Andhra Pradesh Civil Judge (Mains) 2019

Paper II: Criminal Laws · compulsory paper

Date: 9 November 2019, 2.00 p.m. to 5.00 p.m. · Maximum marks: 100. The paper consists of 10 questions; answer all the questions. Each question carries 10 marks; where a question has sub-questions or parts, the marks for each are indicated. Answer in English.

1. (a) When cause of action for filing a complaint under Section 138 of the Negotiable Instruments Act on account of dishonour of cheque arises under Section 142(1)(b) r/w. Section 138(c) of the Negotiable Instruments Act?

(b) Explain whether a Magistrate can forward the complaint filed under Section 138 of the Negotiable Instruments Act to the police for investigation and for report under Section 156(3) Cr.P.C. or under Section 202 Cr.P.C.?

(c) When a blank cheque signed by the drawer is given, whether it amounts to giving authority to the holder thereof to make a negotiable instrument on it by filling the same for any amount specified therein under Section 20 of the Negotiable Instruments Act? Explain with reasons.

(d) Whether a complaint under Section 138 of the Negotiable Instruments Act for dishonour of cheque is maintainable without issuing notice to the drawer demanding him to pay the cheque amount? Whether oral demand to pay the cheque amount is sufficient and valid to maintain a complaint under Section 138 of the Negotiable Instruments Act? Explain with reasons.

(e) Whether the defence of the drawer of the cheque in a prosecution for an offence under Section 138 of the Negotiable Instruments Act that he has no reason to believe when he issued the cheque that the cheque will be dishonoured on presentation is valid? Explain with reference to the relevant provision of law. (5 x 2 = 10 Marks)

2. (a) 'X' a woman who is a citizen of Pakistan entered the territory of India and settled in Hyderabad for the last 10 years, married 'Y' a citizen of India and lived together for 2 years happily and they begot a son during their lawful wedlock. Thereafter, on account of disputes, they are living separately. 'X' filed a petition under Section 125 Cr.P.C. in the Family Court, Hyderabad against 'Y' seeking maintenance. 'Y' opposed the petition on the ground that 'X' is not a citizen of India and she cannot invoke the laws of India and the petition under Section 125 Cr.P.C. is not maintainable. Upholding the contention, the Family Court dismissed the petition. Explain whether the judgment of the Family Court is correct and whether 'X' got legal right to file the petition, with reasons.

(b) When the police officer is informant of the crime and F.I.R. is registered on the basis of his information, can he investigate the case? In other words, whether the police officer who is informant of the crime, can investigate the case? Explain with reasons with reference to recent judgment of the Supreme Court. (2 x 5 = 10 Marks)

3. (a) Is set off permitted for life convicts? Explain.

(b) What is the procedure to be adopted in case of lunatic accused?

(c) What are in camera proceedings?

(d) In what cases compensation can be awarded to the complainant?

(e) Can police obtain specimen signatures of accused? (5 x 2 = 10 Marks)

4. Write short notes on the following:

(i) Under Section 27 of the Indian Evidence Act, how much information received from the accused may be proved.

(ii) Plea bargaining. (2 x 5 = 10 Marks)

5. (a) What is the evidentiary value of the F.I.R, Section 161 Cr.P.C. statement and Section 164 Cr.P.C. statement of a witness and for what purpose they can be used during trial?

(b) Explain the doctrine of transfer of malice under Section 301 of IPC with illustration. State whether doctrine of transfer of malice would attract when the accused exercises his right of private defence under Section 100 of IPC.

(c) What is Issue estoppel and when does it apply in a criminal proceeding?

(d) Explain whether a Magistrate can order further investigation in a criminal case after taking cognizance of the case in the light of the recent judgment of the Supreme Court. (4 x 2½ = 10 Marks)

6. What is broadly the object behind the Protection of Women from Domestic Violence Act, 2005? Whether a woman forced to leave her matrimonial home on account of acts and conduct that constitute cruelty could initiate and access legal process within jurisdiction of Courts where she was forced to take shelter with parents or other family members? Answer the question with reference to relevant provisions of the Code of Criminal Procedure and case law. 10 Marks

7. (a) Explain the mode and method of proof of Call Data Reports (CDR) under Section 65B of the Indian Evidence Act?

(b) When a co-accused secured acquittal in a trial of criminal case in the absence of absconding accused, can a Magistrate acquit the absconding accused also on the ground that the co-accused was already acquitted?

(c) Elucidate whether a Magistrate can order investigation by Central Bureau of Investigation (CBI) under Section 156(3) Cr.P.C. or under Section 202 Cr.P.C. with specific reason?

(d) Explain various remedies available to a person under Cr.P.C. when the police fail to register a case on his report which discloses commission of a cognizable offence. (4 x 2½ = 10 Marks)

8. Write a brief note on the following:

(a) Juvenile under the Juvenile Justice Act.

(b) Section 41A of the Code of Criminal Procedure, 1973.

(c) Presumption as to abetment of suicide by a married woman.

(d) Omissions and contradictions.

(e) Questions by a party to his own witness. (5 x 2 = 10 Marks)

9. (a) What is the value of examination of accused under Section 313 of Cr.P.C.?

(b) What are the principles governing withdrawal of prosecution?

(c) What is the procedure to be adopted by a Sessions Court on passing death sentence and when shall the death sentence stand confirmed?

(d) Inherent power under Cr.P.C. (4 x 2½ = 10 Marks)

10. (a) When the offence is punishable with fine only and when upon proof of the said offence the Court imposes punishment of payment of fine, what is the default sentence that a Magistrate is empowered to impose if the accused fails to pay the fine, under I.P.C.? Explain with reference to the relevant provision of law.

(b) What are the ingredients to be established to prove abetment of commission of an offence? What is the punishment prescribed for commission of offence of abetment when no express provision is made in I.P.C. for punishment of any such abetment? (2 x 5 = 10 Marks)

De Facto IAS