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Deemed to be UNIVERSITY

School of Law
Bangalore

PRESENTS

NATIONAL MEMORIAL DRAFTING COMPETITION

IN COLLABORATION WITH



CENTRE FOR
LAW & POLICY
RESEARCH



1ST MEMORIAL DRAFTING COMPETITION

NARSEE MONJEE INSTITUTE

OF MANAGEMENT STUDIES, SCHOOL OF LAW



NMIMS MOOT PROPOSITION

1. The Republic of Industhan – a majestic peninsula nestled between the three mighty water bodies and the highest chains of magnificent mountains is a kaleidoscope of opportunities and thriving professions.
2. Once limited to producing doctors and engineers *en masse*, Industhan has off lately seen a rise in people wanting to become teachers, sportspersons, journalists, and comedians, among other professions – largely attributable to a popular cult movie in the region called “4 Idiots” which encouraged people to pursue their passion and move beyond the societal clutches of following the herd and breaking a path for themselves.
3. In a fast-changing world with a fast flow of information coupled with the need to keep the citizens updated with the latest happenings around the country, journalism as a profession took birth. The people with analytical, critical, and “unbiased” mind took on the mettle to interpret, explain, comment, and present the events happening around the world to the public.
4. On the other hand, comedians had a similar profession, not exactly similar in theory, but in practice, where they presented their view on everyday events happening around the world albeit with unique elements of humour, wit, and creativity.
5. A striking similarity between the two professions was their common platform of expression, i.e., print and electronic media, including the social media platforms.
6. Just like every profession has certain individuals who make their profession famous (or infamous), Industhan too had few peculiarly known personalities who established themselves in the field of journalism and comedy for right (or wrong) reasons.
7. Arnamika is a reputed journalist who forayed into journalism in the early 1990s and established herself as a prime-time front runner who topped the “TRP charts” in a

manner best known to her. However, she is critiqued for her opinionated reporting in support of a certain ruling party and across a wide spectrum of situations including uncritical reproduction of government narratives, avoiding criticism of figures from the ruling party, and presenting political opponents in a negative light.

8. Kunalika is a satirical stand-up comedian known for her fearless, incisive and often polarizing material. Most of her gigs have revolved around the criticism of the ruling party, and its popular leaders presented with humour and satire flavours – naturally with no restraint or sugar coating.
9. Unsurprisingly, Arnamika and Kunalika often crossed path with each other virtually, mostly through their respective contents fuelled with their diametrically opposite view on certain topics that created a feeling of mutual animosity among each other. Both of them employed no restraint in talking (or roasting) each other through their respective platforms.
10. One fine day, as fate would have it, Arnamika and Kunalika crossed path with each other again, but this time, at 32,000 feet in a flight where Kunalika confronted Arnamika and accosted her by asking her opinion on few controversial and uncomfortable topics. When Arnamika exercised her right to remain silent and ignore Kunalika and her barrage of questions, Kunalika started calling her “coward”, “spineless”, and a “government stooge”.
11. To no one’s surprise, Kunalika was banned by the airlines for flying for the next 6 months as a punishment for “allegedly harassing” a passenger. Kunalika had a fair reason to believe that Arnamika and her contacts in the government pushed for her ban.
12. A few months later, Arnamika was arrested by the Police in a criminal case which received widespread media attention and people from all walks of life commented on the incident through their tweets, statuses, posts on social media platforms. The magnitude of such posts doubled when Arnamika managed to get an urgent listing and hearing of her matter in the apex court of the Republic of Industhan which, at that time, was not fully functional due to the ongoing global pandemic and only urgent matters and matters related to national importance were being heard.

13. Arnamika got the relief from the apex court immediately and was released on bail which did not go down well with many people in the society, including Kunalika.
14. As expected and seen as a trend in all such events of national importance (or lack of it), the Twitter army got activated and shot a barrage of tweets expressing their pleasure (or displeasure) on Arnamika's quick and instant relief, from the apex court.
15. One such set of tweets were made by none other than Kunalika, who published a string of tweets expressing her satirical and critical take on the incident. The tweets are reproduced hereunder:
- a. *“The Apex Court of this country is the apex joke of this country.”*
 - b. *“The pace at which the Apex Court operates in matters of ‘National Interests’ it is time we put a certain prime time journalist’s photo in the building.”*
 - c. *“The law is blind only for the poor and common people, for those with power and money, law can see a rainbow full of colours. A powerful media personality can get his hearing in a day whereas petitions of immense importance such as demonetization, legality of electoral bonds, and other important petitions does not get time and attention.”*
 - d. *“All lawyers with a spine must stop the use of the prefix ‘Hon’ble while referring to the Apex Court or its judges. Honours have left the building long back...”*
16. These series of tweets once again drew widespread attention and media outcry from all over the country. Some tweeted in support of Kunalika for the courage she has shown to speak her mind and some tweeted against her for making gross insinuation and disrespecting the judiciary.
17. A group of zealous law students wrote to the Attorney General of the Induethan (“AG”) seeking his approval for initiating contempt of court proceedings against Kunalika as according to them, Kunalika's tweet has scandalized and lowered the authority of the court and that the tweets by Kunalika are a malicious attempt to denigrate the apex court under the garb of freedom of speech and expression exercised through the social media platform. Therefore, the actions of Kunalika amounts to contempt of court and should

be dealt with iron hands to ensure that no one in the future can brazenly condemn the authority of the supreme institution of justice in the country.

18. Surprisingly, the AG granted his consent and replied to the request of the law students stating that Kunalika's tweets were not only in bad taste but has clearly crossed the line between humour and contempt of court.

19. Without wasting any time, the law students along with the other bunch of petitioners who similarly got the consent of the AG to initiate the contempt of court proceedings against Kunalika, approached the apex court and filed a Contempt Petition (CrI), on the grounds that the tweets of Kunalika are a bold and brazen attempt to ridicule and bring disrepute to the judiciary of the country as it scandalizes and lowers the authority of the court. This could lead to interference with the due course of any judicial proceeding or obstruct the administration of justice in future as it erodes the confidence of the litigant public on the court. Moreover, it sends a wrong message in the society as Kunalika is a public figure and has many followers who are encouraged and incited to disrespect the judiciary of the country.

20. A three-judge bench of the Apex Court of the Indushtan issued notice to Kunalika for her tweets on the Apex Court and gave 6 weeks to respond to the notice. On the day of the hearing, the counsel for Kunalika, briefly argued before the bench, and submitted, *inter alia*, the following contentions:

- a. The tweets of Kunalika are a satirical statement made by a comedian, and any attempt to penalize her for her tweets will be a gross violation of her freedom of speech and expression. Most importantly, it is the constitutional right of Kunalika to practice her profession of a comedian and of the ways of practising it is by publishing jokes or satire on the current happenings on the social media platform.
- b. Tweets made by a comedian cannot scandalize or tend to lower the authority of any court, let alone interfere with the due course of any judicial proceeding or obstruct the administration of justice in any other manner. The contempt of court must be invoked only in the rarest of rare circumstances and the present incident, by all means, does not fall into the rarest of rare category.

- c. The satirical statements made by a comedian to his “followers” who are aware of the fact that Kunalika is a comedian cannot possibly amount to eroding the confidence of the litigant public on the court as the statements are meant to be taken as a joke in good humour and must be enjoyed for their entertainment value.
- d. Kunalika has merely stated truth through her statements, and therefore, her statements do not amount to contempt of court. Kunalika is merely pointing out that matters on federalism, electoral funding, liberty of citizens, access to the internet, and freedom of speech seldomly mention in the cause list whereas the court has the time to hear the matters related to influential people. It is not just Arnalika’s bail but also about thousands similarly placed with their bail petitions being repeatedly rejected or getting postponed for which they have to spend months behind the bar.
- e. Moreover, the AG has selectively, vaguely, and inconsistently granted the consent to initiate the contempt proceedings as there have been instances much graver and of serious nature than the present one where the court has not initiated any contempt petition against the culprit. One such instance is when AG opined that accusing a sitting judge of favouritism and trying to topple a state government did not amount to contempt. Therefore, the vague, inconsistent, and selective application of the law relating to the contempt of court is a sufficient ground for declaring it invalid.

21. Subsequently, the bench decided to frame the following issues and directed the counsels to file a detailed written memorandum addressing each of the following issues:

- a. Whether a satirical reference made by a comedian can amount to lowering the sanctity of the apex court and thus amounts to contempt of court?
- b. Can truth be a defence to the contempt of court?
- c. Can inconsistent, vague, and selective application be a ground for the invalidity of the law?

22. The laws of Indushtan are in *pari materia* to the laws of the Republic of India.



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