



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

NASCENT Moot Court Competition, 2018

Moot Proposition

Baraat and Bumble

v.

The SCB

1. Born in a family of coolies in Dolly, the capital city of Streyinka, Baraat was always a bright kid in school. From a very young age, Baraat had a penchant for sports, often playing book-cricket in the backbenches instead of paying attention in class. His bright disposition and neat handwriting, however, helped him stay afloat in class, usually fetching a B grade despite his shenanigans.
2. An absolute bundle of energy, it wasn't long before Baraat turned to sports as an outlet for his energy, usually running around the neighbourhood, playing *gilli-danda* with his friends late into the evening. His love for cricket started at the age of eight, when he watched the 2001 test series on the local barber shop's TV. The gritty batting performances by senior members like V. Lexicon, R. Drillbit and the tailender Bharhajann Singh against the reigning top ranked team inspired him to become a batsman himself. The *danda* soon turned into a crude bat improvised from a discarded, handle-less bat that he discovered at a construction site with his friends, and pretty much everything spherical, oblong, or capable of being tossed became a ball, and the love for the game only grew. And with a country following the game like a religion, the love could never sour.
3. The turning point came when he watched Team Streyinka's performance in the 2003 World Series finals, and declared to his sister, "Just wait and watch! One of these days, I'll be the captain of that team, and we'll fight every match till we either win or die!" That his sister was crying over Team Streyinka's performance, and wasn't paying much heed to him made no difference to him. His parents forbade him to indulge in such a costly sport,

and his mother, Jaswinder Sharma told him, "*Beta*, stop chasing such will-o-the-wisp dreams, and focus on becoming an engineer; you need to support the family na!" To ensure he doesn't play cricket anymore, they confiscated the bat.

4. That didn't stop Baraat from cricket though, or extinguish the fighting spirit that he promised to instill in his future team. He began participating in matches on the sly, always borrowing bats of other players to play. A natural athlete, he excelled as an attacking batsman and also fielding in close. "The *maidan* was surrounded by houses, and as with all *gully*-cricket, the batsman was out when the ball went into anyone's house. But I loved attacking the ball, and obviously wasn't interested in simply stealing singles. Who knew that was my training for playing controlled attacking shots," he would famously quip after his debut ton in 2008.
5. But back in 2006, when he was still playing disorganised *gully*-cricket, he entered a local league with a team that he usually played with on the ground, he was sure his parents won't know. But to be on the safer side, and not be easily recognised, he entered his name as *Baraat Coolie*. Baraat scored a hundred and fifty runs off sixty balls in his first match, and word quickly spread, bringing a record turnout for his second match. He was caught behind cheaply for four runs, though, much to the chagrin of the crowd, who boo-ed him throughout the match. His third match, nonetheless, had a smattering of audience, including Himesh Soni a local school's cricket team captain, who was scouting the ground for talent.
6. Baraat, however, was demoted down the order, and came in at three-down in the second innings, with his team needing seventy runs to win off ten overs. Baraat, however, was not going to give up on an opportunity to fight, and blitzkrieg-ed the match to an end, scoring sixty-four off twenty balls. Soni quickly convinced his coach, to speak to Baraat's parents and convince them to switch Baraat to Soni's school, a private school. Though annoyed at Baraat not following their diktat, the coach's promise that he'll ensure Baraat also studies well apart from playing, and the fact that they were getting a scholarship to a private school, swayed them. Only, not knowing Baraat was playing on a pseudonym, Soni enrolled him as *Baraat Coolie*, and the name simply stuck. "It makes me feel grounded to my origins, and remember where I come from", Baraat would go on to say in an interview in 2014 after he was made captain.
7. The next year saw Baraat not only ace the local school cricket tourney, but also get picked for the Dolly team at the young age of fourteen. Soni, himself a cricket prodigy and two years senior to Baraat, finished school within a year after and entered the national cricket team.

8. In 2007, Baraat, by now having bought a TV on instalment basis for his house, watched the World Series with great hopes pinned on Team Streyinka. With the team losing both their initial group matches – one of them to (then) a minnow team, the entire country was enraged. Everyone from Soni, who was dismissed for zero in both matches, to Saccharine, the team's star player, was severely criticised by media and common man alike. Drillbit in particular was criticised for heeding to the coach, Gregory Church's obviously poor advice on how to manage the team, with Church himself facing enough backlash to warrant his resignation. "I don't understand why teams need coaches when captains would be more than sufficient to handle the team", Baraat fumed on the day of his resignation. He managed to channel the frustration and made steady progress through the ranks, getting picked and eventually even captaining Team Streyinka's under-19 cricket team.
9. Gaurav Bangali, the erstwhile captain of the team from whom Drillbit had taken over captaincy, made waves by commenting in the media that a coach has no job telling a captain what decisions to take in a match, and that he should be limiting his role to teaching the team how to play cricket. He quickly retracted his statement following the backlash, claiming that he was misinterpreted.
10. Neel Bumble, a star bowler of Team Streyinka, announced his retirement from limited over international matches after the team returned. On being asked his opinion on the Church-Drillbit debacle, he refused to comment on the issue, but observed that sports news reporters should know better than to try and polarise sports teams on sensitive issues. "A coach and a captain are both team members, and they both work as a part of the team. Team sports like cricket are hurt when you try taking sides with members. Church did what he thought was appropriate, and so did Drillbit. It is the team that lost, and the team will work towards resolving its issues. So I can only request the members of the media to not blame either Church or Drillbit here, and support the team through its tough time", he was quoted as saying.
11. As with all media frenzies in Strenkya, this too died its silent death in a few months, though the team was still booed for their subsequent few matches till they resumed winning matches. Though Bumble was made captain of the team in test matches, Soni was made captain in ODIs, and the team slowly hobbled to a re-building. Bumble, however, soon retired from tests following an injury affected series, resulting in Soni becoming captain in all forms of the game barring Twenty-20s, which he would retire from a couple of years later. Soni, who also became a darling of the masses and the media by now,

convinced the Sreyinka Cricket Board, the national governing body for cricket, to add clause 6.4 to all contracts being signed by new coaches.

12. Baraat, by now, had made enough of an impact in the recent under-19 world series to justify Soni pitching to the selectors to bring him into the team. Soni, having established himself to be a calm, calculating, and highly successful captain by then, managed to sway over the selectors, who inducted Baraat into the team. Apart from his debut knock of 108 not out from ninety balls, Baraat amassed over 400 runs in the five match series, earning him the man of the series title as well.
13. Known for his attacking playing style, and aggressive body language, Baraat soon started having run-ins with other players, both on the opposing team, as well as his own team. Soni, who knew Baraat to be an aggressive player, knew that the trash-talk and aggression were his way of showing his dedication, and always managed to bail Baraat out. One particularly ugly incident happened, however, in the Streyinka Premier League, a Twenty20 based league sponsored by the SCB.
14. The SPL, which is a very successful league with players coming from all over the world to participate in the counties' teams, had Baraat playing for the Currynotoc County, under Bumble's captaincy, in the inaugural edition in 2008, while his long-time vice-captain from the Dolly team and under-19 team, Gotham Braveheart was captaining the Dolly County's team. As is usual with Baraat, he was scoring at an explosive pace, and had just hit the Dolly County's strike bowler for two sixes, when a loose shot found him caught at mid-on. While the exulted teammates from Dolly County were celebrated, Baraat took an unusually long route to the dugout, and, finding himself near the huddle of the opposing team, Baraat appeared to say something that incensed the usually calm Braveheart, resulting in the two verbally abusing each other, before the situation was defused by one of Braveheart's teammates.
15. To Baraat's shock, when he returned to the dugout, Bumble, who is known to be a soft-spoken, polite, gentleman (and often referred to endearingly as the gentle giant by junior players), reprimanded him in front of his teammates for his unsportsmanlike conduct. Baraat, who is used to Soni's diplomatic, and somewhat partial approach to him, was shocked by a captain who reprimanded him, but sullenly accepted the reprimand, and refrained from wild histrionics for the season. The change, however, soon faded with Bumble retiring from Twenty20 matches as well, and Baraat being made the captain of the team. Baraat was soon found flipping the bird to booing foreign crowds, and occasionally actively encouraging infielders who attempt to sledge batsmen.

16. Baraat rose through the ranks in the national team steadily, being made vice captain in 2011 and test captain in 2014 with Soni stepping down citing pressure concerns. Baraat, for his part, lived up to his promise from 2003 and infused into the team a spirit of aggressive spirit and attacking style of play. Though his critics often complained in the media of the negative effects of such excess aggression, often terming it *arrogance*. Grove Aksar, a legendary batsman from Team Strenkya's 70s and 80s squad was especially vocal in his criticism, "This sledging culture used to be alien to the Streyinka I used to play for; I blame it on Coolie and his arrogant captaincy".
17. Baraat, however, chose to respond both in words as well as action, quelling any dissent to an aggressive style of play. Team Streyinka, which had successively worked under calm, composed and cool captains such as Drillbit, Bumble and Soni, suddenly found itself being pushed to its limits. It had its result, though, with Team Streyinka consistently outperforming opponents in test matches and reaching the top of the rankings. Baraat, for his part, led by example, and established himself as the top batsman in all three forms of international cricket. He made particular reputation as an expert in chasing scores, seeming to relish reaching targets in great haste.
18. In 2017, Soni stepped down from captaincy in limited over internationals as well, resulting in Baraat being made the captain. Baraat, who ruled by now with an iron fist over the team, still had the players' confidence though, as he rarely made wrong calls. He was, however, deferential to senior players under him, especially Soni. He often consulted Soni and other seniors, who assisting him in tough tactical decisions during matches. Team Streyinka, soon, was ranking number 1 in all forms of cricket as well. In early 2016, the team, whose then head-coach's contract had expired, was on the look-out for a new coach. After a rigorous search, the SCB settled on Neel Bumble for the new head-coach. Bumble signed a standard contract with a term of two years with the SCB for the same.
19. Riding on a high of consistently winning matches, Team Streyinka qualified for the Champions League ranked first. Their arch-rivals, Team Bebinca entered the tourney ranked eighth (and consequently, last). Bebinca, though was once a force to reckon with in cricket, owing to civil strife and a spate of terrorism in the country, as well as political differences between the governing body (Bebinca Cricket Board) and its players, rarely managed to make a mark in more recent cricket games. With a team of ailing players, seniors who are too old to be fighting fit, youngsters with barely enough international experience, and a recently appointed captain who is fighting his best to whip the motley crew into a team, Team Bebinca was not expected to fare too well in the tournament. Their first game, which was against Team

Streyinka, found them woefully unprepared for an onslaught by Strenkya. Baraat scored a rapid-fire 80 off 60 balls himself, and Strenkya defeated Bebinca by a massive 130 runs' difference.

20. Team Strenkya went on to win all their group matches except one, and even the semi-finals, to once again face Team Bebinca. Baraat, who went into the match with an average of over 200 in the series, and a high score of 92, won the toss, and to the surprise of everyone, chose to bowl first. As Bumble had horrifying flashbacks of the 2003 World Series finals, a brash Baraat, speaking to the media commentator on the way off the pitch, indicated that he is looking forward to a good run chase. He returned to the pavilion to a rather annoyed Bumble.
21. Already, Bumble's suggestion to have a team with four pace bowlers was turned down by Baraat who decided to play a specialist spinner and three pace bowlers. Bumble, a spinner himself, warned Baraat that not only was the pitch not giving enough turn, the spinner himself was going through a rough patch – the words fell on deaf ears. He suggested playing a more experienced pace bowler in the place of one of the strike pacer, who had rather limited experience – another suggestion that fell on deaf ears. As the game progressed, Team Bebinca showed remarkable fighting spirit, amassing a massive total of 340 runs in their allotted fifty overs, with Team Strenkya's spinners conceding 160 of those runs in merely 20 overs amongst themselves.
22. Baraat, however, remained unfazed, giving his team-mates a pep-talk before their next innings and telling them to attack Bebinca's lead strike bowler, Richard Rich, who was recuperating from an illness, and was known to not be fully fit. Bumble interrupted, and advised against underestimating Rich, who was known to be the star protégé of Asim Vikram, one of Bebinca's most feared pace bowlers of the 90s. "He's naggingly accurate, and will tease you guys with his swing. Do not risk playing him with loose shots." Baraat, however, was quick to tell off Bumble, whose speech, he felt, was demoralising his team. "Look, you teach us how to play, but we do the playing, don't interfere in that."
23. Bumble, shocked into silence, retreated from the spot, and let Baraat continue with his pep talk. Soni, however, walked over to Bumble after the talk was done and the openers went into the field, and was seen in deep discussion with Bumble. As Bumble predicted, the opening batsman – a sedate player known to not take too many risks, was dismissed by Rich in his fourth ball. An in-swinging delivery at a blistering pace, the batsman seemed like he never even knew what hit him, as he was given out leg-before.

24. A fuming Baraat told Bumble, "stop scaring my team! That idiot should have smashed that ball away down leg-side instead of worrying about where it would have gone." As Baraat padded up, not expecting to be called in to bat so early, Bumble warned him again of Rich, "he will tease you with the slow ball. Don't take the bait. Play calmly, your team depends on you." An annoyed Baraat walked off into the ground, not paying any heed.
25. Despite his annoyance, though, Baraat started his innings sedately, not playing any risky shots, and stole singles and doubles. However, to everyone's shock – except maybe Bumble's – he played a slow ball too early, and got caught out as Strenkya tottered at five runs for the fall of two wickets before five overs were done. As he entered the pavilion, he tripped over a cricket bat strewn about near the entrance. Being too annoyed to care, he simply kicked the bat away, and walked into the pavilion. Before ten overs were done, the other opener too, fell prey to a shorter ball. Barring a spirited performance by one of the middle order batsmen, the batting order collapsed in quick succession, as Bebinca won by a massive two-hundred run difference, to the shock of the entire nation.
26. Bumble's contract was terminated the next day, though he had over a year left. Though initially he maintained silence before the press, a few days later, he issued a press release, clarifying that differences with the captain resulted in the termination. Baraat, however, did not respond, despite multiple requests for comments from multiple media houses. Team Strenkya went on in the next month to lose a bilateral series against a team ranked six places below them, with Baraat scoring fifteen runs in all from the seven match series.
27. Meanwhile, differences continued to fester between Baraat and SCB. The SCB, which is governed by the Ministry of Youth Affairs and Sports of the Republic of Strenkya, was populated by bureaucrats who were finding Baraat's irreverent attitude towards the Board displeasing. Used to captains like Soni and Bumble who were expert diplomats, Baraat's brash, and demanding attitude was irking many of the senior bureaucrats, who expected utmost deference from the players. The rift became more apparent when Baraat was suddenly stripped of his captaincy four months after the Champions League. Though the SCB cited that they wish to relieve him of pressures as reason for the change, many suspected that it was because of Baraat's demands of higher pay for the players, which SCB thought was unwarranted, given their recent spate of losses.
28. Two months later, Baraat filed a suit against the SCB in the Dolly High Court, demanding damages of a crore and fifty lakh rupees. He contended that the bat that he tripped on during the finals in the Champions League was left

- there by Bumble. He admitted that the act was unintentional, but contended that it amounted to negligence. He contended that as Bumble was the employee of the SCB at the relevant time, the SCB is liable to pay damages for the same. He claimed that he injured his right thumb as a consequence of the fall, and was unable to play properly in the subsequent months.
29. A week later, Bumble too filed a suit against the SCB in the Dolly High Court, demanding damages of a crore and eighty lakh rupees. He contended that the termination of his contract amounted to a breach of contract, and the SCB is liable to pay damages for breach of contract. He claimed that the SCB terminated the contract simply because Baraat recommended its termination, being annoyed for trip over the bat, and what he perceived as interference with his captaincy.
 30. A senior member of the SCB, even before summons were issued in the suit, while speaking at a charity event, termed the suits as "absurd". "They are colluding with each other to extort money from the SCB. Baraat is just miffed about his losing his captaincy, while Bumble – who I thought was a decent chap for not raising any issues about our ending his contract – is just vying for attention. Can you imagine someone claiming two crores because he tripped and fell?! It is patently absurd." The SCB issued a press release the very next day clarifying that the statements are independent views of the member, and not of the SCB. It clarified that the member was not authorised to make any statements on behalf of the SCB, and that it shall not make any statement in a matter pending in Court. No action, however, was taken against the member.
 31. SCB, which entered appearance in both matters, opposed both suits. Against Baraat, it admitted that Bumble's act was negligence but contended that it cannot be held vicariously liable for the acts of Bumble. It further invoked the principle of sovereign immunity and contended that it cannot be made liable to pay any damages. Against Bumble, it contended that the incident with Baraat was not a reason for the termination and further contended that the contract with Bumble was validly terminated in view of clause 6.4 of the contract.
 32. The High Court directed that both matters be heard together since they are based on various common facts, and have common sole defendant, namely, the SCB. The Court directed that the matter be listed for final hearing on January 21, 2018, and directed parties to file their memorandum of submissions on or before January 13, 2018. It framed the following issues for the hearing, and directed that unless compelling reasons are shown, no further issues would be taken up for hearing:

- 32.1. Whether the SCB is vicariously liable for the negligence of Bumble?
- 32.2. Whether in view of the principle of sovereign immunity, the SCB cannot be made liable for negligence?
- 32.3. Whether the contract between Bumble and SCB was breached by SCB or lawfully terminated?¹

Notes:

1. All names, characters, places and incidents above are entirely fictional with resemblance to any real life equivalent being coincidental at best, mistaken at worst.
2. Strenkya is a fictitious country with a Constitution and laws *in pari materia* with that of India.
3. The Council for Cricket between Countries (CCC), the international governing body of Cricket, makes it compulsory for any member board to have a statute incorporating and governing its Cricket Board. Unless the Federal / Central / National Government is in control of the Board, such Board cannot become a member of the CCC.
4. The SCB is incorporated by the Strenkya National Cricket Board Act, 1992, with its expenditures chargeable, and its income creditable to the Consolidate Fund of Strenkya. Under Section 4(1), the constitution of the SCB is as follows:
 - 4.1. Joint Secretary for Youth Affairs and Sports (ex-officio) (Chairperson)
 - 4.2. Two nominees of the Ministry of Youth Affairs and Sports, Government of Strenkya, not below the rank of a Strenkyan Administrative Services with a minimum of fifteen years of service.
 - 4.3. One nominee from the Ministry of Finance, Government of Strenkya.
 - 4.4. Two persons from public life with established experience in cricket and administration.
 - 4.5. The primary Captains of the National men's and women's test cricket team.
 - 4.6. The Coaches of the National men's and women's team.
 - 4.7. At least three members have to be women.

¹ The Moot Proposition has been drafted by Mr. R. Arunadhri Iyer. Any attempt to contact him to seek clarification/advice/opinion etc. relating to the compromise by any member of a registered/potential team or their friends/relatives/acquaintances shall disqualify the team from NASCENT 2018.

- 5. The jurisdiction of the Court, the joinder of parties, the fact of Bumble’s negligence and the quantum of damages have not been disputed by the parties.
- 6. It is admitted between Bumble and SCB that Clause 6.4 of the contract is to be interpreted as a stand-alone clause, and that its interpretation will not be affected by any other clause in the contract. Clause 6.4 of the contract reads as under:

"6.4 Both the BOARD and the COACH understand that the job of a coach is to teach players how to play, and that the COACH shall not interfere unduly or in an unsolicited manner in any match with the players’ game. Breach of this clause amounts to a breach of the contract, and the BOARD will be at liberty to terminate the contract forthwith.

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