

## **1<sup>st</sup> ALL INDIA MOOT COURT COMPETITION**

### **MOOT PROBLEM**

Kamini is the only daughter to her parents, Yogish & Ambika. Yogish was a successful businessman in the city of Kudala, in Karnataka. The parents provided for her education and Kamini turned out from engineering college with BE degree. Parents of Kamini were on the lookout for a groom for their daughter. Kamini told her parents that she should have freedom to select the groom of her choice. The parents respected it though they said they would still search for one and leave it to Kamini to decide. Raja is the only son to his parents, Ramachandra, a wealthy landholder and Uma. They lived in the village of Kurupura, on the outskirts of city of Kudala. Raja had finished Engineering course. He wanted to settle down with his parents in his native place. The parents of Raja were thinking of arranging marriage of their son. While the parents of Kamini and Raja were on the lookout for alliance, one happened to know the other and naturally there was exchange of proposal between the parents of Kamini & Raja. It so happened that Raja was student in same college where Kamini had studied, though in different courses of engineering. As students of same college they knew each other. When elders finished their talks of proposal, the bride and groom were given the choice to have their say. Kamini agreed to the proposal. But she wanted the freedom either to pursue higher studies or take up job. Raja and his parents had no objection for this. Thus the marriage was fixed and it took place in January

2010. After marriage, as usual, Kamini went to live with her husband in their house. On the first night, after Kamini began to live in her husband's house, she observed that Raja took some pills and soon thereafter went to sleep, without any word of talk with Kamini. Kamini had observed that even during day time Raja was talking less and was found to be as if in his own world of thought. But Kamini too being tired slept. Next day though Kamini woke up as usual, she found Raja still asleep. When Kamini went around the house, her mother in law, Uma, told her that Raja would sometimes sleep for even a day and not to worry. Uma was eager to see that Kamini would become adjusted to their household and learn the things first from the kitchen. When Kamini told Uma politely that she did not know cooking, Uma retorted to say that sooner she would better learn, now that she is married and has to take responsibility as a house-wife. Kamini could feel the sudden harshness of the voice of Uma and was slightly taken aback. Somehow Kamini managed the day, though Raja was fast asleep all the while and his parents also did not bother to wake him up. Later by evening Raja woke up and without so much as bothering about Kamini he ate food which his mother gave him. Again Kamini found something strange in his behaviour and when she enquired if he is not well or something, Raja did not answer her, but ignored her. Another night also went by with same repetition. Next day Kamini summoned courage and asked her mother in law as to what is wrong with Raja and why he takes pills and sleeps. At this query, Uma became furious and told Kamini not to ask too many question so early after marriage. It dawned on Kamini that there

was something wrong with Raja and she had stumbled in her choice in marriage. But she desired to see what would be in store for her. Next day when Raja woke up he appeared to be more composed. Kamini slowly discussed with him what was the problem. Then he revealed that once in a while he would become nervous and on such occasions he would take medicine to get full rest and then he would be alright. Thus life went on for Kamini for a day or two, though at night Raja would take pill and sleep and Kamini's expectations of first night with husband did not happen. After few days of living together in this kind of uncertainty Kamini took courage and asked Raja why he was not showing any affection towards Kamini. Then he broke down and mentioned to her that he was afraid to make amorous advances to Kamini. At this juncture the parents of Raja also intervened. It was then decided that Raja and Kamini would meet a doctor who can treat the problem. Accordingly Raja and Kamini went to city of Kudala and sought advice from the well known psychiatrist, Dr. Prema. While narrating history Raja mentioned that he was getting treated by Dr. Ananth, another psychiatrist since few years after he entered Engineering college. The drugs mentioned by him as prescribed by Dr Ananth indicated that it was treatment for schizophrenia. Dr Prema suggested remedial measures and prescribed some medicine and asked to visit again after three days. However, during the said three days also with the medicine taken, Raja would not perform his marital duty to Kamini. At this stage it dawned on Kamini that the parents in law should be asked about the previous medication of Raja. When she

confronted them, instead of explaining they flew into rage and started abusing Kamini without rhyme or reason. Raja who was sitting away suddenly came on Kamini and started beating her mercilessly and unmindful of where he was hitting her. Kamini yelled in pain and surprise at the sudden turn of events which she had not visualised. Uma was screeching as if Kamini was the cause for their problem. All of a sudden Raja stopped beating and straight went to store room and there he consumed Baygon spray which was kept as handy pesticide. This led to big commotion. Immediately Raja was taken to hospital by his father. Kamini found that it was end of her day to stay in that house and she packed her things and in spite of protest from her parents in law she decided and accordingly returned to her parents' house. All these events happened within such short span of a month's time in her married life, thereby totally shattering her. She narrated the facts to her parents who were shocked beyond belief. One thing led to another and finally Kamini and her parents decided to put an end to the marriage. Accordingly they consulted an able advocate of Kudala and in the first instance issued a legal notice and when there was no response to it, filed the divorce petition against Raja in the Family Court at Kudala. Raja was treated in the hospital after he had consumed Baygon and was cured.

Kamini urged that it was an arranged marriage according to Hindu Marriage Act, that the previous chronic mental illness of Raja had been suppressed during the marriage proposal, that Raja was suffering from incurable mental illness and in particular schizophrenia, with suicidal tendency, and it would be

not possible to live with him as wife for the rest of the life and that he was impotent, that the marriage was not consummated and Raja was incapable to consummate also and he and his parents also treated Kamini with mental and physical cruelty and as such it will be great hardship for her to continue the marital status any longer and as such divorce should be granted to her marriage with Raja. After service of summons Raja contested the case. He urged that during college days Kamini and Raja knew each other well and there was no suppression of fact and that the marriage was done in the hope that Raja would be able to get over his illness once he has a companion for life and only after understanding this the marriage was fixed and that the parents of the respondent knew that for the entire wealth of Raja's parents he was the sole successor and with such idea marriage had been consented and as such divorce cannot be sought. Raja generally denied the assertions of Kamini in her petition and contended that his illness is curable and if companion of life cooperates he would get well soon. Raja denied that he was impotent or that he beat Kamini or that he consumed poison. He contended that the petition of divorce was premature. In the course of proceedings in the Family Court Kamini got summons medical evidence about past treatment of Raja for schizophrenia for several years. She examined Dr.Prema to prove about the impotency and schizophrenia treated by her. As regards records produced from Dr Ananth's clinic evidence was given to prove handwriting and signature of Dr.Ananth because by this time he was no more. She also filed an application to make Raja available for physical examination before a

panel of doctors to be appointed as commissioners and to give report about this impotency and mental illness as incurable in nature. This was opposed by Raja and the Court rejected the application. Kamini gave evidence narrating all that happened to her after marriage and also that illness of Raja was not known when proposal of marriage was talked about. Kamini denied any acquaintance with Raja during college days except knowing that he was studying in the same college. She withstood cross examination by lawyer of Raja. Kamini summoned the domestic servant who had witnessed the beating of Kamini by Raja and his later consumption of Baygon. Medical evidence was also produced to show that he was treated for so attempting to commit suicide. When Raja's turn to give evidence came, after his examination in chief, he did not turn up for being cross examined though court gave several opportunities to him to come to the court. Finally his evidence in chief examination remained incomplete. Court treated the evidence as incomplete and closed the case. Court heard arguments of advocates of both sides. The trial court rejected the divorce petition holding that impotency is not proved by medical evidence and that his illness was not shown to be incurable. Trial court held that there was no sufficient proof of cruelty to order divorce. The whole process of the case took about five years' time to conclude. Kamini was constrained to file appeal to High Court of Karnataka.

The teams are advised to frame relevant issues and draft memorial for both the parties.

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