



MOOT COURT SOCIETY | SYMBIOSIS LAW SCHOOL, NOIDA
Symbiosis International University

ASCENT MOOT COURT COMPETITION, 2017

Moot Proposition

1. In January, 2017 a Gas-Town news portal *Fire.in* publishes a rather caustic criticism of a particular judgment of the Supreme Court of Gas-Town. The author of said piece is Saajan Vardarajan, a native Gastowner. Presently, however, he is a US citizen residing in the state of Bullet-Farm, having moved there a decade ago. He is a holder of the PGO (Person of Gastown Origin) card. Saajan is a former legal journalist; presently he teaches law at the University of Bullet-Farm.
2. While Saajan's piece is not a comment on the substantive findings of the Court, it asserts that the style and form adopted by the honourable judge serves to but exposit; indeed to obfuscate. Also, if one did not know better, one could be excused considering it a genuine parody of the generally abstruse nature of Supreme Court judgments. To be sure, if one is compelled by a judge's misguided aspirations to erudition to use a thesaurus to make sense of the law, it is bound to put the law beyond the reach of the layman and lawyer alike. For, traversing through two hundred and fifty pages of such a judgment would require untold reserves of fortitude. Saajan, incidentally, parses through only two.
3. Post publication the article, it appears, touches a nerve or two with the community of law students and teachers alike. It finds wide circulation amongst law students via law teachers, occasioned, perhaps, by a shared vindication of their struggles to get their heads around Supreme Court judgments generally.

4. The sharing by law students has said article land up at the Attorney General's desk, what with his son being a law student. He is appropriately taken aback at the prospect of a Supreme Court judgment being called gibberish in no uncertain terms, not to mention the scarier prospect of the author's brazen contempt finding approbation at law school(s). The AG's indignation leads him to bring about a criminal contempt motion before the Court. Which, the equally indignant Court is only too willing to second. Also, the author of the now much reviled judgment, who incidentally has just assumed office as the CJ of Gas-Town, having read the readers' comments following the article at *Fire.in* directs the AG to further initiate pertinent criminal proceedings against the author and publisher alike. You see, some reader comments insinuate a lack of ability and a resultant inferiority complex on part of the judge.

Sample this for instance:

“In my humble opinion, such verbosity is often reflective of a deep seated inferiority complex that much of the Gastown elite suffers from; which they invariably try to compensate by displaying their "command" of the English language and/or aping an English "manner" or "lifestyle" (which of course has faded or disappeared "back home").

And we mustn't forget that their lordships fully appreciate the power of borderline nonsensical verbiage to confuse the hoi polloi in buying into their self-important (exalted/undeserved?) status. Come to think of it the Gastown caste elites have been at it for aeons.”

5. As fate would have it, Saajan Vardarajan is visiting Gas-Town as an expert commentator at a Conference at the University of Gas-Town at Citadel the capital of Gas-Town. He is going to be there for a day only, which is why when said facts are brought to the Supreme Court's cognizance it immediately issues a non-bailable warrant for Saajan Vardarajan's arrest. Meanwhile, the editor-in-Chief of the news portal *Fire.in* is issued notice to appear before the Supreme Court to answer for criminal contempt.
6. The US Consulate has lodged a formal protest with the MEA, and is threatening to take the matter before the ICJ. It contends that the article was written by a US citizen while in the US and well within his

rights to freedom of speech and expression. The Supreme Court of Gas-town has no jurisdiction and its actions are in stark violation of generally established principles of international law.

7. The following is the contemptuous article by Saajan Vardarajan published in the news portal *Fire.in*:

“Judgment by a Cryptosaurus”

Or, a ‘Proposition in Opposition’ to the Supreme Court’s direly worthless use of language

- a. The Supreme Court of Gas-Town ruled last week in the case of *D v. Union of Gas-Town*, on the law of criminal defamation. The aim of this short exercise is not to delve into the merits of the court’s decision. Instead, it is a simple attempt – by a flabbergasted reader – to parse the language of the court, which, in keeping with an alarming trend in Indian jurisprudence, is a hodge-podge of catastrophic syntax and overblown (sometimes laughable) vocabulary.
- b. The judgment is 288 pages long, running to 178 imposing paragraphs. I am a former university lecturer in law who has worked in journalism for nearly 20 years as an editor and writer. In the spirit of my vocation, I decided to go through the first paragraph of the judgment, taking my “red pen” to it as I would to any submission sent to me as an editor. Here are my observations.

“This batch of writ petitions preferred under Article 32 of the Constitution of Gas-Town exposit cavil in its quintessential conceptuality and percipient discord between [the] venerated and exalted right of freedom of speech and [the] expression of an individual, exploring manifold and multilayered, limitless, unbounded and unfettered spectrums, and the controls, restrictions and constrictions, under the assumed power of “reasonableness” ingrained in the statutory provisions relating to criminal law to revive and uphold one’s reputation.”

- c. This sentence is so convoluted – and so riddled with adjectives – as to be impenetrable to lawyer and lay reader alike. It is among the worst sentences

I've encountered in all my years of reading legal materials. As an exercise in clarity, try rewriting this long, single sentence as two or three shorter ones, using fewer adjectives and synonyms.

- d. Here are some particular observations: “exposits cavil”: are you sure you mean ‘cavil’? The word refers to a petty or inconsequential complaint. It is not a synonym for all forms of complaint. In any case, a person would, correctly, ‘cavil at’ something, not ‘exposit cavil.’

“its quintessential conceptuality”: I assume the possessive ‘its’ refers to the ‘batch of writ petitions’. If so, ‘at its core’ would have been a much clearer phrase. So you’d be saying ‘this batch of petitions has, at its core, the complaint that...’

‘percipient discord’: How can ‘discord’ possibly be ‘percipient’? Unless ‘discord’ is being used here, incorrectly, as a synonym for ‘disagreement.’ Even then, ‘percipient’ strikes the wrong note.

‘venerated and exalted right’: Why the florid repetition?

‘exploring manifold and multilayered, limitless, unbounded and unfettered spectrums’: Again, this is verbose, repetitive and highly florid. By now, the reader is stuck in a quicksand of adjectives.

‘the controls, restrictions and constrictions’: more verbosity

‘reviver’: Unpardonable typo in the first sentence of a major judgment

“The assertion by the Union of Gas-Town and the complainants is that the reasonable restrictions are based on the paradigms and parameters of the Constitution that are structured and pedestaled on the doctrine of non-absoluteness of any fundamental right, cultural and social ethos, need and feel of the time, for every right engulfs and incorporates [the] duty to respect [an]other’s right and ensure mutual compatibility and conviviality of the individuals based on [the] collective harmony and conceptual grace of eventual social order; and the asseveration on the part of the petitioners is that freedom of thought and expression cannot be scuttled or abridged on the threat of criminal prosecution and made paraplegic on the mercurial stance of individual reputation and of societal harmony, for the said aspects

are to be treated as things of the past, a symbol of [the] colonial era where the ruler ruled over the [his] subjects and vanquished concepts of resistance; and, in any case, the individual grievances pertaining to reputation can be agitated in civil courts and thus, there is a remedy, and viewed from a prismatic perspective, there is no justification to keep the provision of defamation in criminal law alive as it creates a concavity and unreasonable restriction in individual freedom and further progressively mars [the] voice[s] of criticism and dissent which are necessitous for the growth of genuine advancement and a matured democracy.”

- e. I was too hasty in concluding that the first sentence of this judgment was notably awful. The very next sentence is even worse, surpassing the first in verbosity, obfuscation, flabbiness, meandering length, and analytical ineptitude. As an exercise in linguistic clarity, try writing this one giant sentence as five or six – or even seven – shorter ones instead. If a sentence contains two semi-colons, you can be sure that it is longer than it needs to be.

- f. Here are some particular observations: ‘paradigms and parameters’: Was this double-whammy really necessary?

‘that are structured and pedestaled’: And this second double-whammy? And was it really necessary to turn ‘pedestal’ into a hideous verb?

‘need and feel of the time’: A surprisingly laid-back phrase in the context. But do you really want to say that the ‘paradigms and parameters of the constitution [are] structured and pedestaled on the...need and feel of the time...’? Because that’s what you’re saying...

‘conceptual grace of eventual social order’: How is ‘social order’ both ‘conceptual’ and ‘eventual’? What do you mean by ‘conceptual grace’? Do you mean the ‘desirability’ of social order? Your meaning is entirely unclear.

‘asseveration’: Was this polysyllabic tub-thumper really necessary? What’s wrong with ‘claim’, or ‘assertion’?

“and made paraplegic on the mercurial stance of individual reputation and of societal harmony’: This is bad writing masquerading as fancy prose. How can something be ‘made paraplegic’ on a ‘mercurial stance’? This is a massacre of metaphors. And what exactly do you mean by ‘the mercurial stance of

individual reputation and societal harmony? Do you mean that they are ever-changing? But ‘mercurial’ applies to sudden and temperamental change that results from within a person, not to changes (in, say, a reputation) that happen as a result of external circumstances and forces beyond the individual’s control.”

‘for the said aspects are to be treated as things of the past’: What aspects, exactly, are the ‘said aspects’ here? And what do you mean by ‘things’?

‘viewed from a prismatic perspective’: this phrase is meaningless.

‘as it creates a concavity’: this phrase is a meaningless analogy from geometry.

‘which are necessitous for the growth of genuine advancement and a matured democracy.’: ‘Necessitous’ is an unnecessarily pompous way of saying ‘necessary.’ What do you mean by ‘genuine advancement’...advancement of what? And how can you have growth of advancement? Finally, I presume you mean ‘mature’ when you say ‘matured’...when something has ‘matured,’ it is often the case that it has come to an end.

- g. There are 177 paragraphs after this one. It would be unfair to say that all of them hit the linguistic depths to which the Justice plummets in the text above (though I can’t resist noting that the section where the views of those opposed to the petitioners are laid out is bombastically titled ‘Proponements in Oppugnation’). What is remarkable is that the apex court of Gas-Town should be unembarrassed about putting into the public domain the sort of prose found here in the first paragraph. After all, it is the one part of the judgment that everyone is sure to read.

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1. All parties have filed written submissions, and the matter is now listed before the apex court for final hearing.

2. The laws of Gas-Town are *pari-materia* to India.

***** ALL THE BEST! *****

Disclaimer: This proposition is part of an academic exercise and there is no intention to offend any person living or dead.