

DIRECTOR'S MESSAGE

Dear Students,

KIIT University, is a co-educational, autonomous university located at Bhubaneswar in the Indian state of Odisha. It was one of the youngest institutions to be awarded the deemed university status (under the section 3 of *UGC act 1956*) in India and then the university status in 2004 and is recognized by Limca Book of Records in the guidance of our founder Dr. Achutya Samanta. I must bring to your kind notice that previously School of Law, KIIT University has organized 2 National Moot Court Competitions, which were a huge success. Also, SOL is credited with several very successful National and International level IPR/ Human Rights/ International Commercial Arbitration Conferences and Workshops. Presently, SOL is recognized as one of the premier institutions imparting legal education to students from across the country and also some International students. The School runs under the guidance of Prof. N. L. Mitra, Former Director, National Law School of India University, Bangalore who is the Chairman of the National Advisory Committee of the KIIT School of Law. Recently in the month of November SOL has signed an MoU with Miami University located in Oxford, Ohio, United States. This time the students and teachers of SOL in continuation of their tradition of doing something new have devised the plan for 1st KIIT National Mock Trial Competition, 2015. Along with massive prize money the competition will also witness some of the best legal luminaries in the country, which certainly will prove to be a great learning experience. I wish all of you a great luck and look forward to your participation.

Dr. N.K Chakrabarti

Director, School of Law

KIIT University

1ST KIIT NATIONAL MOCK TRIAL COMPETITION 2015: CASE STUDY

Mr. Shashwat Prakash was the Editor-in-Chief of the magazine 'The Haunting Truth' and was in search of a suitable groom for his daughter Sarada, when he got in close terms with Mr. Vilas Pandey, a journalist who recently joined the magazine as a Junior Editor. The marriage was solemnized on 29th of December, 2007 observing all the customary rites. Mr. Prakash as a journalist with a reformative stance was never in support of dowry and hence gave no gifts to her daughter on her marriage except some jewellery and a Rado watch to the son-in-law.

Vilas Pandey though a sincere journalist was not a punctual person and was in habit of arriving late in the office, which when reported to Mr. Prakash resulted in serious humiliation for Mr. Pandey and made a good office gossip for the day. At one such event on 9th January 2010 after being scolded by Mr. Prakash in front of the whole office staff, a livid Vilas went to his father-in-law's chamber and in presence of his personal secretary Tabrez warned him that he is not ready to bear anymore such humiliations and if such a thing happens in future then Mr. Prakash must remember that his daughter is married to Vilas and must be ready for his daughter to bear the after effects of it. When Mr. Pandey reached home in the evening he was really upset and when he saw his wife he started shouting on her for not getting a car from her paternal home, after which a quarrel followed. For months to come this became a routine affair that the two would quarrel on her not bringing adequate dowry from her home, with Mr. Pandey being occasionally joined by his mother, Shantadevi and brother, Rohan. On 19th October, 2010 a distant relative called Shantadevi and told her that they are getting a lot of cash and a car in dowry. While she was already busy on the phone and obviously pissed on her daughter-in-law for not bringing the amount of expected dowry, Sarada broke a glass, which was predictably followed by Shanta's anger and the anger crossed the limit of being just a verbal one when she slapped Sarada. This became a routine business which even the neighbors were privy to. On one occasion Mrs. Sharma who was a colony friend of Mrs. Shantha told her that the whole

colony now knew the way they were torturing Sarada and also advised her to stop this and give her the due status in the family, which never proved to be fruitful. Sarada never told any of all this to her family members but she did talk of this to a close friend since college days, Anjali.

On 05th of July, 2014 all the family members went out of the station to attend a wedding leaving behind only Sarada and Vilas, and were scheduled to return the next day. Vilas along with his two other friends Rakesh and Rahul came to house in the midnight and that too in a drunken condition, who even misbehaved with the apartment's security guard. For this he received serious scolding in front of his friends from Sarada who was infuriated at his recklessness. When one of his friends tried to interrupt in between she warned him not to interfere in her personal life. Now Vilas was seriously willing to take revenge of this sort of humiliation. All three of them went to the guest room where they started drinking again. Now in such anger they all started talking that they would rape her tonight as she definitely needs a lesson. When vilas went to Sarada's room in the morning then he saw the gate was not closed and when he went inside he found Sarada lying unconscious on the floor and immediately took her to the nearest hospital, where after gaining back her consciousness she told the doctors that while she was in deep sleep around 3:00 AM some people covered her face using a piece of cloth and she was raped for three times, but she was not able to recognize the culprit. This was reported to the police and a criminal complaint was lodged by the police officials against Vilas and his two friends who were by then absconding. At 12:00 PM after conducting several tests and medical examinations the doctors informed her in-laws who were by now already at the hospital that she would not be able to live for more than an hour on account of the internal bleeding in the stomach and they can by turn go and talk to her. Shanta and Rohan as soon as they entered the ICU started abusing her by saying that her allegations against Vilas and his friends are false and in that moment of anger Shantha kicked Sarada's stomach for a several times. In her statement given to the police officials at 12:35 PM in presence of a judicial

magistrate 1st class Sarada told that she was raped thrice and she was not able to recognize the rapists and that even Santha attacked her a few minutes ago and kicked her stomach. At 12:49 PM Sarada succumbed to her injuries. After that the police officials conducted an investigation in the matter and recorded several statements along with that of the doctor's who were looking after Sarada. On 30th March 2015 the police got hold of Rahul who accepted his role in rape and subsequently Vilas and Rakesh were also arrested. Now the case is listed before the Sessions Court, Pune for trial.



FIR AND STATEMENTS

Maharashtra State Police

First Information Report

Registered u/s 154 CrPC on 6th July, 2014

1. **Police Station:** Faraskhana Police Station

2. **District:** Pune

3. **Circle:** ACP City Division

4. **Crime No:** 001/ 2014

5. **Charges :**

Mr. Vilas: s. 322, S. 326, s. 506, s. 37 rw. S. 34, s. 354, s. 299, s. 302, s. 498A, s. 304-

B of Indian Penal Code rw. S. 113A of Indian Evidence Act

Mr. Rakesh: s. 322, S. 326, s. 506, s. 37 rw. S. 34, s. 354, s. 299, s. 302

Mr. Rahul: s. 322, S. 326, s. 506, s. 37 rw. S. 34, s. 354, s. 299, s. 302

Mr. Shantabhai: S. 323, s. 498A, s. 304-B of Indian Penal Code rw. S. 113A of Indian Evidence Act

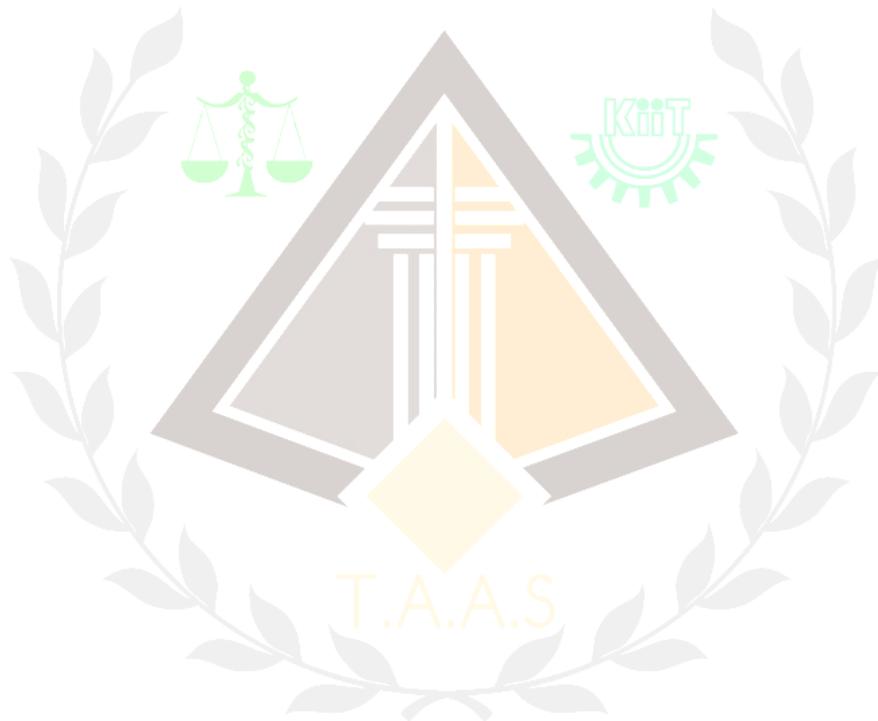
Mr. Rohan: s. 498A, s. 304-B of Indian Penal Code rw. S. 113A of Indian Evidence Act

6. **Information Received by the PS in :** Written

7. **Complainant's Name:** Mr. Shashwat Prakash

DYING DECLARATION BY MRS. SHARADA U/S 164 CR. PC

I was raped three times at around 3:00 AM while I was sleeping. The rapists covered my face using a thick piece of cloth. In the hospital when my mother-in-law came inside along with my brother-in-law, she kicked me on my stomach.



CIVIL HOSPITAL, PUNE

MEDICAL EXAMINATION U/S 164 A OF THE CODE OF CRIMINAL PROCEDURE

Dated 06th July, 2014

Victim's Name: Mrs. Sarada Pandey

External examination:

- (1) All the clothes were blood stained.
- (2) Nail wound on back and neck.

Internal Examination:

- (3) Habitual to sex.
- (4) No semen found.
- (5) No wounds on vaginal part.

Cause of Death

Internal Bleeding

Hypovolemia

Dyspnea

Under the authority of Chief Medical Officer, Pune

STATEMENTS RECORDED UNDER SEC. 161 CR. PC

Prosecution Witness

Security Guard (PW1):

Mr. Vilas who is a resident of the apartment came around midnight with two of his friends who were all drunk and when I stopped them from shouting they started abusing me. At around 4:00 AM in the morning I went to the washroom and when I came out of the washroom I saw two men were coming out of the apartment, and when I tried to stop them they started their car in hurry and left the apartment. I was not able to see the faces as it was dark out there.

Mr. Shashwat Prakash (PW2):

The marriage ceremony of Mr. Vilas and my daughter Sharada took place on 29th of December, 2007 observing all the customary rites. On 9th January 2010 when I scolded Mr. Vilas for coming late to the office he warned me that if I continue to do that again then I should be ready for the consequences. But till 06th July 2014 I heard nothing about any kind of harassment against my daughter.

Mr. Tabrez (PW3):

Though I don't actually remember the exact date but sometime in 2010 Mr. Vilas warned Mr. Shashwat that if he continued strict behavior with him then he must be ready to face the consequences of it and also that he must remember that his daughter is married to Mr. Vilas.

Ms. Anjali (PW4):

Whenever I used to call Sharada she was a little upset. When I tried to enquire about her marital life she started crying but was reluctant to admit anything. But once she told me that she was

being tortured for dowry and her in-laws want a car in dowry. She also admitted that she will never tell about all this to her father.

Mrs. Sharma(PW5):

When first Vilas got married he used to love his wife a lot, and even Shanthabai told me that her daughter-in-law is a perfect housewife material. But after few years of marriage I used to hear quarrels between Shantabai and Sharada. My son once told me that Vilas now wants a car from Sharada's father and also that on several occasions he used to beat Sharada.

Defence Statements

Confession of Rahul:

In the mid night of July 6th I along with Vilas and Rakesh entered into the room of Sharda and tied her body and closed her mouth so that no noise can be created after that in order to take revenge Vilas firstly raped her followed by me and Rakesh during rape we also hit Sharda badly into her private body parts and other parts of body during all these the act of Vilas was brutal after doing the act we all flew away from there.

Vilas:

Though I talked about raping her but I never was engaged in such an act. In the night I slept after drinking as I was too drunk to even walk. And when I woke up in the morning Rkesh and Rahul were nowhere to be seen and when I went to Sharada's room to apologize I found her lying unconscious on the floor and I took her to the hospital. Also, I never even touched Sharada with any bad intention forget about beating or hitting her. All the charges against me are fraudulent and I had no role in raping her. Though I went to Mr. Shashwat and shouted on him but I never meant it as whatever I said was in the moment of anger.

Rakesh:

I was not even present on the day of the incident. We went to a bar on Khadagvasla road from where I left for my home.

Shantabai:

We went to attend a family function out of station on 5th July, 2014 and when we returned we found out about the incident. I never even touched Sharada. True that we had some quarrels but all of them were verbal, nothing went physical. I loved Sharada as a daughter-in-law and the same I even told to Mrs. Sharma. We never demanded any kind of dowry, we were happy to have such a nice family member. All the quarrels that started were because of Sharada's bad character. I even heard her talking to someone on phone and telling that we torture her, and that is when I started hating her, but still I never harmed her physically.

Rohan:

Though some quarrels happened at home, but they were very general in nature. We never demanded any dowry from her. She was an important part of our family. There is no question of me harming her or beating her, as I liked her a lot and as the wife of my elder brother I even respected her a lot.

RULES AND REGULATIONS

The participation in the competition shall be restricted to 24 teams only. The first 24 teams that confirm and complete their participation formalities shall be entitled to participate in the competition.

CHAPTER I- TRIAL ADVOCACY

Article 1- Team Composition

1. Each team shall consist of 3 members (2 speakers and 1 researcher).
2. Each team will have a team code. Teams should not disclose their identity or that of their institution or city, etc. such disclosure shall invite penalties including disqualification, though the advocates may disclose their names while addressing the court. The decision for the same shall be at the discretion of the Organizer..

*Each college or university is allowed to send only one team comprising of two speakers and one researcher.

*No cross teams are allowed.

Article 2- Date and Venue

The date and venue will be decided and notified by the trial and appellate advocacy society to the participants.

Article 3- Dress Code and other compulsory formalities

1. Advocates attire.

2. Participants shall carry their college ID- Card for the purpose of identification during the competition.

Article 4- Eligibility

Students pursuing three or five year courses of LL.B degree in current academic year from any recognized law school/ college/ university in India are eligible to participate for the purpose.

Article 5- Registration

The registration shall be done in two phases. Online registration will be done at the first phase whereby the participants have to e-mail the scanned copy of the form (with all due formalities) and the required Demand Draft. Secondly, the Participants will be submitting the Registration form and the demand draft (Hard Copy- Duly filled and signed by the College Authority) at the Venue decided by TAAS.

Registration fee per team is Rs. 2000 which shall be paid in form of a demand draft in favour of KIIT payable at Bhubaneswar. Scanned Copy of the Demand Draft along with the scanned copy of the Registration form shall be mailed to **knmtc2015@gmail.com** on or before **1st of March 2015** and the hard copies of the same must reach the organizers by **5th of March 2015** at **Campus16, School of Law, KIIT University, Patia, Bhubaneswar- 751024.**

Article 6- Language

The competition shall be in English only. Use of vernacular language during the competition shall be prohibited.

Article 7- Witnesses

Organizers will provide the witnesses. The witnesses will be generally assigned and briefed by the Organizers. However each team will have an opportunity to specially brief their witnesses. The witnesses to be briefed will be assigned to each team two hours prior to the commencement of the respective round.

To maintain impartiality and transparency during the rounds a team shall not be assigned similar witnesses in two different rounds.

Surprise Witnesses acting as “court witness” may be introduced anytime during the proceedings.

Number of witnesses allowed to be examined may vary from round to round.

It is not mandatory for the teams to examine all the witnesses. However, a minimum of 2 witnesses have to be examined in each round.

Article 8- Anonymity

1. Student Counsel may introduce him/herself to the court in the usual manner and may also state their names. However the team’s affiliation shall not be indicated to the judges at any time.
2. Further, all team members, coaches, advisors, and observers shall refrain from identifying a team’s college at any time (during the competition) and in any manner, including but not limited to wearing any identifying items (such as college clothing, ties, patches or pins) or carrying identifying material (such as books with a college logo or college seal, etc.)

Article 9- Scouting

1. Teams will not be allowed to observe the orals of any other teams. Scouting is strictly prohibited. Scouting by any of the teams will result in disqualification.
2. Any team can file a written complaint with the Organizer, reading a case of scouting. The Organizers Decision is Final.
3. The researchers shall sit with the speakers at the time of the orals and shall not attend the court sessions of any other team participating in the competition.

Article 10- Rounds



The competition will be divided into:

Preliminary, Semi Finals and Finals if the number of participating teams is less than 10 or 10.

Preliminary, Quarter Finals, Semi Finals and Finals if the number of participating teams is more than 10 (maximum teams participating will not be more than 24).

1. Orientation & Draw of lots will be held on 3rd of April 2015. The preliminary rounds will be held on 4th of April 2015
1. Each team shall argue for both the sides in their preliminary round.
2. Top Eight teams will qualify for the Quarter-finals.

3. The Quarter Final rounds shall be held on 4th of April (if teams participating are more than 10)
4. The Semi-final round shall be held on 5th of April
5. The final round to be held on 5th of April
6. Witness Briefing for Preliminary round and Quarter Final Round shall be for 45 minutes and for Semi Finals and Finals shall be for a period of 1 hour.
7. All the rounds will be knock-out rounds except the preliminary rounds. Qualifications will be strictly based on the same.

*In case of odd number of teams the institution will provide a dummy team for the preliminary round.

Article 11- Oral Rounds

I. At the time of draw of lots, the teams are required to go through the following procedure:-

- a. Serving of Copies (at the time of written submissions)
- b. Framing of charge by the court (at the time of orals)

And, remaining time limit will be followed as mentioned.

In the Preliminary and Quarter final round the time slot for each round shall be as follows:-

II. Opening Statement on behalf of the Prosecution-3 minutes

III. Opening Statement on behalf of the Defence- 3 minutes

IV. Examination-in-Chief on behalf of the Prosecution- 8 minutes for each witness.

V. Cross Examination on behalf of the Defence- 10 minutes for each witness.

VI. Examination-in-Chief on behalf of the Defence- 8 minutes for each witness.

VII. Cross Examination on behalf of the Prosecution- 10 minutes for each witness.

VIII. Final Arguments on behalf of the Prosecution- 8 minutes

IX. Final Arguments on behalf of the Defence-8 minutes

Each speaker shall have to conduct either of the two examinations and deliver either the opening statement or the final argument in each round. The combination each team would like to follow needs to be informed to the organizers at the time of the orientation and the same shall not be altered for any of the later rounds.

2. In the Semi Final and the Final rounds the time slot shall be:

I. Opening statement on behalf of the Prosecution – 5 minutes.

II. Opening statement on behalf of the Defence – 5 minutes.

III. Examination-in-Chief on behalf of the Prosecution – 12 minutes for each witness.

IV. Cross Examination on behalf of the Defence – 14 minutes for each witness.

V. Examination-in-Chief on behalf of the Defence – 12 minutes for each witness.

VI. Cross Examination on behalf of the Prosecution – 14 minutes for each witness.

VII. Final Arguments on behalf of the Prosecution – 10 minutes.

VIII. Final Arguments on behalf of the Defence – 10 minutes.

Article 12- Judging Criteria

Parameters for judgment are:

1. Knowledge of facts
2. Logic & clarity in reasoning
3. Persuasiveness and deference to court.
4. Proper, articulate and systematic analysis of the issues arising out of facts.
5. Understanding of the laws of evidence and procedure.
6. Ability to successfully conduct chief/cross examination within the allotted time.
7. Ability to elicit favorable facts from witnesses.

8. Ability to deal with unreceptive, argumentative or hostile witnesses.

9. Ingenuity (ability to argue by analogy from related aspects of law)

10. Knowledge of the relevant provisions relating to penal laws.

11. Written submission

Article 13-Awards:

- Best Team – Trophy and Cash Prize of Rs. 50,000
- Runners Up– Trophy and Cash Prize of Rs. 30,000
- 2nd Runners Up- Trophy and Cash Prize of Rs. 15,000
- Dr. Kumar Kartikeya Memorial Best Student Advocate – Trophy and Cash Prize of Rs. 10,000
- Dr. Kumar Kartikeya Memorial Best Written Brief Award– Trophy and Cash Prize Rs. 10,000

Article 14-Certificates:

Certificates will be awarded only to the participants during the valedictory ceremony and under no circumstance it will be provided to any of the participants absent during the ceremony.

Article 15- Written Brief:

All the teams whose participation has been confirmed by the organizers will have to submit 4 hard copies of written brief from both sides neatly bound without use of any plastic separators, by 20th of March 2015. However, a soft copy of the brief should reach the organizers at knmtc2015@gmail.com by 15th of March 2015.

The following requirements for memorials must be strictly followed. Non-conformities will be

Penalized:

- Each team must prepare memorials for both parties to the dispute (Prosecution and Defense).
- **The briefs shall be consistent with The Criminal Procedure Code 1973. (Revised)**
- Once the memorials have been submitted, no revisions, supplements, or additions will be allowed.
- The memorials have to be submitted on typed A 4 size paper printed on one side and must contain:

The table of contents

The index of authorities

The statement of jurisdiction

The statement of facts (1 page only and submissions of an argumentative statement of facts would attract penalties)

The statement of charges

The summary of arguments

The arguments advanced (15 pages)

The prayer

- Arguments must not exceed 15 (fifteen) pages. The font size should be 12, Font Style should be Times New Roman and for double-spaced. Footnotes must be in font size 10,
- Font Style should be Times New Roman single-spaced and double space left between footnotes.
- Memorials should be preferably staple bound. Comb/spiral or any other form of binding will be considered improper binding. Please avoid plastic front sheets / separators.
- Memorials must have a one inch margin on all sides of each page.
- Page numbering should be on the top right side of each page.
- Covers must be placed on briefs as follows:
- **Prosecution: Pale Blue Color, Defense: Light Red Color.**
- The cover page of Memorials must state the following
 - The cause title
 - Identity of brief as Prosecution or Defence.
 - However, identity of the institution shall not be revealed anywhere in the memorial. Instead code numbers allotted to the teams should be mentioned. Violation of this provision shall result in penalties including disqualification. The Administrator's decision shall be final.
 - The teams shall have an option to submit a separate paper book of not more than 25 pages (printed on both sides), which shall carry all the annexure and case laws that have been referred to in the memorial. The paper book shall have a white cover and 2 copies shall be submitted at the time of registration. Any identifying marks/seal of the college on the paper book shall attract severe penalties including disqualification.

The submission of this paper book does NOT necessarily entitle the team to any additional marks.

Article 16- Disclaimer

The Institution/ Society has full right reserved to modify, cancel any rules as it deem fits to the situation at any time in the due course of the competition and the decision shall stand final.

Article 17- Queries and Clarification

All the queries and clarification regarding the case study must be addressed to knmtc2015@gmail.com on or before 15th March 2015. No queries directed to contact persons shall be entertained whatsoever the case may be. In case of any other query regarding the competition like submission of written brief etc. shall be made to:

Contact Persons:

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