

**RAKESH AGGARWAL MEMORIAL
NATIONAL
MOOT COURT
COMPETITION, 2014**

**29TH & 30TH MARCH, 2014
(SATURDAY & SUNDAY)**



**IDEAL INSTITUTE OF MANAGEMENT AND TECHNOLOGY
&**

SCHOOL OF LAW

(An ISO 9001:2008 Certified Institution)
(GGs Indraprastha University)

16-X, Karkardooma Institutional Area, Delhi-110092

www.ideal institute.org.in Email- idealmootcourt@gmail.com

Contact No. - 011-22372639, 65288868, 22375961. Fax No. – 011-22372639

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JAGAT & ANR. V. UNION OF INDIANA



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Disclaimer: This hypothetical problem has been created only for the use in this competition and it has no connection with any place and any person living or dead.

STATEMENT OF FACT

Rajat, after the death of his father Hari Ram was the sole incharge of his family responsibilities. There was a dispute regarding the division of the ancestral property which enraged his cousins Jagat and Bhagat who went on to file a civil litigation on 26th October, 1978 which ultimately was decided in favour of Rajat. The enmity which arose out of this litigation led to Jagat and Bhagat deciding to meet out their vengeance by eliminating entire Rajat's family.

The fateful day, 17th March, 1979, was the festival of Holi. The petitioners accused, Jagat and Bhagat applied colours on their faces to conceal their identity and entered the house of the Rajat with their three servants – Inderpal, Nempal and Sompal. Jagat and Bhagat took turns and raped the sister of Rajat and on the instruction of petitioners accused; the servants did the same and strangled her which resulted in her death. Thereafter they gave kukri to the servants to murder Rajat's mother, father and brother by chopping off their body parts. Then they poured Kerosene on Rajat and set him on fire.

On hearing the screams of Rajat and seeing him ablaze, neighbours rushed towards the house of Rajat to help him. One of the neighbours saw all the wrongdoers running away from the scene of the crime and one of the accused holding *kukri* in his hand. Then he informed the police about the incident and the FIR was registered against all the accused on the basis of his statement. Rajat was rushed to the hospital where his Dying Declaration was recorded before the First Class Magistrate in the presence of the doctors and he succumbed to his injuries on 18th March, 1979.

During the investigation, the I.O. recovered the weapon of crime from the agricultural land of Jagat and the blood stained clothes of Bhagat were recovered from his top roof and the recovery memo of the same was prepared. All the accused were arrested from a distant place on 10th June, 1979. The charge sheet was filed against all the persons guilty of crime in the court.

After committal of the case, the trial commenced on 2nd April, 1980 in the Sessions Court of Jambalpur. During the trial proceedings, the Prosecution proved the statement of the deceased which corroborated with the statement of the neighbours. The medical report confirmed that Rajat died because of 90% burn injuries, the sister was raped and died because of strangulation, and the rest of the family members died due to the injuries inflicted by a sharp edged weapon. The recovery of the kukri and blood stained clothes further strengthened the prosecution evidence. The forensic report also revealed that the recovered weapon was used in the commission of the offence of murder. The blood stains found on the clothes of Bhagat also matched with the blood of the family members. The statement of the I.O. proved the time and place of the occurrence and the presence of the sister's raped and murdered body and the mutilated bodies of the rest of the family members. The complicity of all the servants was also proved.

The defence on their turn didn't lead any material witness to prove their innocence; however they raised objections on several evidences produced by the prosecution. First, they proved that the witness who signed the recovery memo was a stock witness. They took another contention that all the witnesses relied by the prosecution are interested/related witness in one way or the other. They also raised the plea of alibi which did not succeed.

Upon meticulous consideration of the evidences on record, the learned Sessions Judge on 26th May, 1983, convicted all the accused persons for committing murder of Rajat and his 4 family members and held that the brutal manner in which the revenge was done led the case into rarest of the rare category. Hence the death sentence was awarded to the main accused petitioners (Jagat and Bhagat). With regard to all the co-accused (servants), the Sessions Court awarded life imprisonment. According to the provisions of Prison Manual, Jagat and Bhagat were kept in solitary confinement in Prison.

The Sessions Court sent to the High Court of the State of United Province the death reference 2765/1983 for confirmation. Aggrieved by the aforesaid judgment and order of the Sessions Court, the petitioners accused (Jagat and Bhagat) preferred an appeal to the High Court of the State of United Province on 20th June, 1983. The remaining three co-accused didn't prefer the appeal against their conviction. Accordingly, a Criminal Appeal was registered. The main ground of appeal was that the prosecution was not able to prove the case beyond reasonable doubt as all the witnesses were interested witnesses and discrepancies whatever minor it be, could not be ignored when the life of the accused was at stake. The High Court, on the appreciation of evidence, reversed the judgment of conviction into acquittal on 12th September, 1986 as the evidences on record were not sufficient to sustain the conviction of the accused and ordered the acquittal of the petitioners. Death reference was also answered in negative.

The State went in appeal through Special Leave Petition (SLP No. 11451/1986) to the Apex Court of Indiana against the impugned order passed by the High Court. The Apex Court observed that the High Court of the State of United Province seriously fell in error in deciding the culpability of the petitioners. The Court held them guilty of the murder of the deceased as well as his family members and considering the brutal manner in which the crime was committed restored the judgment and order of the learned Sessions Court as the act being proved to be one of the rarest of the rare category which invited death penalty. The appeal was thereby decided on 14th August, 1992.

The Apellants then went on to file Review Petition which was dismissed by the Apex Court. They then filed the Curative petition which also was dismissed. On 30th August, 1992 and 10th September, 1992, the petitioners herein files mercy petitions respectively addressed to the Governor of the State of United Province and the President of the Indiana. But mercy petitions were not filed according to the procedure prescribed for the filing of the mercy petitions. As a result of the prolonged solitary confinement which was in violation of existing laws, Jagat developed certain mental ailment. The cognizance of this fact was not taken by the prison authorizes who were grossly negligent in conducting the periodical complete health checkup of the accused.

The mercy petitions were pending before the Governor due to failure in certain procedural requirements. Finally on 18th May, 1993, the Governor rejected the mercy petitions. It is the grievance of the petitioners that neither the petitioner nor their family members were informed about the rejection.

On 1st November, 1995, the Superintendent of Jail, in accordance with the provisions of jail Manual of the State of the United Province, wrote to governor's office seeking information about the status of the Petitioner's pending mercy petitions. When no response was received from Governor's office, thirty reminders were sent by the prison authorities between 2nd January, 1996 and 31st May, 1998. Finally on 17th October, 1999 the prison authorities got the information about the rejection of the mercy petition. In the meanwhile Bhagat being under severe depression due to the prolonged delay of the procedural flaws, developed unbearable mental agony and attempted suicide.

The mercy petitions were also pending before the President as the procedural requirements like proper documentation were not complied with. On 1st march, 2003; the President rejected the mercy petitions. There was no formal communication about this to the petitioners' or their family members' or the prison authorities. It was only on 19th April, 2003, that the petitioners heard the news report about the rejection of the mercy petition. On 4th June, 2003, the prison authorities were informed vide letter dated 2nd June, 2003 that the petitioners' mercy petitions have been rejected by the President.

The present joint Writ Petition bearing no. 0704/2003 has been filed before the Apex Court of Indiana by Petitioners challenging the constitutionality of the Death Penalty and the role of the President and the Governor as a constitutional functionary in deciding the mercy petition. It has also been challenged that the delay in the disposal of the Mercy Petition amounts to violation of the fundamental rights of the prisoners and the human rights jurisprudence. It should be considered as a ground for commutation of death sentence into life imprisonment in the light of supervening circumstances as mentioned in the above stated facts.

The matter has been listed for arguments.

RAKESH AGGARWAL MEMORIAL NATIONAL MOOT COURT COMPETITION, 2014

RULES AND REGULATIONS

1. AIM AND PURPOSE

The Ideal Institute of Management and Technology & School of Law is organising Rakesh Aggarwal Memorial National Moot Court Competition, 2014 in the memory of its founder and visionary, Shri Rakesh Aggarwal.

The objective of the Competition is to expose law students to important issues arising in contemporary socio-eco & legal settings. Law students who participate in the Competition will have the opportunity to develop their legal writing and oral advocacy skills in a mock courtroom setting.

2. DATE AND VENUE

The Competition shall be held on **29th and 30th March, 2014 (Saturday & Sunday)** at Ideal Institute of Management and Technology & School of Law.

The participants have to report at Ideal Institute of Management and Technology & School of Law, (G.G.S. Indraprastha University) 16-X, Karkardooma Institutional Area, Delhi – 110092.

3. COMPETITION FORMAT

The competition is structured as per the following format:

- (1) Preliminary Round
- (2) Semi Final Round
- (3) Final Round

4. ELIGIBILITY

Students of **3 year or 5 year** law degree courses from any University are eligible to apply for registration of their team. However, only **one** team shall be allowed to participate from one College/Institution/Department. Provided if any college is running both the courses, (3 year and 5 Year) they may send **two** teams exclusively **one** from each course.

5. TEAM COMPOSITION

- 5.1** Each team shall consist only of **three** members, comprising of **two** mooters and **one** researcher.
- 5.2** Any alteration/change in the names of the team members shall be intimated in writing by the Dean / Director/ Head of the Department of the School/ Department /College of Law, of the team requesting such alteration/change positively to the Organizing Committee. However, any such alteration is permitted only once.
- 5.3** Once the Competition commences, the team composition cannot be altered under any circumstances whatsoever. Inability of any team member to participate shall lead to disqualification of the team from the Competition. However, the team is free to rotate amongst the 3 members the roles of mooter / researcher as they deem fit.

6. REGISTRATION

6.1 Participating teams should register themselves by sending duly filled registration form along with registration fee and memorials by email to idealmootcourt@gmail.com and by post to Ideal Institute of Management and Technology & School of Law, 16-X, Karkardooma Institutional Area, Delhi-110092 before **20th March, 2014**. Acknowledgment of the same shall be sent by the Moot Court Committee till **22th March, 2014**. The confirmation of the teams will be intimated by Memorial Evaluation Committee till **25th March, 2014**.

6.2 Teams will be formally registered upon arrival at IIMT & School of Law campus on 29th March, 2014 in the morning at 09:00 AM. Formal Registration requires the submission of a duly filled-in Registration Form, the scanned copy of which is required to be sent as per Rule 6.1 and payment of the registration fee of **Rs. 600/-** per team. The details provided for formal registration will be final for the purposes of certification of participation and awards.

6.3 Once registered, the registration fee will neither be refunded nor waived.

7. GUIDELINES FOR MEMORIALS

7.1 Teams have to prepare memorials for both the sides.

7.2 The teams shall submit **6** hard copies of the memorial for each side by **20th March**.

7.3 The contents of the hard copies must be the same as the soft copy on idealmootcourt@gmail.com. Non-compliance with this rule will lead to disqualification of that team.

7.4 The memorials have to be submitted on A4 size paper, printed on only one side, and must be in the following order:

- Cover Page;
- Table of Contents;
- Index of Authorities;
- Statement of Jurisdiction;
- Statement of Facts;
- Statement of Issues;
- Summary of Arguments;
- Arguments Advanced; and
- Prayer.

7.5 The memorials must be printed in Times New Roman 12 font size with 1.5 line spacing. The headings must be in 14 font size and the footnotes must be in Times New Roman 10 font size.

7.6 The Arguments Advanced should not exceed 20 pages per team.

7.7 The memorial as a team should not exceed 40 pages including the cover page.

7.8 The memorials should have a margin measuring one inch on all sides of each page.

7.9 The numbering should be on the bottom-center of each page.

7.10 The petitioner's memorial cover page shall be printed on **blue colour** A4 size paper, and the respondent's memorial cover page on **red colour** A4 size paper.

7.10.1. The memorials Front Page should inscribe specifically **P** and **R** representing the petitioner or respondent.

7.10.2. The front cover of each memorial must have the following contents:

7.10.3. The name of the Court (i.e. "the Apex Court of India")

7.10.4. The year of competition (i.e. Rakesh Aggarwal Memorial National Moot Court Competition – 2014)

7.10.5. The name of the case (i.e. Jagat & Anr. v. Union of Indiana)

7.10.6. The title of the memorial (i.e. “Memorial for Petitioner” or “Memorial for Respondent”)

7.11 A Uniform Style of Citation should be followed throughout the memorial

7.12 Footnotes shall contain only the citation. There shall be no speaking footnotes in the memorial.

7.13 The maximum scores for the memorials shall be 100 marks. The memorials shall be evaluated on the following criteria:

Knowledge of Law and Fact	: 30 Marks
Proper and articulate analysis	: 20 Marks
Extent and Use of Research	: 20 Marks
Clarity and Organization	: 20 Marks
Grammar and Style	: 10 Marks

7.14 The Memorial shall be only spiral bound.

8. ORAL ROUNDS

8.1 PRELIMINARY ROUND

8.1.1 Pairing of teams shall be done by draw of lots in all the rounds of the competition.

8.1.2 There shall be exchange of memorials for all the rounds.

8.1.3 Each team shall argue for both sides in the preliminary round, once for petitioner side and once for respondent side.

8.1.4 Each team will get a total of **15 minutes** in the Preliminary Round. This time will include rebuttal and sub-rebuttal time. In all the rounds, any team exceeding the allotted time shall be penalized. The penalty of **1 mark** will be deducted for every two minutes exceeded.

8.1.5 The total marks scored by a team in the preliminary round will be a total of the two rounds, i.e. marks scored as petitioner and marks scored as respondent.

8.1.6 The oral arguments should be confined to the issues presented in the memorial.

8.1.7 The researcher shall be present with the mooter during the oral rounds.

8.1.8 Passing of notes to the mooter by the researcher is strictly prohibited.

8.1.9 Maximum scores for the oral rounds shall be 100 points per speaker. The oral rounds shall be judged on the following criteria:

Knowledge of Law:	20 Points
Application of Law to Facts:	20 Points
Ingenuity and Ability to Answer to Questions:	20 Points
Style, Confidence, Courtesy and Demeanor:	20 Points
Time Management:	10 Points
Organization:	10 Points

8.1.10 **Four (4) teams** with the highest scores in the preliminary round shall qualify to the semifinal round.

8.2 SEMI FINAL ROUND

8.2.1 The semifinal round is a knock out round. The participants shall argue from only one side.

8.2.2 The semifinal round shall consist of 30 minutes per team.

8.2.3 The other rules shall remain the same as they are in the preliminary round.

8.3 FINAL ROUND

8.3.1 The two winning teams from the semifinal round will advance to the Final Round.

8.3.2 The final round is also a knock out round.

8.3.3 The final round shall consist of 45 minutes per team.

8.3.4 The oral arguments as well as the marking criteria shall be the same as mentioned above in the preliminary round.

9. RESULTS

9.1 The results will be announced within thirty minutes of each round.

9.2 The results of the final round shall be announced at the valedictory ceremony.

10. AWARDS

10.1 **Winning Team Award** : Trophy and a cash prize of Rs. 5100/- .

10.2 **Runners-Up Team Award** : Trophy and cash prize of Rs. 3100/-.

10.3 **The Best Mooter** : Cash prize of Rs. 1100/-.

10.4 **The Best Memorial** : Cash prize of Rs. 1100/-.

10.5 **The Best Researcher** : Cash prize of Rs. 1100/-.

10.6 Certificates will be provided to the team with the **Second Best Memorial, Second Best Mooter and Second Best Researcher**. In addition to the above, **Certificate of Participation and Mementos** will be awarded to all the participants.

11. SCOUTING

No member of any team will be permitted to hear the arguments in any court room in which that team is not one of the contesting teams whilst that team is still in the competition. Scouting by any team in any manner shall result in instant disqualification.

12. RESEARCHER TEST

12.1 A Researcher Test shall also be conducted for adjudicating the “Best Researcher” on 29th March, 2014. Mooters shall not be eligible to appear for the test.

12.2 There will be 50 objective question of one hour duration of 2 marks each.

13. MISCELLANEOUS

13.1 The competition shall be held in English language only.

13.2 **Dress Code: Ladies:** Dark coloured salwar or trouser, white coloured kurta or shirt/ suit (black) **Gentlemen:** White shirt with tie and dark coloured trouser / suit (black)

13.3 The mooter shall not state their names during the oral rounds and they must use the team Code. All team members must refrain from disclosing the identity of their institution at any time and in any manner during the entire competition. Non-compliance with this Rule will result in immediate disqualification of the team. The decision of the Organizing Committee in this regard shall be final and binding.

13.4 The decision of the judges with regard to the outcome of all the rounds shall be final and binding.

13.5 All clarifications regarding the Moot Problem should be sent to idealmootcourt@gmail.com.

13.6 The organizing Committee shall have sole discretion to assess penalties or to disqualify teams for any failure in abiding by any of the foregoing Rules.

13.7 The organizing Committee shall have sole discretion to make all necessary interpretations of these Rules. All decisions of the Committee regarding Rules interpretations are final.

13.8 The organizing Committee shall have sole power to resolve any dispute, which may arise during the Competition.

14. No TA or accommodation shall be provided by the Institute. However the Institute will assist in getting the accommodation to the interested participants.

**RAKESH AGGARWAL MEMORIAL
NATIONAL MOOT COURT COMPETITION, 2014**

ON

29th & 30th MARCH, 2014

Organized by

IDEAL INSTITUTE OF MANAGEMENT AND TECHNOLOGY & SCHOOL OF LAW

(G.G.S.I.P. University, Delhi)

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Contact No. - 011-22372639, 22375961, 65288868. Fax No. - 011-22372639

REGISTRATION FORM

Note: Please fill all the details in capital letters.

NAME OF THE INSTITUTION :

ADDRESS:

TELEPHONE: E-MAIL:

1ST MOOTER

NAME:

GENDER: NATIONALITY

YEAR/SEMESTER:

EMAIL ID:

CONTACT NUMBER:

Stick a Recent
Passport Size
Photograph
Attested By Dean/HOD/
Principal

2ND MOOTER

NAME:

GENDER: NATIONALITY

YEAR/SEMESTER:

EMAIL ID:

CONTACT NUMBER:

Stick a Recent
Passport Size
Photograph
Attested By Dean/HOD/
Principal

RESEARCHER

NAME:

GENDER: NATIONALITY

YEAR/SEMESTER:

EMAIL ID:

CONTACT NUMBER:

Stick a Recent
Passport Size
Photograph
Attested By Dean/HOD/
Principal

Registration Fees:

Amount in Cash :or D.D :

D.D. No.:Date :

Name of the Bank :

(D.D. payable in favour of Ideal Institute of Management &Technology (School of Law) payable at Delhi.)

Bank Details for NEFT/Online Transfer:

Beneficiary Name: Ideal Institute of Management &Technology (School of Law)

Bank Name : Central Bank of India

Bank Address : S. D. Sr. Sec. School, Shahdara, Delhi-110032

Account No.: 3183291816 Account Type: Saving Account IFSC Code: CBI N0283323

Undertaking: The Institute hereby undertakes that participants shall comply with the rules and regulations of the competition.

Date:

Head of the Institution

Signature and Seal

