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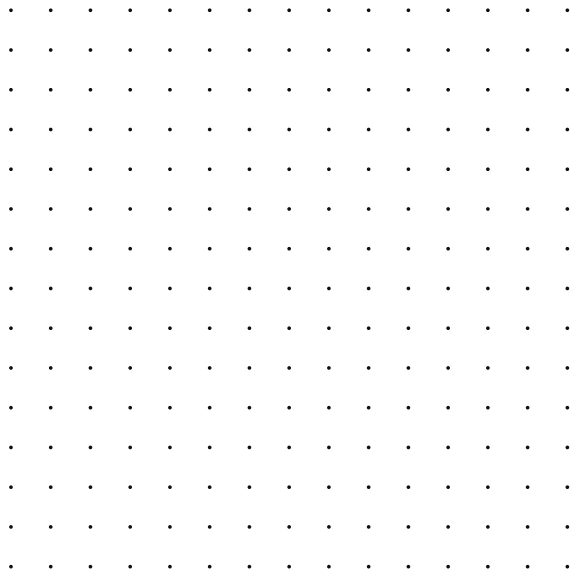
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TO BE OR NOT TO BE: WHEN INDIAN COURTS TURN TO SHAKESPEARE

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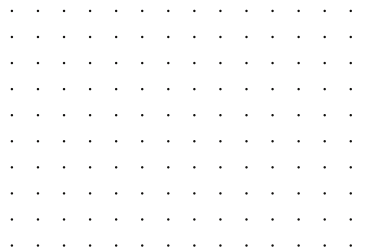
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Shakespeare's influence extends far beyond the realm of literature and theatre. His works have been quoted, adapted, and reimagined to suit diverse contexts, demonstrating the enduring power and universality of his works. While films like Kenneth Branagh's *"Hamlet"* (1996), Baz Luhrmann's *"Romeo + Juliet"* (1996), and Joel Coen's *"The Tragedy of Macbeth"* (2021) are direct adaptations of Shakespeare's plays, his plots and characters have inspired countless films and TV shows, even if they don't explicitly acknowledge the connection. For example, *"The Lion King"* is a loose adaptation of *"Hamlet"* and the TV series *"House of Cards"* draws heavily from *"Richard III"*. In fact, Shakespeare's characters are so well-defined and recognizable that they have become archetypes in storytelling. The jealous lover, the ambitious tyrant, the wise fool – these are all character types that Shakespeare helped to establish, and they continue to appear in films and TV shows today.

And why just the movies and TV shows only? Designers often draw inspiration from Shakespearean costumes and settings for their collections, incorporating elements like Elizabethan ruffs, dramatic silhouettes, and rich fabrics. His plays which are full of memorable lines are often used to grab attention in advertising. For example, the line *"To be or not to be"* has been used to advertise everything from cars to insurance and interestingly, in fact, this Article too. His characters are complex and psychologically nuanced, offering insights into human behaviour and motivation. Psychologists have used Shakespeare's works to study topics such as personality, emotion, and mental illness. Some therapists use Shakespearean plays in therapy sessions to help patients explore their own emotions and experiences. So much so that his plays have now been adapted into video games, allowing players to interact with his stories and characters in new and immersive ways.

Shakespeare's stories resonate today as we grapple with issues of abuse of power, authoritarianism, and political scandals. His plays often explore the corrupting influence of power, as seen in plays like *Macbeth* and *Richard III*. Plays like *Julius Caesar* and *Coriolanus* examine social unrest, popular revolt, and the fragility of political systems. These themes resonate in discussions of political revolutions, social movements, and challenges to established authority. For example, *"Et tu, Brute?"* from *Julius Caesar* is often invoked to express betrayal by a close ally. Shakespeare's characters are skilled orators, using rhetoric to persuade, inspire, and manipulate. Politicians lean on and learn from these techniques to craft compelling speeches and to engage audiences.



With plays like *The Merchant of Venice* and *Measure for Measure* delving into the complexities of justice, mercy, and the tension between the letter of the law and its spirit or the characters of *King Lear* grappling with questions of justice and morality in the face of unjust laws, it is no surprise to see how Shakespeare's words continue to resonate in modern courtrooms. His tragedies, with their themes of crime, punishment, and revenge, are often referenced in criminal cases and quotes from *Macbeth*, *Hamlet*, and *Othello* have been used to discuss issues like intent, motive, and the nature of justice. Shakespeare's plays, particularly those dealing with kingship and power, have been cited in cases concerning constitutional rights, the separation of power, and the limits of government authority. Plays like *Romeo and Juliet* and *King Lear* explore family relationships, inheritance, and conflicts, sometimes finding their way into family court cases. This Article focusses on some specific examples across different legal areas, showcasing the breadth of his influence.

R v Dudley and Stephens (1884) was a famous case about cannibalism at sea which involved the defense of necessity. While not directly quoting Shakespeare, the judges referenced ethical dilemmas found in his plays to discuss the complexities of moral choices in extreme circumstances. ***People v. Gorshen (1959)*** was a case that involved a defendant who claimed insanity after killing his wife. The court quoted *Hamlet* ["*What a piece of work is a man...*"] to discuss the nature of human reason and mental capacity. Chief Justice John Marshall in the landmark case ***Marbury v Madison (1803)*** that established the principle of judicial review quoted *Henry VIII* ["*...a minister of justice is gravely to execute that which his conscience prompts him to be just.*"] to emphasize the judiciary's duty to uphold the Constitution. Shakespeare was once again in the thick of things in the Watergate scandal case ***United States v Nixon (1974)*** that involved subpoena for presidential tapes. The Supreme Court quoted *King Lear* ["*...a man may see how this world goes with no eyes.*"] to emphasize the importance of transparency and accountability for those in power.

Shakespeare's influence on Indian court judgments is a fascinating example of how literature can intersect with law. His references in Indian judgments add a layer of literary and philosophical depth to legal reasoning. *The Comedy of Errors* ["*A man is master of his liberty*"] was quoted by the Supreme Court of India in ***Pebam Ningol Mikoi Devi vs State Of Manipur And Ors(2010)9SC C 618*** to emphasize the importance of individual liberty and freedom from arbitrary detention.



The judgment of ***Shayara Bano v Union of India & Ors* AIR 2017 SC4609** which dealt with the constitutionality of the practice of "triple talaq" in Muslim personal law drew parallels with Shakespearean characters like *Shylock* [from *The Merchant of Venice*] to discuss issues of discrimination and inequality within religious communities.

"To be, or not to be - that is the question; Whether 'tis nobler in the mind to suffer The slings and arrows of outrageous fortune, Or to take arms against a sea of troubles, And by opposing end them?" was quoted by Justice A.B. Rohtagi in ***A v B Delhi High Court [(1976)ILR1 Delhi 887]*** to illustrate the internal struggle faced by the husband, who was caught between his personal desire to have a child and societal and familial pressures to maintain the marriage, despite the wife's impotency. In the case of ***Adelaide Mande Tobias v William Albert Tobias* AIR 1968 Cal 133**, Justice P.B. Mukharji quoted the phrase *"For the apparel oft proclaims the man"* to illustrate how a woman's attire in contemporary society may not accurately reflect her character or morals. Shakespeare's enduring relevance was evident when the line *"Justice should be tempered with mercy"* from his play *The Merchant of Venice* was cited by Justice Ram Bhawan Misra in the case of ***Ajai Shanker Pandey v Union of India* 2005(5) AWC2951All**. The case involved a police constable dismissed from service for consuming liquor, demonstrating how Shakespeare's words continue to resonate in legal contexts even today. Similarly, quotes from *The Merchant of Venice* were cited by Justice Dixit Krishna Shripad in ***All India Gaming Federation & Ors v State of Karnataka* [2022(2)AKR422]** in the context of a discussion on the history of betting and gambling. Shakespeare's tragedies are also not left behind: *Othello, the Moor of Venice* was central to the judgment in ***Alli Noushad v Rasheed & Ors* 2922 CriLJ3023** to illustrate the theme of jealousy and suspicion. Even less frequently cited plays like *King John* offer legal insights; a speech by the dying character *Melun* was quoted by Justice Virendra Kumar Dixit in ***Amar Singh v State of U.P* 2010 (70) AC 99** to explain the concept of a dying declaration.

It seems Indian courts have a flair for the dramatic, frequently turning to the Bard himself to add a touch of literary spice to their judgments. Shakespeare, one might say, is not just for the stage anymore, but for the legal stage as well! Take, for instance, the case of ***Amina Nahna v State of Kerala* 2011(3)KLT753**, where the entrance exam to medical colleges was such a mess that Justice Antony Dominic declared *"Chaos is come again!"* [clearly channelling his inner Othello].



And in the landmark case of **Anandu Sahu v State of Orissa 83(1997)CLT258**, Justice P.K. Misra, with a flourish of *"What's in a name?"*, pondered over the importance of correctly spelling a village name. Then there's **Andhra Cotton Mills Ltd. v Sri Lakshmi Ganesh Cotton Ginning Mill 1996(1)ALT537**, where the defendant, like a true *Portia*, declared *"Not a drop of blood!"* (of, er, money) would be paid in interest. A bold legal strategy, though perhaps lacking in the original's dramatic flair. Finally, in **Anil Kohli v Executive Officer Municipal Council AIR2000J&K57**, Justice A.M. Mir declared *"Leave unto Caesar what belongs to Caesar and leave unto God what belongs to Him,"* essentially telling a judge to mind his own jurisdiction. Clearly, when it comes to legal drama, Shakespeare provides the perfect lines.

And the legal world's love affair with Shakespeare doesn't stop there! Even seemingly obscure plays like *Love's Labours Lost* get their day in court. The line *"The eye alone is the judge"* was cited by Justice Soumen Sen in **Anuradha Doval v The Controller of Patents and Designs & Ors 2017(71)PTC288(Cal)** during a debate on the very definition of a design. In **Bachan Singh & Ors v State of Punjab & Ors 1980INSC120**, a case concerning capital punishment, Justice P.N. Bhagwati somberly quoted *Caesar and Cleopatra*: *"And so to the end of history, murder shall breed murder, always in the name of right and honour and peace, until the Gods are tired of blood and create a race that can understand."* A chillingly relevant sentiment, even today. Shakespeare's words also serve to highlight legal loopholes and questionable actions. In **Bajaj Tempo Ltd v Union of India & Ors 1996(55)ECC42**, Justice A.R. Tiwari drew from *Macbeth*, stating that *"the attempt and not the deed confounds us"* to emphasize that legal action must be backed by law. Meanwhile, the iconic *"pound of flesh"* from *The Merchant of Venice* made an appearance in **Balwant Singh & Ors v State of Rajasthan & Ors AIR1983Raj39**, used to illustrate the complexities of rent laws. Shakespeare provides poignant commentary on human nature and suffering. *"No legacy is so rich as honesty"* was cited by Justice P.K. Musahary in **Bengia Menia & Ors v Deputy Commissioner, Dist. Lower Subansiri, Zero & Ors 2010(4)GLT353** amidst a discussion on political defection. And in a heart-wrenching case **[Bhiputi Charan Mohanty v State of Odisha 2024(I)OLR379]** involving the death of a child from a dog attack, Justice Dr. B.R. Sarangi evoked *Hamlet's* famous line: *"When sorrows come, they come not single spies, but in battalions."*



Indian judges have a knack for weaving Shakespearean wisdom into the very fabric of their legal reasoning. When faced with the age-old criticism of the legal profession in ***Damordass Agarwal & Ors v R. Badrilal & Ors AIR1987AP254***, Justice P. Kodanda Ramaiah, perhaps with a touch of self-deprecating humor, quoted Dick the Butcher from *Henry VI, Part 2*: "*The first thing we do, let us kill all the lawyers.*" Love, too, finds its way into the courtroom, as seen in ***Dasgupta v Inspector of Police C.A No. 375 of 1998 Madras High Court***, where a love triangle turned deadly. Here, Justice M. Chockalingam, channeling Shakespeare's romantic comedies, observed, "*The love at the first sight and the lust at the first thought will have inevitable consequences.*"

But it's not all love and games. In ***Fathima Bibi & Ors v Selvammal & Ors C.R.P No. 3506 of 1981*** Madras High Court, a case highlighting the deeply ingrained inequality faced by women in Indian society, Justice S. Mohan solemnly quoted *Henry VI, Part 1*: "*She's beautiful and therefore, to be wooed; She's a woman, therefore to be won*". Even the complexities of judicial decision-making find an echo in Shakespeare. In ***Geo Miller & Co. Pvt. Ltd v U.P Jal Nigam & Ors 2024(6)ADJ300***, when faced with conflicting precedents, Justice Shekhar B. Saraf turned to *Hamlet's* timeless dilemma: "*To be, or not to be...*" And in ***Ganesh Bajaj & Ors v State of Chhattisgarh 2024:CGHC:1376-DB***, where the trial court had presented a contradictory finding, Justice Sanjay K. Agrawal wryly remarked, "*You speak an infinite deal of nothing,*" borrowing from Costard in *Love's Labours Lost*. From highlighting the importance of reputation in ***Kulwant Singh v Union of India ILR(1998)MP394*** with a quote from *Othello* ("*The purest treasure mortal times afford is spotless reputation...*") to denouncing corruption in ***Krishan Yadav & Ors v State of Haryana & Ors AIR1994SC2166*** with a line from *Sonnet 94* ("*Lilies that fester smell far worse than weeds*").

In ***Dilbagh Singh, v Union of India 2024(2)RCR (Criminal) 207***, a case involving unlawful arrest, Justice Vikas Bahl emphasized individual liberty with a quote from *Henry VIII*: "*A man is master of his liberty.*" This sentiment echoes throughout Indian jurisprudence, reminding us of the fundamental rights of every citizen. Shakespeare's words also serve to illuminate the ever-evolving nature of law itself. In ***Laxminarayan v Shivalal Gujar & Ors 2003(2)AIC845***, Justice Dipak Misra eloquently captured this dynamic with a quote from the same play: "*The Law hath not been dead, though it hath slept*". Love, deceit, and the complexities of human relationships also find expression through Shakespearean quotes.



In ***Neetu & Ors v State of U.P & Ors 2013(10)ADJ420***, a case where lovers were exploited for financial gain, Justice Pankaj Mithal aptly cited *The Merchant of Venice*: "Love is blind and lovers cannot see the pretty follies that themselves commit." Meanwhile, in ***Paramjeet Gill v The Chairman, Managing Committee, Army Public School & Ors 2006(4)SCT372(Delhi)***, Justice S. Ravindra Bhat exposed the deceitful conduct of a school management with a line from Marlowe's *Doctor Faustus*: "Oh what a tangled web we weave; When first we practice to deceive". Even the hallowed halls of academia are not immune to Shakespearean scrutiny. In ***Shivajirao Nilangekar Patil & Ors v Mahesh Madha Gosvami & Ors AIR1987SC294***, allegations of irregularities in a medical examination prompted Justice Sabyasachi Mukherjee to quote *Hamlet*: "Something is rotten in the state of Denmark." This serves as a stark reminder that corruption and malpractice can infect even the most respected institutions.

In a fascinating example of Shakespeare being used to illustrate contemporary political intrigue, Justice Jaspal Singh of the Delhi High Court in ***P.V Narsimha Rao v Central Bureau of Investigation 1997VAD (Delhi)265*** invoked the Bard's words to describe an alleged exchange of money for votes in the Indian Parliament. Drawing from *Henry V*, he quoted:

*This unworthy scaffold... the vasty fields of France...
Within this Wooden O the very casques That did affright the air at
Agincourt*

He likened the house of MP Ajit Singh to Shakespeare's "Wooden O," the Globe Theatre, suggesting it was a stage for a scandalous transaction that "did affright the air" at the headquarters of prominent political figures P.V. Narsimha Rao and Bhajan Lal. This creative use of Shakespeare highlights how the Bard's words can lend a sense of drama and historical weight even to modern political controversies.



The Indian legal system's engagement with Shakespeare is far-reaching, drawing on his tragedies, comedies, histories, and even lesser-known works. Quotes from *Hamlet* surfaced in **Devidas Ramachandra Tuljapurkar v State of Maharashtra & Ors 2015(152)AIC208**, *Macbeth* in **Dad Singh & Ors v State of M.P 1998(1)CCR217(MP)**, and *Othello* in **Barbara Taylor Bradford v Sahara Media Entertainment Ltd 2004(1)CHN448**, while *The Merchant of Venice* appeared in **Bakul Rani Patra v The State of West Bengal & Ors AIR2021Cal5**, *As You Like It* in **Common Cause (A Reg. Society) v Union of India & Ors AIR2018SC1665** and *The Comedy of Errors* in **Gugu v State of Odisha & Ors 2020(11)ILR-CUT368**. *Henry VI, Part II* was quoted in **JMF Sea Foods & Ors v National Insurance Co. AIR1992Ker202** and *Richard III* in **Laksmanan v State 2014(133)AIC832**, demonstrating the use of Shakespeare's works. Even plays like *King John* (**Baldeo Singh v State 2011(73)ACC502**), *Measure for Measure* (**Bindraban v G.I.P Railway Company AIR1926All369**), *Timon of Athens* (**Dinesh Kumar & Ors v State of U.P 2006(1)ESC666 All**), *Love's Labour's Lost* (**Kanai Lal Paul & Ors v The Province of Bihar AIR1949Pat369**), and *Two Gentlemen of Verona* (**RC Malik v Union of India 21(1982)DLT61**) have been referenced, showcasing the breadth of Shakespeare's influence in providing legal professionals with a rich source of insight and eloquence.

It seems Shakespeare's influence on Indian jurisprudence is more than just a fleeting fancy. It is a testament to the enduring power of his words, his understanding of human nature, and his ability to capture the essence of complex emotions and situations. While some may scoff at the use of "old-fashioned" language in the modern legal world, perhaps there's something to be said for injecting a bit of poetry and drama into the often dry and technical world of law. After all, as Shakespeare himself wrote, "*the play's the thing wherein I'll catch the conscience of the king*." And who knows, a well-placed Shakespearean quote may catch the conscience of a judge, the opposing counsel, or even the parties. In the grand theater of justice, it seems, the Bard still has a role to play.



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