



**SURANA & SURANA NATIONAL TRIAL ADVOCACY
MOOT COURT COMPETITION 2018**

16 August 2018

Clarifications

For the purpose of uniformity all teams can use the following details for the accused / others for preparation of the relevant documents:

Deven: S/o Perumal, Age 25, DOB: 1 April 1993, Address: 1, Canal Street, Chirapalli, Vanjiyur, Sardam – 1 Mobile: 99555 99555, Ecotel.

Pooja: D/o Vishal, Age 25, DOB: 10 October 1993, Address: 2 Mettu Street, Chirapalli, Vanjiyur, Sardam-1, Mobile: 99555 88666, Ecotel

Jeyant: S/o Gajanan, Age, 26, DOB: 10 September 1992,
Address: 3 Subhedar Street, Chirapalli, Vanjiyur, Sardam-3, Mobile: 88555 77333, Mobtel

Kavita: D/o of Subash, Age 25, DOB: 5 March 1993
Address: 4 Temple Street, Mannai, Mital Nadu – 4, Mobile: 88555 77444, Mobtel

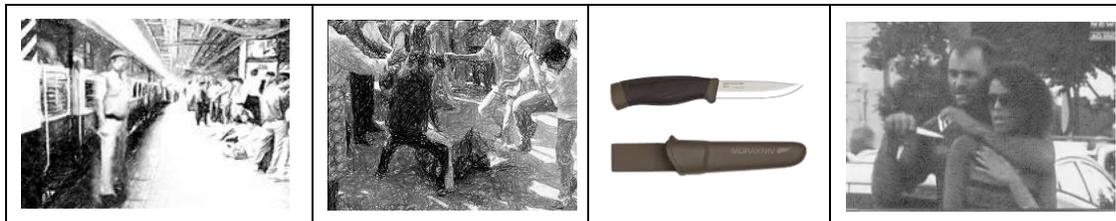
FIR No: 110/2017 Date: 12 June 2017

Charge sheet No: 16 dated 20 Feb 2018

Para 22 – IPC should read as BPC

The laws of Barat are analogous to the laws of India.

Images for representational purpose. May be used by teams



Sample Annexures given below may be used as a reference for preparation by teams

Clarifications to the various queries raised by teams has been answered on page 7 & 8.

No further clarifications will be provided.

Administrator

Statement of Witnesses

Deven (A1) – Pooja and I were together since college days. I called Pooja to meet for the last time because she was soon moving to Mumbai and she wanted to end everything on a good note. I always carried a pen knife and fruits with me since my college days and in fact, that is how we came together. At the metro station, I was going to cut an apple for her but I was hit by a stone on the head that was thrown at me by Jeyant and I started bleeding. He shouted ‘murder murder’ and the public started running towards me. He hit me with another stone. I panicked after seeing everybody and stood behind Pooja. I tried to pull her near and was asking to help me and in the process, the knife touched and left her injured. I was then attacked by Jeyant and fell unconscious by the time I regained consciousness I was in the hospital.

Pooja – I went to meet Deven at the metro station for the last time. He took out a knife and it created a state of panic for others and he took me as a shield and attacked me. The last thing I remember is falling on the floor, bleeding.

Jeyant (A2) – I am a relative and an old friend of Pooja. I knew this day would come one day and I have been warning Pooja since the college days. I knew that people like Deven could never be trusted. When Pooja told me and Kavita that she was going to meet Deven and after knowing what happened at the restaurant we agreed to accompany her. I remained at a distance and Kavita went with Pooja but she was also left them alone. I saw Deven pulling a knife out of his bag and making a move towards Pooja. In order to save her life, I alerted everyone and people rushed towards them but before anyone could reach them Deven had already made his move and tried to kill Pooja. The crowd later overpowered Deven and started beating him.

Kavita – My name is Kavita and I am 25 years old. I am a friend of Pooja and her colleague. Deven was a nuisance in Pooja’s life, she used to avoid him and repeatedly used to tell him to stay away but he never listened. She went to the extent of changing her mobile number only to find him standing outside the office. Pooja is an ambitious person with great potential and I advised her to start a new life and we both were going to do that by joining a training institute in Mumbai. Before that, she wanted to put an end to the Deven chapter and they both met at a restaurant where she told me that she was abused by Deven. He still kept calling her even after being intoxicated. They planned to meet again at the Indra Nagar metro station and Pooja asked me and Jeyant to accompany her. I went with Pooja to meet Deven but I was asked to give them some personal space and I moved away. I saw them talking for a few seconds and then Deven reached for something in his bag and took out an apple and a penknife. He held the knife in his hand and moved close to Pooja, seeing which I shocked. Jeyant hurled stones at Deven and Deven was bleeding and hiding behind Pooja. Seeing everyone approaching him he first threatened to kill Pooja by placing a knife at her throat and then attacked her by slitting her throat. She fell bleeding. Deven was taken over by Jeyant and other people.

Kannan- My name is Kannan and I am a software engineer. I was waiting for the metro when I saw Pooja and Deven who occupied the bench I was sitting on. Deven was looking upset. He went for his bag, took out an apple with a knife and as soon as he did he was hit by a stone on the head. He then went for Pooja and took as a human shield and warned everybody from approaching him. Another stone came flying towards him thrown by Jeyant and seeing that his plans are not working he attacked Pooja but was apprehended by Jeyant and crowd who started hitting him.

Karan - I met Deven near my house. He was looking devastated. I was going for the dinner so I asked him to tag along. I asked him the reason behind his state and he told me that Pooja wants to break up with him and he went to meet her and after a verbal altercation, she slapped him in public. He also told me about how Pooja's sudden change of behaviour is hurting him a lot and how she has started treating him like a stranger. He was depressed and I offered him a couple of drinks and then dropped him at his flat.

Kishore – I am Deven's roommate. Since he has moved with me I have mostly seen him worried and mainly because of Pooja. He is constantly worried about her safety and well being. One day he comes home drunk and told me about whatever happened at the restaurant. He then called her to meet for the last time and told me that this time he will end everything on a good note. Like always he took fruits and a small knife in his cotton bag and told me that this is how it all started and how he will offer her an apple for the one last time. It is unfortunate whatever happened to him. He deserved better.

Alex – I am a waiter at the Taj restaurant, Punna. I attended Mr Deven and Miss Pooja when they came to our restaurant on 9th of June. Mr Deven was looking happy to meet Miss Pooja and I also heard him complimenting her. They were talking normally but all of a sudden something happened and Miss Pooja slapped Mr Deven and left the restaurant.

Psychologist – My name is Dr Abhay and I am a psychologist at Punnai. Deven was my patient. He came to me a few months ago and was battling with depression, anxiety and insomnia. He was also suffering from psychological trauma. I was treating him and developments in his personal life wasn't helping him at all. But Deven was not an aggressor and even after multiple sessions he did not ever give any sign of hatred towards Pooja nor did he show any intention of hurting her.

Magistrate - I was present at the hospital. Statements of Pooja and Deven were recorded in my presence. Both of them were injured and Pooja especially could barely speak and gave a short statement.

Mr Pandidurai – My name is Pandidurai and I absolutely condemn the incident that took place at Indra Nagar metro station on 12th of June and I will be vocal about the fact that this was all a plan of the opposite party which was implemented by their supporter Jeyant. I have heard about the incident and Deven never attempted to injure Pooja but Jeyant created a scene out of small pen knife and instigated the public to beat Deven to death. This is an attempt to sabotage the whole community by playing dirty games by corrupting the youth and future of the country.

Investigation Report

Case No / FIR No:

Case Diary No and date:

Name of accused: 1. Deven

2. Jeyant

- Accused No. 2 is under custody. Accused No. 1 is injured and admitted in the hospital.

Wanted accused: Two unknown accused wanted

Weapons used in crime: 1. a knife

2. Stones

- Knife and the stones were sent to the forensic department. Blood stains samples also collected from around the bench and were sent to the forensic department.
- All weapons used for the crime has been recovered.

Injuries to Complainant/witnesses: Pooja is critically injured and was admitted to the ICU. She has a cut on her throat and shoulder.

Other injured: Deven, accused, is also injured was immediately admitted to the hospital. He has several injuries and is recovering at the hospital.

How the FIR was lodged: Police came to know about the incident when an unknown caller called at the Indra Nagar Police Station to report the incident that was occurring at the Indra Nagar metro station. Police with ambulance reached the spot within 10 minutes after the call was received. The injured were immediately admitted to the hospital. Evidence was collected from the spot along with the weapons.

Facts of the case:

1. On the 12th of June 2017 at around 10:00 am. Deven and Pooja were going to meet each other at the Indra Nagar metro station. Kavita and Jeyant were accompanying Pooja.
2. Everyone panicked when Deven while talking to Pooja took out a knife. After seeing the knife Jeyant alerted the public and threw stones at Deven.
3. Deven took Pooja as a human shield and asked everybody to back off. On seeing the crowd approaching towards him. He used the knife he was wielding on Pooja injuring her and she fell unconscious.
4. Deven was overpowered by the crowd and Jeyant who started beating him. The ambulance came with police and they both were taken to the hospital in the critical state and were admitted to ICU.
5. Deven and Pooja know each other since the days of college and Jeyant was also in Vanjiyur but not in the same college. Jeyant and Deven didn't like each other but Pooja and Deven were close to each other.
6. They moved all moved to Punnai after completing their graduation. Pooja got campus placement and Deven got a job with a private builder. Pooja was staying in a flat near Indra Nagar metro and Deven was staying as a paying guest with Kishore.
7. Pooja started distancing herself from Deven after moving to Punnai and Deven was not taking it well. Pooja tried telling him that she wants to start a new life and will be going to Mumbai to train for becoming an air hostess with Kavita.
8. On 9th they met at the Taj restaurant where Pooja slapped Deven after Deven abused her and told her that she is losing her character.
9. Deven then got drunk with Karan, whom he met on his way to home and after getting intoxicated he again called Pooja late at the night asking her to meet for one last time and he wants to apologize for what he had done.
10. They met at Indra Nagar metro station where the incident took place.

Evidence Collected:

1. Stones that hit Deven
2. Knife and the Cotton bag with fruits
3. Picture of Deven holding a knife against Pooja's neck
4. Footage of security cameras
5. Blood stained samples

Efforts are being made to arrest the wanted accused of the crime. The investigation is on and they will be under custody too. Security cameras will help in their identification.

Statements of witnesses were recorded under section 161 of Cr.P.C. Namely:

1. Deven (A1)
2. Pooja
3. Jeyant (A2)
4. Kavita
5. Kannan
6. Karan
7. Kishore
8. Alex

The investigation regarding the incident is still going on. Efforts are being made to recognize the unknown accused and directions have been given to search for them and reveal their identity.

Sd/-

Prakash, Inspector
Investigating Officer

Queries & Answers

- 1) Whether or not defense are allowed to submit extra exhibits (in addition to ones in the problem) complying with provisions of crpc?

There can be one set of exhibits only per team which will be used for both the prosecution and defense

- 2) The extra witnesses can be extended to two witnesses for each side? Or is it one for prosecution and one for defense?

All together max 5 witness for each team each round.

- 3) Due to the peculiar nature of the case, are the defense counsels supposed to discharge both A1 and A2? Or can the counsels choose to implicate only one of the two?

It is up to the team to deal with the issue. The situation chosen is deliberate.

- 4) Deven has committed an offence against Pooja and Jeyant has committed an offence against Deven. Therefore Deven being an accused and a victim at the same time and Jeyant being an accused only, how are we, as a team of two mooters expected to represent both of them?

It is up to the team to deal with the issue. The situation chosen is deliberate

- 5) Since Investigation report (Annexure 3) and charge sheet (Annexure 5) are used interchangeably, do we have to make separate documents for both?

Yes. They are not the same.

- 6) Also, the mode of citation is not specified in the rules, we would like to know the mode of citation we have to follow?

Blue book.

- 7) Lastly, are we going to be provided with the photographs of exhibits?

We have provided with some sample documents / pics. You may use / make your own on these lines.

- 8) In paragraph 23 it has been mentioned that “*deven was charged under...*”. Is this to be interpreted charge under charge sheet or charge under FIR or the charge has already been framed by the court?

It is Para 22 – FIR to be prepared by team. Magistrate has taken cognizance of the offence mentioned and committed to trial in Sessions court.

- 9) In paragraph 23, it is written that “*a formal FIR was lodged against Deven and Jeyant....*” Does this mean that there was a single FIR against both the accused or there were FIRs?

It is up to the team to deal with the issue. The situation chosen is deliberate

- 10) Under the heading ‘Documents to be prepared’, in point no. 6(1) & 6(3) (under heading of list of witnessed):

It is written that Deven and Pooja gave “a short statement to the police *in the presence of Magistrate*”. Does this mean it is statement under Section 164 or under Section 161 of Code of Criminal Procedure, 1973?

No clarification required.

- 11) It is written that extra witness 1 & 2 can be brought in place of “*Witness 1 & 2*”. Does this mean Deven and Jayant or any two witnesses? Also can both sides bring two extra witnesses or is it intended only for the defence?

Any two witnesses that the team prefers to introduced within the framework of the proposition subject to maximum of 5 witnesses as per procedure.

- 12) In Paragraph 24 it is mentioned that “*the chargesheet was filed with the Sessions Court...*”. how is this procedurally possible? Or is this to be interpreted as chargesheet being filed before the Magistrate and then the case being committed to the Sessions Court?

Para 23 - Yes. It should read: On completion of the investigation the police forwarded the Final Report (Charge sheet) to the Magistrate Court. The Court took cognizance of the report and thereafter committed the case to the Court of Sessions.

- 13) Are all the three accused persons in custody or has anyone of them got bail?

Teams are free to assume and prepare their case / memorial accordingly

- 14) How are two distinct see of charges put in a single case itself? It looks like case and a counter case arising out of the same incident. But it cannot be one single case, right? How will one counsel represent two different rival parties?

It is up to the team to deal with the issue. The situation chosen is deliberate

- 15) Has the unknown person been arrested?

Go with the facts provided.

- 16) When and by whom was the FIR filed?

Teams must figure this out.

- 17) If there is an addition of facts which is not in contravention to the moot problem and is also established with reports and documents. Will that addition of facts be considered as a wild imagination? Please clarify the last note of the moot problem, where it states that the case should be within the parameters of the factsheet and no wild imagination is permitted.

It means that teams should not concoct new stories beyond the facts. Otherwise there is no end to it. You cannot finish your arguments within the prescribed time limit.

- 18) Whether Section 504 of the IPC charged against Jeyant is correct or should it be Section 505 of the IPC.

It is up to the teams to raise the issue and seek alteration of charges as per facts / Cr.PC.

- 19) The mock problem that has been received by our college is different from the one available on the website. So kindly clarify as to which has to be relied upon?

Download the one from moot.in

- 20) Can the documents other than Annexures and Exhibits be submitted?

Subject to Judges discretion and within the parameters of the problem following appropriate procedure under Cr Pc and sticking to time prescribed.