final Round
Mooter 1	Petitioner / Respondent	Petitioner / Respondent
Mooter 2	Petitioner / Respondent	Petitioner / Respondent

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TRAVEL PLANS

Name of the participating Institution :- _____

☺ Arriving on date :-

Mode of travel : railways/airways/roadways _____

Train name : _____

Flight name : _____

Bus/travels name : _____

Reaching at time : _____

☹ Departure on date :-

Mode of travel : railways/airways/roadways _____

Train name : _____

Flight name : _____

Bus/travels name : _____

Reaching at time : _____

**Signature and Seal of Head of
 the Institution**