Andhra Pradesh Civil Judge (Mains) 2021

Paper III: English (Translation and Essay) · compulsory paper

Date: 23-01-2022 · Time: 3 Hours, 10.00 a.m. to 1.00 p.m. · Maximum Marks: 100

Instructions to the candidates: English Translation is for 30 marks. Essay writing is for 70 marks consisting of two questions of 35 marks each. Translation has to be made from English language to either Telugu or Hindi language only. Essays must be written in English only.

English Translation 30 Marks

"Every case has its own journey towards the truth and it is the Court's role to undertake. Truth has to be found on the basis of evidence available before it. There is no room for subjectivity nor the nature of offence affects its performance."

Factual Background

In the present case, it was alleged that both the accused carried three weapons, waylaid the deceased at a signal in a main road at about 5 p.m. and after the initial attack, dragged him to the pavement, and thereafter inflicted multiple injuries.

PW-1, who saw the occurrence from a fair distance, was known to the deceased. The deceased, who had his intestine coming out, told him the story implicating the accused.

The Deceased was taken to a hospital run by PW-25, a doctor very well known to PW-1. This hospital was about two kilometres from the place of occurrence, while another nursing home was in existence at about 50 meters. PW-25 gave treatment to the deceased at about 5.05 p.m. He died of multiple injuries at about 5.45 p.m. About 40 days thereafter, at the request of the police, PW-25 gave another certificate indicating that there was a dying declaration.

Before the trial court, the prosecution examined as many as 28 witnesses. Most of the witnesses turned hostile.

On behalf of the defence, a doctor was examined to show that considering the nature of the injuries suffered, the death must have been instantaneous. The Court of Sessions considered all the materials including the witnesses who turned hostile. After due scrutiny, benefit of doubt was extended in favour of the appellants.

The High Court, however, did not consider the entire evidence as discussed by the trial court. The judgment of the trial court was reversed and conviction was rendered sentencing the appellants for life.

Duty of appellate Courts

When the trial court renders its decision by acquitting the accused, presumption of innocence gathers strength before the Appellate Court. As a consequence, the onus on the prosecution becomes more burdensome as there is a double presumption of innocence.

Certainly, the court of first instance has its own advantages in delivering its verdict, which is to see the witnesses in person while they depose. However, the Appellate Court is expected to involve itself in a deeper, studied scrutiny of not only the evidence before it, but is duty bound to satisfy itself whether the decision of the trial court is both possible and plausible view. When two views are possible, the one taken by the trial court in a case of acquittal is to be followed on the touchstone of liberty along with

the advantage of having seen the witnesses. The Appellate Court shall remind itself of the role required to play, while dealing with a case of an acquittal.

The district judiciary is expected to be the foundational court, and therefore, should have the freedom of mind to decide a case on its own merit or else it might become a stereotyped one rendering conviction on a moral platform.

Ruling

The Superior Court noticed that,

* The trial court took enormous pains in considering the evidence of all the witnesses one by one and gave exhaustive reasoning for its ultimate conclusion.

* The dying declaration was put forth by the prosecution through the mouth of PWs 1, 2 and 25. When the evidence let in by them was found to not be trustworthy, there cannot be any dying declaration either in fact or in law.

* PW-25 had deposed that he did not remember whether the deceased told him that the accused attacked him and caused injuries. He later testified that he had given evidence about the dying declaration due to the persistence of the police.

* The alleged occurrence was said to have happened at about 5 p.m. on a busy road with heavy traffic and even the evidence of PW-1 and PW-2 suggests that there were about 1000 persons.

* The defence also examined a Government doctor, an expert in the field of surgery, who had clearly deposed that it would be impossible for the deceased to be conscious after suffering injuries such as intestines coming out.

* The Superior Court wondered how the various reasons given by the trial court were found unacceptable by the High Court especially when it did not consider the evidence of the other witnesses.

It was, hence, held that the High Court did not undertake the exercise as mandated under Section 378 read with Section 384 CrPC in reversing the reasoned decision rendered by the trial court. Consequently, the orders of conviction passed by the High Court was set aside.

Essay Writing (Maximum 1500 words)

1. What are the causes for the delay in disposal of civil / criminal cases in Junior Civil Judge / Magistrate Courts? What are the suggestions / improvements you would give to speed up the disposal of cases? 35 Marks

2. What are the various laws that exist to punish perpetrators and protect women from violence / abuse in regular life, married life and in their jobs? Are they adequate to protect women from violence / harm etc.? What are your suggestions to speed up cases against women? 35 Marks