

THE INFRINGEMENT OF TRADEMARK BY COMPARATIVE ADVERTISING



Comparative Advertisement is a relevant field of IPR which is now gaining importance due to the competitive attitude of various traders existing in the market economy. Comparative Advertising is an advertisement where a particular product specifically mentions the name of a competitor product by means of advertising to show that why the competitor product is inferior to their product by naming it.

In this very era of fast economy, competition, promotions and battle between the brands, comparative advertisement is very much relevant topic and interesting phenomenon to discuss upon. The Indian Economy starts which has led in a plethora of brands running in the market which results in the competition with each other to capture a large portion of the market. Comparative advertisement may be one of the best ways to the customers to rely on the information shown in the advertisement so the advertiser must be careful while narrating the advertisement as in many possible times it may lead to the clash of legal and ethical principles.

We are living in the time were advertisers are continuously trying to dominate each other fame by advertising their product and stating that their product is better than other products in the market. Today, advertisement become a very serious and big business were all brands are competing with each other by top notch marketing strategies and constant comparison of merits and demerits of other brands to prove that one brand is better than the other. The main motive behind such marketing scheme is to create more and more consumer demand and therefore more demand will arise and therefore more sale hence more profit to the advertiser same as a chain reaction. Advertisement build up psychology in the minds of the consumers to understand that what goods are appealing which results in the consumers getting attracted towards the more advertised products than the less advertised goods. Advertisements create a brand image which intends to create a brand loyalty amongst the users of the particular brand.

Advertising has become a widespread phenomenon; talking from a small vendor shop to the high multi-national company everybody is advertising their products from small to large scale. From distributing pamphlets, drum beating to you tubing and surfing internet, advertising has definitely evolve with the time. It has become the business of making profit with a main purpose to stand-out amongst the other in the eye of public and making money by same. Advertisement now became the life blood of the market competition.



Abhishek Kumar
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SABARIMALA JUDGEMENT: THE TRIUMPH OF CONSTITUTION OVER RELIGION

To be one of the most divine and scared places of worship by Hindus THE SABARIMALA TEMPLE, located in Panthanamthaa district of Kerala, devoted to Lord Ayyappa is today one of the most widely discussed topic in legal field as it marked the victory of equality over religion and the victory of morality against discrimination. Sabarimala temple was the bone of contention between Gender Equality and Fundamental Rights on one hand and the Customary Beliefs and Freedom of Religion on the other and so is the importance of this judgment in Indian Constitution.

Since time immemorial millions of devote from all around the globe visited this historic temple constructed in 11 century to offer their prayers to the holy incarnation but this tale does not end here.... The temple barred the entry of women belonging to menstrual age because of the pseudoscientific belief that Menstruation was considered to be an impure phase in a women life. It was argued that Lord Ayyappa is brahmorcia i.e. the god of celibacy and the presence of women of menstrual age would interfere with his meditation and holiness. These customary beliefs soon turned as a form of discrimination against women under the grouse of religion. The first legal step taken in this context was in the year 1990 when S Mahendra files plea in Kerala High Court on Women's entry to temple however the high court upheld the age old belief of restricting the women entry in temple belonging to the age group of 10 to 50 years. With the passage of time many feminist groups raised their voice to support women's right to permit them to enter the premises of the holy SABRIMALA TEMPLE and finally it was On September 2018 when the Supreme Court took a historic decision and turned down the patriarchal religious belief permitting the entry of women of all age group in the temple. This decision was taken when a P.I.L was filed in the Supreme Court in 2006 by Indian Young Lawyers Association challenging temples beliefs. The 5 judge bench gave a 4:1 verdict and overruled the Kerala High Court Decision on the ground that it violated Article 14 of the Constitution which guarantees right to equality, Article 17 of the Constitution which prohibits Untouchability and disclosure of identity

of menstrual women also infringed the right to privacy guaranteed in the Article 21 of the Indian Constitution. The only women in the bench Justice Indu Malhotara gave a dissenting judgement and held that Customs and Traditions could not be brought into the constitutionality ambit and every person and group of person have a freedom to practice and propagate their religious belief



and right to manage the religious affairs as held in Article 25 and Article 26 of the constitution and it should be left to the religious head to decide their religious affairs and argued that courts should not interfere with the religious beliefs of the devotes. The other judges opined that religion cannot be used as a veil to deny the right of worship of women and thus created inequality, the exclusion of women based on their menstrual cycle and the ideology of purity and pollution did not withstand the 4 basic pillars JUSTICE, EQUALITY, PRIVACY and LIBERTY guaranteed by the constitution.

The decision was welcomed with a mix of opinions. Many scholars have taken a stand in support of the verdict expressing it as a concrete step taken by the Supreme Court in direction of Gender Equality, few resented the decision as they felt that sentiments cannot be placed against constitutional morale, India being a secular country must allow diverse form of workshop in religion and should not interfere in areas of faith and beliefs.

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MOB LYNCHING INDIA'S SHOCKING WAR WITHIN

They were no soldiers executed in war, civilians butchered by deadly terror groups, or rebels crushed by state power. They were 'we', the people of the world's largest democracy, who were hunted, beaten and tortured to death by vengeful, bloodthirsty crowds. Bodies desecrated, they died in extreme fear and pain, pleading innocence and begging for mercy. All for a word the Indian Penal Code (IPC) does not even recognize: 'lynching'.

Narratives of heart-wrenching horror have gripped the nation, as Indians kill Indians in some of the most grotesque mob violence ever recorded, in total disregard for the law. Horrific images, reports and video clips of people being tortured or dying terrible deaths are surfacing every week: from Latehar to Srinagar, Ballabgarh to Ramgarh, Bathinda to Alwar. Yet our leaders remain silent. Will the current government do anything to stop this madness?

Is this India's future? The country stands at the crossroads of a furious debate. "As a legal term, lynching does not exist in India, but it's seen as the extrajudicial punishment and murder of someone by a mob". Lynching does not exist in statistical terms either, because the National Crime Records Bureau only collects and analyses crime data defined under the Indian Penal Code. But the master narrative, as well as perpetrators, behind the crime is evident: the slaughter of cows is banned, and the

consumption of beef restricted, in most Indian states, though millions of Muslims and Dalits depend on the meat and leather industries. Vigilante groups that seize cows from people they accuse of illegally transporting them, or sending for slaughter, have become active across the country. Most of the lynchings are being committed by

them in the name of the cow. In August 2016, the PM had indicated as much: "It makes me angry that some people indulge in anti-social activities at night, and in the day masquerade as cow protectors."

Most lynchings occurred in areas of sparse population, habitation or law enforcement-mostly highways rather than local

roads; in most cases, law enforcers witnessed the lynchings but could not/ did not do anything (at times they collaborated); in most cases, no politician visited the families of the victims or made immediate public statements; in most cases, the charges against the accused were based on flimsy selection arrested on flimsy charges and given bail (if arrested), the victims (even if dead) were often slapped with charges of cattle smuggling and trading. Collate the isolated incidents and a pattern emerges. It may not be complete, but there is a message.



Mohit Singhania
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CHILD PROSTITUTION -A CURSE

In this 21st century, the children are deprived of their rights in many ways as they don't get proper education, healthcare, and sanitation, an environment in which they can grow and expand their capabilities. The most significant thing is that children who are deprived of their rights are from the marginalized and poor section of the society. So, these are enough to get one insight about the growing monster of inequality in a society. Beside all these inequalities there exist an evil practice and taboo in our society in the form of child prostitution. According to the United Nation Convention on the rights of the child (1990) defines as something what we call in synonymous with the historic barter system

but in this case the child is being prostituted for sexual exploitation below the age of 18 for remuneration in cash or kind. As per the terminology guidelines for the protection of children from sexual exploitation and sexual abuse it constitutes as, "child prostitution designates the use of children for sexual activities in exchange for remuneration or another form of retribution, gifts, goods, cloth, etc this activity is included under the umbrella term of sexual exploitation". In now-a-days the sex market is seen as an area of huge money-making and has become a multibillion-dollar industry where children are bought, sold and traded like other mass produces goods. Children are been kidnapped and trapped, some get escaped in front of their house or some are being caught up in case of Refugee travels, migration and disaster prone areas. The Child prostitution also includes child pornography which refers to the visual or audio depiction of a child for the sexual gratification of the use and involves the production, distribution, and or use of such material. There are many economical as well as social factors which are responsible for the trauma faced by the children as such economic disparities, inequitable socio-economic structure, family disintegration, harmful traditional and religious practices. When a child is forced into the prostitution he or she has to face many difficulties and cruelty which men do to satisfy their lust. They have to face sexual and physical abuse and risk of sexually

transmitted disease. As per the report of the United States National Library of Medicine and National Institute of health, Brazil has 250,000-500,000 number of children in sex trade and the number of children

than 30% of the child prostitute is in the 6 major cities in India namely Kolkata, Delhi, Mumbai, Chennai, Bangalore and Hyderabad which states the condition of children in India. According to the survey conducted by India today, in India 40 girls under the age of 15 are forced into prostitution, 1.2 million sex workers have not attained the age of 18 years and with the 8% increase in the flesh trade, India has become one of the prominent sectors of the sex industry. The evil is widespread to so many areas as it collected the several tribes such as Bedia, Sanshis, Nuts, Kanjars in which prostitution has become their family customs. When a girl of these tribes attains puberty are indulged in this tradition of prostitution and

their brother act as their agent. This is sad to know that a country like India where the plethora of schemes for child is launched even enactment of separate legislation not able to stop this virus. According to the Professor K.K Mukherjee former Head of Department, DU, Social work " There are 91 families in Khakranagla, of these 75 are of Nut, Bedia And Gujjar castes 46 of them are engaged in sex work". In order to protect the rights of a child, there are several laws and legislation in India but the effectiveness of those laws and legislation is not satisfactory. The numbers of the children involved in these sexual activities are increasing day by day and proper steps are not taken to stop the exploitation of the children. As a committee should be formed which should work for the child prostitutes to rescue them and establish a rehabilitation program, child prostitution for both male and female and child pornography should be strictly banned and proper legislation should be enacted for the same. Also, various

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There can be no keener revelation of a society's soul than the way in which it treats its children”

– Nelson Mandela, Former President of South Africa

involved in Colombia, Russia and Berlin is growing rapidly, Asia has become the hub of child prostitution with an estimate of 60,000 child prostitutes in Philippines, 40,000 in India and 800,000 in Thailand. Most of the sex workers involved are females under the age of 16 while some part of the world offer male prostitutes as in Sri Lanka 20,000-30,000 child



prostitutes are boys. According to the survey of the International Labour organization, women the sex industry in Thailand can earn 25 times more money than she could in any other occupation" this speaks about the profit in the sex industry and how the children are exploited by the merchants for the money making. If we talk in the context of India as per the report prepared by the Ministry of Human Resource Development on child prostitution revealed that more

government institution, as well as NGO, should come up with the awareness program to change the mindset of the people and make them aware. A well-educated society and Political will can bring a revolution and establish a society with equal rights to all.



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SOCIAL MEDIA WOES IN MOB LYNCHING

Delivered by volatile crowds provoked to murderous rage, the all-too frequent lynchings are being played in all their goriness within hours on smartphone screens across India.

As lynching becomes the new buzzword, occupying headline space and dominating drawing room discussions, the montages of violence circulated endlessly highlight the gratuitous nature of the killings, the brittle civility that gives way only too easily to collective violence and the nonchalance of the bystander busy capturing the action rather than saving the victim.

Social media, the Internet and Web 2.0 applications have made mobbing and lynching easier. Take the recent example of Jharkhand lynchings where 10 people died in and around Seraikela-Kharsawan, Singhbhum, Shobhapur and Sosomouli villages. To BJP state committee member and tribal leader Ramesh Hansda, who visited the affected areas, the violence was the "curse of social media". That's because a WhatsApp message, with pictures of dead children, had been circulating for a month: 'Suspected child lifters are carrying sedatives, injections, spray, cotton and small towels. They speak Hindi, Bangla and Malayalam. If you happen to see any stranger near your house



immediately inform local police as he could be a member of the child lifting gang,' the message read.

Many had armed themselves with sticks and rods, and even stopped children from going to school. The unverified message was later traced to a series of people who had created and circulated it to a large number of WhatsApp groups. A day later of incidence, two people died in the first lynching at Jadugora. It left behind the indelible image of Mohammed Naeem, blood-soaked and pleading to villagers with folded hands to spare his

life, hours before he was beaten to death.

Till date, government has launched many programmes and campaigns, like, Ek Bharat Shreshtha Bharat, Not In My India, National Campaign Against Mob Lynching (NCAML), etc. A draft on the said issue is presently on the internet and awaiting suggestions from the public.

As per the present requirement, the government should criminalize the act of mob violence. Penalties should be imposed on the public servant who fails to investigate sincerely due to willful neglect of their responsibilities. A mechanism should also come into force which should try to investigate the communal violence spreading through any kind of political interference. Community awareness through multimedia campaigns should be organized to check fake news. There should be the constitution of special courts for the specific trials of mob violence. Lastly and most importantly, police reforms are essentially required to check and control the mob crimes.



SHIDDHART KUMAR JHA
STUDENT, ICAFI UNIVERSITY

INTERVIEW WITH MR. ABHIJEET SHINDE



Q. We will be obliged to know about your journey in law career and your experience.

A. It's been a pretty long journey in this field and it has been exciting. I have been in litigation for 11 years now. I started my career in law with a senior counselor with whom I worked for 4 and half years. Then I ventured into law firms to understand how its functioning is different from a law firm. Further, I worked with two associates and few renowned firms.

I stress on one thing – if you can't get into Tier-I right now, which almost everybody aims for today, it is important that you chart out your career in such a way that you have the experience essential to go higher.

Q. What is your suggestion to law students so as to learn well and achieve something significant in life?

A. Firstly, I will say that law is a continuous learning process. It is not something that anybody can say I have learnt it completely. I would not tell a student to just run after internships. The initial goal of a law student is to decide what exactly he wants to do in law.

I don't advice students to specialize early. Today we have two categories, one is litigation and the other is transaction practice. But students should decide which side they want to go and do it as early as possible. Then the student has to decide what type of internships he wants to target and the look for getting into a good firm. Obviously getting into good firms largely depends upon his experience and the internships he has down.

Q. Today we see that many legal websites have come up. In your opinion, what are the advantages of launching a website?

A. 'Legal' is a huge field. Innumerable things are happening in this fraternity at a given point of time. The advantage of having a website or a blog is that it can always find the right kind of audience which needs requisite guidance or information. Secondly, it gives you recognition in this vast area. Thirdly, if the quality of website and the information you are putting in is good, then it will be more credible.

Q. We as students get involved in lot of legal activities during the course of five year and mootng is the prime one. In addition, there are also competitions like parliamentary debates, etc. All this is important, but in the practical world, what is the key to become an established lawyer?

A. Mooting is very important. Arguing is one of the basics of a lawyer and it has to be inherent. It cannot be like you want to be a transaction lawyer and so you don't want to argue matters in court. Clarity of thought and the way you put up a case is very important here. It comes across when you are going mootng, when you are writing a paper and even when you are writing a blog!

Just because someone wants to be a corporate lawyer or get into transaction practice doesn't mean he or she should not moot at all. I think all these aspects – mootng, writing blogs, participating in debates, launching your website or blog or decimating information that is valuable to the society – go very well and

effectively add up to your CV.

Q. At present in India, arbitration is not as well developed as we see in other countries. What hurdles do you see and how can we overcome them so that India also becomes an international center of arbitration?

A. This is a very important question. I think there is a problem of mindset. In other countries like US, there are specialized arbitration lawyers and people who specifically practice arbitration. In India, we have part-time lawyers who, during the course of the day do civil litigation and appear in courts and during the non-court working hours, practice arbitration.

There is another controversial topic with respect to appointment of arbitrators. The fact is everybody looks at retired judges as arbitrators. Actually, these people

have been sitting inside courts day in and day out, practicing civil course, observing evidences, etc all through their life. We can't expect them to be in sync with arbitration.

The purpose of arbitration is to do away with the set principles of evidence, CPC or a procedure and have a specialized forum in terms of dispute resolution. As arbitration is a specialized forum, you need specialized bar and arbitrators so that the intent of arbitration is fulfilled.

Q. In your opinion, what is the future of arbitration and how can budding lawyers develop themselves into professional arbitrators.

It is important to develop an arbitration bar. I won't advice going in for specialization in the initial years. When I want students to go out and practice, I mean practice everything – the procedure of CPC, the procedure of CRPC. Once they have the knowledge of procedure and an understanding of the functioning of courts, they can venture out to specialize in a particular area. But this knowledge of procedure and laws is very important.

Lawyers who want to be arbitrators and want to specialize in arbitration can then definitely join firms or lawyers who practice only arbitration. Gladly, there are firms now in Delhi, Mumbai, Kolkata, etc which now deal specially in arbitration. These are the ventures in which law aspirants can associate themselves. Mumbai Arbitration Center is coming up with lot of members so these young aspirants can affiliate with them and participation in their functioning. These and various other avenues are where students can participate in arbitration. I would say that if young, bright students come into the picture, I am pretty sure it will help in getting specialized bar and in attaining the object of arbitration.

*Interviewed by: Ms. Devika Gupta, B.A.LL.B., X Sem.
Mr. Rahul K. Chopra, B.A.LL.B., X Sem.*

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CURRENT AFFAIRS

1. M S Velpari has taken charge as Director (Operations) at Bengaluru-headquartered Hindustan Aeronautics Limited from Sunil Kumar who superannuated.
2. London named world's best student city in new rankings.
3. Ramesh Bais becomes the Governor of Tripura.
4. DFS Secy Rajeev Kumar appointed member of RBI's ECF panel.
5. Arif Mohd Khan, who quit Rajiv govt, made Kerala Governor.
6. President Ram Nath Kovind has given assent to the triple talaq bill passed by Parliament, making it a law.
7. Senior journalist Ravish Kumar was awarded this year's Ramon Magsaysay Award, regarded as the Asian version of the Nobel prize.
8. India successfully test-fires 2 quick reaction surface-to-air missiles (QRSAM)
9. French "Flying Man" crosses English Channel on jet-powered hoverboard
10. The Central government scrapped Article 370 of the Constitution that conferred special status to Jammu and Kashmir and barred people from the rest of the country from buying property there.
11. A bill which seeks to ban commercial surrogacy in the country was passed by Lok Sabha on Monday by a voice vote.
12. Rajesh Kumar Srivastava takes charge as ONGC Director.
13. Pranab, Nanaji Deshmukh, Bhupen Hazarika conferred Bharat Ratna.

ORIENTATION CEREMONY 2019 @ IIL

Indore Institute of Law held its 16th Orientation Ceremony for the fresher's batch of B.A.LL.B.(HONS), B.B.A.LL.B., LL.B. & B.B.A. GLOBAL 2019 in the month of August. The three-day ceremony held the orientation for the first-year students of all the courses offered by the institute, providing them with all the information regarding the institute, the management, the society-club culture practiced in the institute, etc. During this the students were addressed by Dr. Vinod Patidar (Principal, IIL), Dr. Manpreet Kaur Rajpal (HOD, IIL), Mr. Kamal Vyas (Ex. Director Admin., IIL), Mr. S.C. Shrivastava (Chief Executive Officer, IIL) and Mr. T.K. Anand Prabhu (Corporate Relations Manager, IIL). The Orientation Ceremony helps the students in getting familiar with the institute and the campus, it explains when, where, whom and how to approach any authority.



Lamp Lighting by the Management



Mr. Akshay Kanti Bam, Chairman, IIL



Address by Dr. Vinod Patidar, Principal IIL



Orientation Address by Dr. Manpreet Kaur Rajpal, HOD IIL



Parents Taking a Look at the Glimpses and Achievements

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(Asst. Prof. IIL, Indore)

Icon Education Society (I.E.S), as a first step to achieve its objectives, decided to set up an exclusive and independent college to provide specialized, high quality Law education for professionals, coupled with all basic infrastructure facilities. Indore Institute of Law is the first independent & exclusive College of Law in Indore, Affiliated to the Bar Council of India & Devi Ahilya Vishwavidyalaya (DAVV), Indore. The Study/ Course/ Admission/ Examination and Degree shall be strictly in terms of regulations of DAVV, Indore. Indore Institute of Law is only Private College in Madhya Pradesh where all the law courses are under one roof.