

## PROPOSITION

1. Raman, a Hindu hails from a small village in South West Karnataka. He is a software engineer by profession. After completing his doctorate on scholarship, he joined as a project manager in a prestigious global entity in Bangalore. Owing to his academic brilliance he soon rose through the managerial ranks in the company. After purchasing a new residence in Bangalore he brought in his old parents to give them better means of living.
2. Simran, a Hindu born and brought up in Punjab is the eldest of four daughters. Her father is a primary school teacher. Despite hailing from poor economic means, Simran's parents were able to give her a decent education. Simran was a vivacious intelligent pleasant natured girl.
3. While pursuing MBA at Delhi University, both of them met and became friends. Their friendship grew as they spent the next two years closely interacting with each other. After the culmination of the course Raman got placed in Bangalore while Simran found a job in Delhi. However they did keep in touch and eventually their friendship evolved and grew stronger.
4. Raman and Simran decided to make their parents aware of their relationship. Their parents did not support this match. But after much persuasion Raman and Simran got their parents to agree for their marriage.
5. The marriage was solemnized according to Hindu traditions on 1<sup>st</sup> January 2005 at a temple in Bangalore. The marriage ceremony was a sombre, close knit family affair. Simran's parents exhausted much of their life savings solemnizing the wedding ceremony.
6. After marriage Simran moved to Bangalore into the home of her husband where her in-laws lived as well. Simran's relationship with her in-laws was barely cordial at best. Due to the cultural differences with her in-laws Simran could never get accustomed to their presence and involvement in the lives of her and her husband. Even though on making multiple attempts Raman could not make Simran and his parents maintain a positive relationship with each other.
7. Due to their conservative mind set, they were not supportive of Simran's decision to start a new job in Bangalore. It was only after Raman expressed his support for Simran's decision to work that his parents decided to support her move. It was because of her positive credentials she was able to land a decent job in a reputed firm. Her absence from home for long hours led to her in laws being more infuriated with her. This in turn led to friction between Raman and Simran.
8. Raman who had progressed very well in his employer company was offered a promotion in rank, for which he was allotted a position available at their head office in United States of America. He was not too keen on leaving his old-parents alone in Bangalore. But due to Simran's repeated insistence he decided to accept this offer .His parents however did not support this step at all as they feared abandonment at this age and feeble stage of health.
9. Raman received his joining date for first week of September 2007. Raman and Simran reached USA in first week of August 2007 and were able to find and set up a new apartment as their home in New York City.

10. After relocating to USA, Simran was initially unable to find a job this resulted in her being agitated. There was a lot of work pressure on Raman whereas she wanted his company leading to regular fights between both of them.
11. In January of 2010 Raman and Simran were blessed with their first child a girl named Riya, who became a U.S. citizen by birth. It all went on happily till their daughter became 2 years old and was able to express her need for contact and comfort from her father.
12. It was during this time that the economy slipped into a major depression and Raman's company suffered a loss in revenue and implemented pay cuts across employees of all ranks. In order to gain back his position Raman got too embroiled in his work and started managing multiple projects at the same time which did not leave him with much free time outside the office. Soon his time and attention towards family withered away under the stress of work. There was stress also caused by the looming unpredictability of the US government's visa policies. Owing to the current lack of sufficient funds Raman fell behind on the payments to their palatial home, which was ultimately repossessed by the bank.
13. Raman began to express his frustrations vocally and eventually physically by assaulting Simran. He started consuming alcohol which eventually resulted in a few loud shouting episodes during one of which a neighbour informed the police and Raman was held under observation for a night. Because of which he received a show cause notice from the HR department at his office as well.
14. Simran tried her best to support Raman and sooth his frustration by dealing with him very calmly and positively even after his frequent negative jibes and curt behaviour.
15. With time things began taking a positive turn for Raman and in early 2014 he was granted citizenship of United States of America and he soon got a promotion at work as well.
16. In early 2017 Raman and Simran were blessed with their second daughter Prabha. Raman received flak from his parents for not being able to gift them a grandson. This in turn deteriorated the relationship of Raman and Simran sharply. Raman started expressing his negativity on his daughters. There was frequent scolding without a cause. The welfare and upbringing of the daughters was being taken care of by Simran entirely on her own accord.
17. With time any and all friendship which they both shared had withered away. The children were less accustomed to seeing him at home on weekdays. So the daughters were solely the responsibility of the mother.
18. In December 2017, Simran lost her father due to sudden illness. Simran along with her daughters left for her parents' home in Punjab immediately whereas Raman could only show up for the last rites and that too for just 2 days.
19. During her stay with her mother, Simran was asked the reason for her subdued personality which was very unlike her. Simran broke down and narrated her entire tale of suffering to her mother. Her mother as empathetic she was to Simrans condition advised her not to end her relationship with her husband and go back to him for the sake of her daughters. Simran decided to stay back at her mother's home for a few days more.

20. Simran got a visit from a group of her school class mates who had come to offer their condolences to her and her mother. One of them was Suraj, who was now a practising surgeon in a corporate hospital. The next day Suraj accompanied Simran's family on the trip to immerse the ashes of her late father. On route she confided in him the current predicament of her relationship with Raman. Simran was scheduled to go back to US after 10 days and in the mean time her bonding and emotional dependence on Suraj continued to grow.
21. Simran flew back with her daughters on her scheduled flight. Raman wasn't present at the airport to receive his family.
22. Raman and Simran continued to live together but their relationship had become more estranged now than ever before. Raman's overburdened work life resulted in some dereliction of his responsibilities towards his family and Simran was left with the entire burdening of parenting all by herself. The only emotional support which Simran received was from her online conversations with Suraj.
23. Simran however continued to live with him as his wife despite receiving flak and negativity from Raman at every juncture of life.
24. Compounded by all of this Simran felt the need for some emotional liberation which she found in her conversations with Suraj due to which Simran ended up spending a lot more than her usual time making phone calls and web chats with Suraj. Simran's daughters ended up bearing the brunt of being ignored by their mother.
25. On one particular evening in December of 2018 when Raman returned from office he overheard an intimate conversation that Simran was having with Suraj, this infuriated him and resulted in him getting abusive and violent with Simran in the presence of their daughters. The next morning Raman dropped their elder daughter to school and himself went to office. Simran in their absence along with her younger daughter left home and boarded the next available flight to India.
26. After her arrival at her mother's home in Punjab she enrolled her daughter in a local primary school and started looking for a job to sustain the basic survival of herself and her daughter which she did find after a few interviews.
27. Raman and his family kept trying to contact Simran but received no response from her end as she switched her mobile number to avoid any and all contact with them. Raman's parents made the journey all the way to Simran's home but on arriving there they were denied any contact with her and her daughter. Even after repeated attempts and requests to meet Simran and their granddaughter Simran's mother did not allow them any visitation.
28. Raman in the meantime filed a complaint in January 2019 at the local court of New York accusing Simran of removing his daughter from the State boundaries without his consent. Raman claimed that his daughter has lived only in the US her entire life and she is accustomed to the social and familial paradigms of this country. He contended that his daughter is a US citizen and him; being financially strong it would be in the better interest of the child that he should raise her in his care and custody. Moreover his elder daughter had started staying depressed and was missing her sister. Due to this her academics and health had started to suffer.

29. The Court passed an order in his favour whereby Simran was ordered to return the custody of the younger daughter to Raman in US. The Court held that the child should enjoy in the natural environment and should receive the love and care of her father.
30. Simran on the other hand had completely given up any hopes and chances of letting Raman be a part of her and her children's life and this in turn strengthened her bond with Suraj to a higher magnitude of dependency. Suraj would accompany Simran and her daughter for leisure and social engagements.
31. Simran decided to put an end to her marital relationship with Raman. She with the help of Suraj consulted a lawyer and filed a petition of divorce in the local Family Court in Punjab on the ground of cruelty under section 13, Maintenance under section 25 of Hindu Marriage Act 1955 and custody of her daughters under Hindu Minority and Guardianship Act 1956.
32. Raman couldn't bring himself to accept the formidable bonding of Simran and Suraj. He decided to impede upon Simran and Suraj's plan of settling down and in reply files for Restitution of Conjugal Rights under Section 9 of Hindu Marriage Act 1955. He states that he wants to stay married to Simran and wants to raise their children together.

**Note: For the said moot, Simran will be the Petitioner & Raman will be the Respondent.**

**Issues:**

- 1) Whether Petitioner is entitled for divorce on the ground of Cruelty?
- 2) Whether Petitioner is entitled for Maintenance and Custody of her daughters?
- 3) Whether Respondent is entitled for a decree of Restitution of Conjugal Rights?
- 4) Whether the order of the US court passed in favour of Raman regarding the custody of his daughter is enforceable in India?

Teams are free to frame any other relevant issue to the said moot prop.