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Addressing the
urgent need to
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EDITORIAL



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Legal Clinics- Addressing the urgent need to make better lawyers

There is no lack of lawyers. There is just a lack of good talent. With MNCs and Indian startups waking up to the reality of having a good legal wing, they have now got into the arduous task of identifying exceptional professionals to legally protect their businesses. However, the legal talent parading the market is not their ask. The gap of what they look for versus what they have to choose from has only resulted in poaching already existing talent from competitors or outsourcing legal work to corporates that house legal talent at a subsidized rate and provide variable performance.

Now, the law schools have to finish the syllabus and conduct assessments and have to meet a set criteria from the Bar Council of India, which is already enough cause for struggle. Every law school is further mandated to have an Entrepreneurship Development Cell and a Placement cell. If one gathers data on the placement cell performance versus law students getting employment opportunities through other sources, the data could be quite enlightening. The seriousness of placing students is rather lacking and poorly done in many law schools.

Even the law schools that boast about the pedigree of law firms and businesses that hire from their college are not in a position to assure a full placement. It is quite concerning, given the interference of AI and the increasing number of law graduates passing out of law colleges every year being thrown in the mix where the volume of legal employment opportunities is steadily on the decline. There is another trend where law students recently are in the belief that a masters program may secure them employment. This is a very poor assessment of reality at the ground level.

The solution to this situation is to use legal clinics around the year in various disciplines of law to hone the skills of students to make them better lawyers. Instead of an ED cell or a placement cell, legal clinics must be the first preference for revamping. Legal clinics currently done are free legal aid camps for the underprivileged, and they merit our support. However, it would be wise for law schools to tap into legal clinics from various law firms or lawyers to give a practical learning opportunity for budding lawyers. It could be run with assessment metrics that help students understand their legal competence and help in better hiring as well. This is strictly not to be confused with workshops or seminars that happen almost every other week in most law colleges.

Legal clinics should happen around the year with a clear agenda under the mentorship and teaching of expert advocates and legal professionals. This structure would not only bring clarity in choosing a field to practice among lawyers, but it would also remove the handicap among law students of being theoretically competent and practically redundant.





LEGAL CRISPS

Walking the tightrope: Balancing Section 498-A's intentions and effects

-Adithya Menon

The Supreme Court of India has reiterated the need for a balanced and judicious application of Section 498A of the Indian Penal Code (IPC), which deals with cruelty against women in marriages, particularly dowry-related harassment. This ruling came as the court overturned a conviction under the now-replaced law, which was substituted by Section 86 of the Bharatiya Nyaya Sanhita (BNS) that took effect on July 1, 2024.

A bench comprising Justices CT Ravikumar and PV Sanjay Kumar emphasized that courts must exercise caution in cases involving Section 498A, identifying and preventing instances of “over implication” where unsubstantiated or exaggerated allegations are made. The bench drew upon precedents like ***Preeti Gupta & Another vs. State of Jharkhand & Another (2010) [2010 (7) SCC 667]***, where the Supreme Court had already highlighted the growing misuse of Section 498A. The court expressed concern that individuals with minimal involvement in alleged offences are often drawn into criminal cases, causing them undue hardship and damage to their reputations.

This judgment builds on earlier decisions that aim to address the misuse of Section 498A. In ***Arnesh Kumar vs. the State of Bihar (2014) [(2014) 8 SCC 273]***, where the court ruled that arrests under Section 498A should not be automatic and must follow a detailed investigation to prevent harassment of innocent parties. Similarly, in ***Rajesh Sharma & Ors vs. State of UP (2017) [(2017) 10 SCC 472]***, the Supreme Court recommended the formation of family welfare committees to examine complaints before police action is taken, a step intended to screen out false accusations.

Further guidelines to prevent unnecessary arrests and harassment were issued in the ***Satender Kumar Antil vs. CBI (2022) case [(2022) 10 SCC 51]***, where the court mandated written explanations from police before arrests in some instances. They recommended automatic bail for accused individuals who were not arrested during investigations.

The misuse of Section 498A has led to numerous calls for reform. In cases like ***Sushil Kumar Sharma vs. Union of India & Others (2005) [(2005) 6 SCC 281]*** and ***Chander Bhan vs. State of NCT of Delhi (2008) [AIR 2008 SC 1349]***, courts have underscored the need for judicial caution to avoid wrongful convictions based on unverified allegations.

While Section 498A remains a crucial provision for protecting women from domestic abuse and dowry-related violence, the Supreme Court continues to stress the importance of preventing its misuse. Judicial restraint and scrutiny of allegations are essential to ensure that the law is used as a shield for genuine victims rather than as a weapon for personal vendettas.





Provisional Patent

-Nithyaparvathy R G

In India, a provisional patent application is an initial filing with the Indian Patent Office (IPO). It allows inventors to secure an early filing date for their inventions while giving them a 12-month period to temper their ideas further. This type of application is especially helpful because it requires less detailed descriptions than a complete patent application, making it a more cost-effective solution for companies and individual inventors. The main advantages of obtaining a provisional patent include **establishing a priority date**, which is vital if another entity files for a similar invention afterwards, providing **time for development, testing, and market analysis** and **attracting potential investors** by showcasing a commitment to protecting the invention. Provisional patents simplify the filing procedure because they are not subject to IPO review like full patent applications are and do not require formal claims or lengthy descriptions.

Any further inventions made after the first filing date are essentially rendered ineffective when a provisional patent application is filed online. Subsequent innovations will not be regarded as valid and will have no benefits or legal support. An innovation must be **novel, useful and inventive** to qualify for a provisional patent; it cannot be an obvious improvement over previously known information. The application can include fundamental elements such as a clear description of the title, its technical field, background information on the problems it addresses, and a general overview of its functionality. However, it does not require intricate technical details or claims. The filing process entails conducting preliminary research to confirm novelty, drafting a clear invention description, and submitting essential forms like Form 1 (Application for Grant of Patent) and Form 2 (Provisional Specification).

Filing fees for a provisional patent application vary depending on the applicant's category and the application's complexity; typically, government fees are lower for startups and small businesses. After 12 months, inventors must submit a complete application to acquire full patent protection for up to 20 years.

The provisional application will be void if the complete patent application is not submitted within the specified date. According to the current regulations, the complete patent must be filed within one year of the provisional application. Failure to submit the full specification within this time frame will result in the abandonment of the patent rights. Therefore, providing a comprehensive description of the invention within that one-year timeframe is crucial to maintain patent protection.





CASE CHRONICLE

What constitutes inherent manufacturing defect?

-Sri Sai Kamalini M S

Citation: Hero MotoCorp Ltd. and Anr. vs Rajender Singh

Case No: First Appeal No. 1060 of 2019

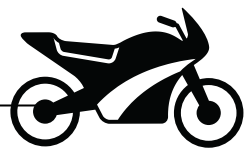
The Complainant had purchased a Motorcycle, Splendor, which had issues and was taken for repair on the same day of purchase. Various repairs were done frequently after purchase. The case was first heard in the Haryana State Consumer Disputes Redressal Commission, where Singh sought compensation for the alleged manufacturing defects and related inconveniences.

The initial ruling favoured Rajender Singh, leading Hero Moto Corp, to appeal the decision. The appeal was filed on December 6, 2019, and the final hearing occurred on June 11, 2024. The key legal question was whether repeated repairs and malfunctions constituted sufficient evidence of a manufacturing defect.

The previous precedents such as ***TATA Motors Ltd. Vs. Deepak Goyal and others RP No. 2309 of 2008 decided on 30.01.2015***, ***Sushila Automobiles Pvt. Ltd. Vs. Dr. Birendra Narain Prasad & Ors., (2010) CPJ 130***, and ***Surender Kumar Jain Vs. RC Bhargava and others reported in III (2006) CPJ 382*** were referred to in this judgment as they also dealt with a similar issue.

The Court mentioned that “Inherent manufacturing defect is something more than ordinary defect. As observed above, the onus lay upon the complainant alone to prove inherent manufacturing defect, and an expert’s report would provide requisite input in that regard.” The expert's role is crucial as their report can provide technical details and analysis that can substantiate the complainant's claims.

The court's ruling was not a recognition of Singh's claims, stating that repeated repairs alone cannot prove a manufacturing defect unless backed by expert analysis. The appeal by Hero MotoCorp was partly allowed, indicating that while some aspects of Singh's claims were recognised, the evidence provided did not fully substantiate his allegations.





BEYOND THE OBVIOUS

Kailasa - an analysis of Statehood claims

-Seethala B

ShriKailasa(Kailasa), the self-proclaimed nation by the Indian Spiritual leader Nithyananda, raised significant questions about its legitimacy and legal standing from an International perspective. 'United States of SriKailasa' identifies itself in its 'Kailasa's Jurisprudence' as a borderless nation with states and embassies around the world. It is also mentioned that “**United States of SriKailasa, the only Hindu nation on planet Earth, is headed by the Supreme Pontiff of 2 billion Hindus.**” For a statehood to be typically recognised, as mentioned in the Montevideo Convention of 1933, it has to adhere to the below-mentioned four essential elements-

1. Territory- A specific geographical area
2. Permanent Population- A stable community of people
3. Government- An organised political structure
4. Capacity to enter into relations with other states- Engage in diplomatic and foreign relations.

There is no definition of territory / specific geographical location mentioned in the Jurisprudence, nor is the population of 2 billion Hindus claimed by them verified anywhere. Regarding Government, Nithyananda, the self-proclaimed Supreme pontiff of Hinduism, has established a governance framework based on ancient Vedic traditions and Dharmashastra, claiming supreme authority and eternal validity. Despite this, the governance structure lacks recognition and legitimacy from established international bodies. **The United States of Kailasa has its own Reserve Bank, Nithyanandha Hindu University, Gurukul, University Press, Pregnancy Care, TV channel & 8500+ online Hindu Vedic courses.** A portal is still available on their website to apply E-Passport, which gives access to various services & knowledge in health, medicine, arts, science and education via online medium.

It is to be noted that the Sovereign Order of Malta is also a “borderless, service-oriented nation” which operates through many NGOs from around the world that are recognised by the United Nations. It also has diplomatic relations with more states despite not having any actual territory. However, while the UN recognizes the Sovereign Order of Malta, Kailasa has not yet achieved such recognition.



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