




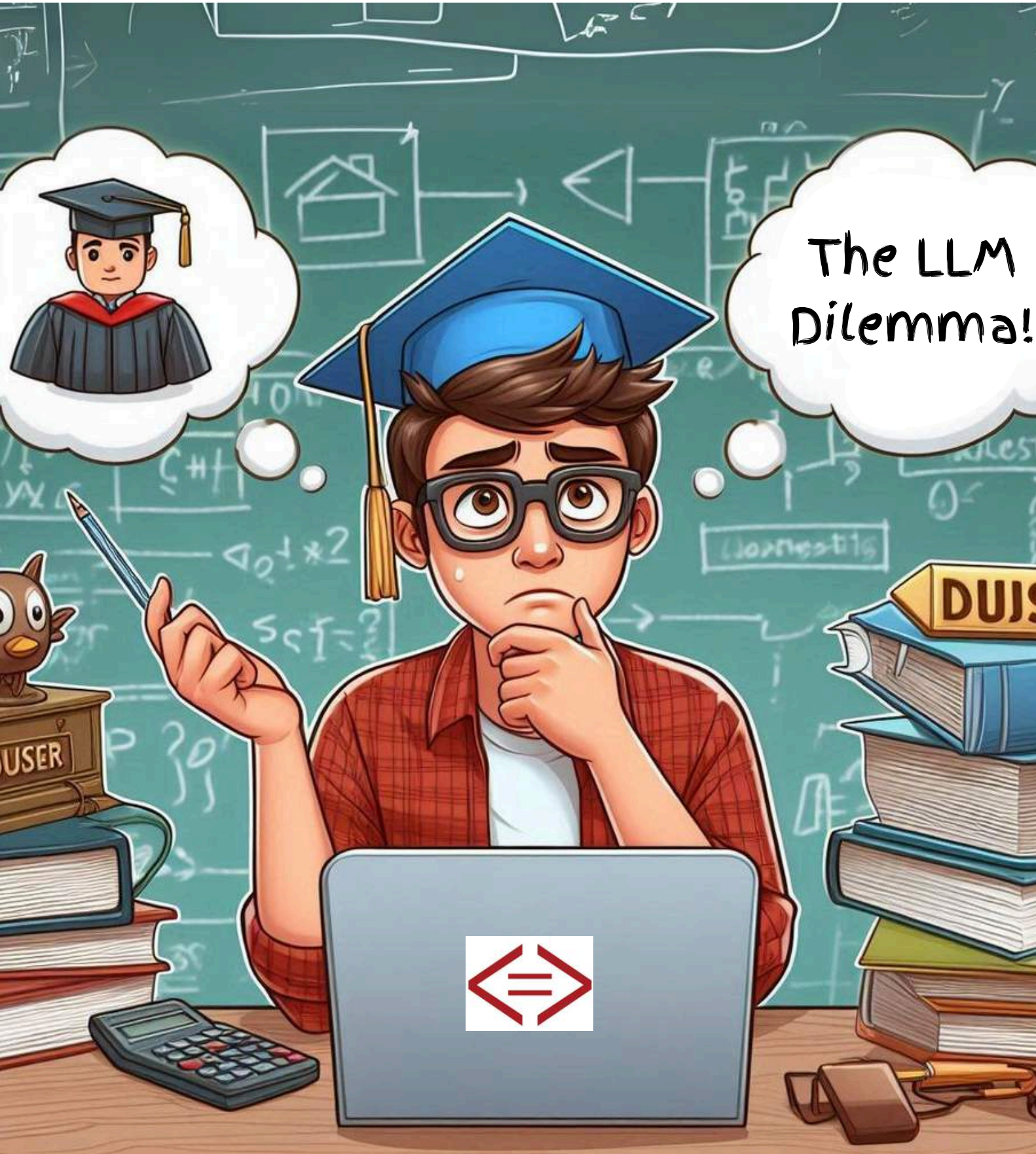
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# EDITORIAL



P. Arun Sugavaneshvar  
Founder

## Why should one do masters? Does it truly make a difference in the legal field?

I am reminded of the line spoken by Darth Vader in Star Wars (A New Hope): “I’ve been waiting for you, Obi-wan. We meet again at last. The circle is now complete. When I left you, I was but the learner; now I am the master”.

After graduation in 2013, I took up the idea of practice and joined the office of Senior Counsel Shri. Somayaji who was the then Advocate General of the State of Tamil Nadu. Despite learning the nuances of the law and being blessed to learn it from such a doyen in the field, the burden of practice was getting to me. After a year and a half of working at his chambers, I sought to apply for various master’s programs in the UK to finish higher studies and settle down there.

I couldn’t land full scholarships, and the then UK Prime Minister Tony Blair declared that international students could not pursue work in the UK after their masters, trying to promote a policy decision to shore up employment for local citizens (which has thankfully changed now). Upon such a series of unfortunate events, I calculated that the loan repayment would ultimately lead me to misfortune (Masters abroad is expensive without a scholarship). I gave up the idea of a master’s and started my practice.

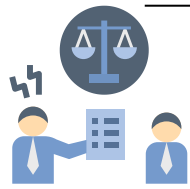
I now know, after ten years of experience in the field, the only reason one should pursue a master’s program is just for the love of learning more. Unfortunately, that is not the reason most people choose to do a master's. It is true that a master's degree improves job opportunities and salary packages; however, the perks are poor compared to the time and effort involved. The better metric to track will be the earnings capacity of one with a master's and one without in the long run (say, a ten-year period). AI is becoming more relevant by the day. Students should choose multidisciplinary learning by pairing their legal degree with an AI-specialised master’s program or an MBA in finance, or they could take a CA, CS, or CFA course to better their odds in the job market.

Masters’ studies, though unnecessary as per the mandate of the Bar Council to practice in courts or take up work as a lawyer, must be given their due credit for higher learning purposes alone. My personal opinion is that a master's is irrelevant to a successful legal career. However, if your heart is with it, go ahead. I wish you guys the very best.

No one ever becomes a master in any field, let alone law. We, at best, become better students.







# LEGAL CRISPS

## Section 80 NOTICE: A Mandatory Prerequisite, Not a Mere Formality for suing the government

-Sowmiya R.K

**Section 80 of the Code of Civil Procedure, 1908 (CPC)** is a crucial procedural safeguard that must be complied with before instituting a suit against the government or a public officer. It mandates that the plaintiff must serve a notice upon the defendant, outlining the cause of action, the specific relief sought, and the grounds for the claim. This notice is not a mere formality but a mandatory prerequisite, the non-compliance of which can prove fatal to the maintainability of the suit.

However, the Supreme Court, in the landmark case of ***Ram Kumar and Anr. v. State of Rajasthan and Ors. CIVIL APPEAL NOS. 115-116 OF 2001***, the notice under Section 80 CPC is mandated against a public officer only when the suit challenges some act or order passed by that officer in their official capacity. Where the public officer's actions are not directly impugned but merely a pro forma party to the suit, a separate notice may not be necessary, provided that the government or the appropriate authority has been duly served the requisite notice.

This judicial interpretation strikes a balance, ensuring that the mandatory notice requirement is not rendered a mere redundancy while preventing its indiscriminate application in cases where the public officer's official actions are not directly under scrutiny. The Supreme Court's decision in Ram Kumar's case clarifies that the notice under Section 80 CPC is a procedural filter. Still, its rigors apply only when the suit seeks to challenge the official acts of a public officer, not when the officer is merely a party by consequence.

Numerous precedents, including the ***State of Maharashtra v. Shri Chander Kant AIR 1977 SC 148***, have reinforced the mandatory nature of Section 80 CPC and the dismissibility of suits for non-compliance. As such, Section 80 CPC is a crucial legal mandate aimed at facilitating efficient dispute resolution, reducing the burden on courts, and ensuring that the government and public officers are accorded a reasonable opportunity to address grievances before litigation.





# Gratuity Act: The price for gratitude

-Nithyaparvathy R.G

Gratuity is the amount paid by the employer to his employees in return for the services offered by them to the company. The Gratuity Act states that three requirements must be met before a gratuity can be paid:

1. Employees should complete at least five years in the company before departing.
2. In companies adhering to a 5-day workweek, gratuity becomes applicable after a service period of 4 years and 190 days.
3. In companies adhering to a 6-day workweek, gratuity can be claimed upon completing four years and 240 days of service.

In ***Alvas Institute of Engineering and Technology Vs. The State of Karnataka & Others [Writ Petition No.48825 OF 2016]***, Alvas Institute of Engineering and Technology challenged the controlling authority's order regarding the payment of a gratuity to a former employee who had voluntarily resigned after four years, ten months, and fifteen days. The Institution argued that the employee still needed to fulfil **Section 4 of the Payment of Gratuity Act, 1972's** five-year requirement for continuous service. The Court considered the provisions of the Payment of Gratuity Act, particularly **Section 2-A**, which specifies continuous service.

Under Section 2-A(1), the Institution argued that a voluntary retirement should not be considered an interruption as the employer is not at fault, and Section 2(A)(2) would not be attracted. Therefore, the employee did not qualify under the conditions mentioned above. Hence, in this instance, only Section 4 would apply, and the employee would not be eligible for a gratuity until he had worked for five years. The Judgement clarifies that an employee who quits is only eligible for a gratuity after 5 years of continuous service, not after 4 years and 240 days, providing a clear understanding of the legal stance.





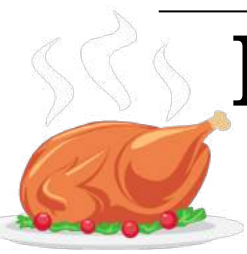
# CASE CHRONICLE

## Do you know that Notaries cannot grant Divorce by Executing an agreement of Separation?

-Seethala B

In the case of *Ravindra Pratap & Ors. v State of Madhya Pradesh & Anr. [M.Cr.C No.14908/2024]*, which dealt with a marriage being divorced through a mutual divorce agreement, was executed between the parties on June 22, 2022. The wife (respondent no.2) married the husband (applicant no.1) on April 21, 2022. Though her paternal family provided substantial dowry, including 8 lakhs and a few household items worth approximately 20 Lakhs in total, five days after her marriage, harassment towards her began with taunts on insufficient dowry, demand for a car and additional money of 10 Lakh rupees. They physically assaulted and abused her, which led to a mutual divorce agreement with a clause which was undertaken by the wife not to pursue any legal action against the petitioners. Despite this, an FIR was registered under **Sections 498-A, 506, and 34 of the Indian Penal Code, 1860 and Sections 3 & 4 of the Dowry Prohibition Act, 1961**. In this case, the petitioners sought to quash the FIR, arguing that the mutual divorce agreement made the FIR unsustainable. The Court, when in the context of FIR being sustainable, said that despite the notarised divorce agreement, FIR could be sustained as the detailed allegations of harassment towards the respondent's wife and the dowry demands in the FIR were credible. The Court further stated that the wife's undertaking not to pursue legal action was not binding as the agreement restricting legal proceedings is void under **Section 28 of the Indian Contracts Act, 1872** also **Section 41 of the Specific Relief Act, 1963** prohibits injunction which restrains a person from taking legal action. The Court declared the marriage null and void, as mentioned by the wife in her application, as the allegations made by her are supported in the FIR. The Court ruled that a notarized separation agreement holds no legal sanctity and cannot be considered a valid divorce. The Court also stated that divorce cannot be obtained by non-muslim parties without proper legal procedure.





# BEYOND THE OBVIOUS

## Is Butter Chicken Worth Fighting For?

-Anoushka Samyuktha A

The regular order by most of the non-veg lovers includes Butter Chicken as the gravy/curry component, and in the case of vegetarians, its Dal Makhani. But have we ever wondered how it was made or who came up with these? Recently, a case was filed in the Delhi High Court regarding a major master chef question, i.e., who came up with the recipe for butter chicken? In **Rupa Gujral & Ors v. Daryanganj Hospitality Private Ltd & Ors(CS(COMM)26/2024)**, a dispute between 2 restaurant chains based in Delhi, the Court is deciding as to who invented butter chicken. Moti Mahal restaurant claims that its founder, (Late) Kundal Lal Gujral, invented butter chicken and dal makhani. Whereas Daryaganj, another restaurant, also claims that its founder, (Late) Kundan Lal Jaggi invented the 2 dishes. Interestingly, both Kundal Lal Gujral and Kundan Lal Jaggi are the founders of the original Moti Mahal restaurant through a partnership. This case has the element of the rightful possession of intellectual property, such as trademarks, as a legacy. The plaintiff sought for damages of 2 crore, alleging that the restaurant is using claims on its website and other promotional materials to deceive consumers into believing that the two are related. According to this case, the purported misuse not only threatens to diminish the unique identity of the brand but also undermines its standing and reputation.

TM



## Emotional Strain of Frozen Bank Accounts

-Sri Sai Kamalini M.S

**Case: Dinesh Bhawarlal Choudhary v Paytm Bank, CC/22/404**

The petitioner was a shopkeeper and was maintaining an account in Paytm Bank with a balance of Rs. ₹62,633.94. On June 13, 2022, his account was frozen without providing any proper reason. He was affected due to this and was not able to access the account. The petitioner filed complaints and constantly raised concerns and tickets, but the respondent, Paytm Bank, did not respond to any of those complaints. Hence, the petitioner filed a consumer complaint under **Section 35 of the Consumer Protection Act 2019**. Section 35 of the Consumer Protection Act 2019 deals with eligibility and methods to file a complaint under the Consumer Protection Act 2019. This Section also mentions complaints can be filed electronically and proper fees must be paid.

The respondent mentioned that the account was defrosted, and the client could use it again. Still, the petitioner contested that they faced mental agony and deficiency of service due to the respondent's non-response. The Court held that there was a deficiency of service and that the client had to pay an interest of five percent per annum on the defrosted amount for the two months when the account was frozen. They also provided a relief of Rs.7000 for mental harassment and awarded 5000 litigation charges.





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# MEET THE TEAM



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