Assam Judicial Service Grade III (Mains) 2006

Law Paper II · compulsory paper

100 marks · 2 hours · 2006

Indian Penal Code

1. Explain the maxim "Actus non facit reum, nisi mens sit rea". State the cases where mens rea need not be established for proving the commission of a crime. (10 marks)

2. OR — Define consent. State how far consent can be pleaded as a justification for committing a crime. Illustrate your answer.

3. Define and illustrate the offences of 'wrongful restraint' and 'wrongful confinement' and distinguish between the two. (10 marks)

4. OR — Are section 498-A and Section 304-B mutually exclusive? Whether a person charged under section 304-B can be convicted under section 498-A without charge being there?

5(a). An Indian citizen commits an act of adultery in England, which is not an offence in that country. Can he be prosecuted in India?

5(b). What is the minimum number of persons required for the offence of criminal conspiracy to be committed? (i) 3 (ii) 2 (iii) 5 (iv) more than 5.

5(c). Under Indian Law, a child under seven years of age is _____ (doli capax/doli incapax).

5(d). Give three offences, which can be punished with death under the Indian Penal Code, 1860.

5(e). Is abduction an act, which is in itself an offence?

Code of Criminal Procedure

6(a). Explain first information report and its evidentiary value in a criminal trial?

6(b). Distinguish between summons procedure and a warrant procedure with reference to the relevant provisions of Cr.P.C.

7(a). OR — Distinguish between an anticipatory bail and an ordinary bail.

7(b). What are the considerations for granting and cancelling bail?

8(a). The statements recorded by a police officer in course of investigation cannot be used at any trial, Comment.

8(b). Outline the powers and functions of a Sessions Court under the Code of Criminal Procedure.

9(a). OR — Outline the procedure of trial of an accused who is a public servant.

9(b). Answer with reference to the provisions of the Code of Criminal Procedure the procedure for dealing with complaints relating to public nuisance?

10(a). "A" lodged a complaint on 23/6/99 against her husband B and her in laws alleging commission of an offence under section 498A IPC. The complaint disclosed that A had left the matrimonial home on 2/10/1997. On completion of investigation, the police submitted charge sheet on 28/12/2001 and the learned Trial Court took cognizance of the offence on 13/2/2002. "B" seeks your advice for quashing the criminal proceeding. What aspects of the case would you examine in favour of quashing.

10(b). On the basis of a report submitted by the police under section 190(1)(b) Cr.P.C., the Court of the Magistrate took cognizance of the offence on 5/4/2004 and issued summons on the accused. The order summoning the accused is sought to be challenged under the Cr.P.C. Advise.

Indian Evidence Act

11(a). Relevancy and admissibility of evidence are coextensive terms. Elucidate.

11(b). Distinguish between estoppel and waiver.

12(a). OR — The rule of reasonable doubt is only a guideline and not a fetish. Discuss.

12(b). Opinion evidence is not admissible in law. Is there any exception to this rule?

13(a). Explain the rule of evidence relating to exclusion of oral evidence by documentary evidence under the Indian Evidence Act.

13(b). Who is a competent witness? Answer with special reference to a child witness.

14(a). OR — Explain "attestation". How is a document required by law to be attested, required to be proved?

14(b). Discuss the relevancy of character evidence in a civil proceeding.

15(a). "A" at the time of his appointment disclosed his date of birth as 1/10/1934. On complaints being made, it transpired in the enquiry that his actual date of birth was 25/11/1931. The school-leaving certificate produced in support of the date of birth as 1/10/1934 was found to be forged. "A" seeks to prove his date of birth as 1/10/1934 by relying on a horoscope. Advise "A" with reference to the related provisions of the Indian Evidence Act, 1872.

15(b). One "T" filed a petition over grant of succession certificate in respect of properties of "I" claiming to be his daughter and the only surviving Class I legal heir under the Hindu Succession Act, 1956. The brothers of the deceased challenged "T's" claim to be the daughter of "I". They contended that "T" was the daughter of "R" and claimed that both "R" and "T" should be subjected to DNA test. The prayer for DNA test is allowed by the learned Trial Court as the applicants were willing to bear the cost of the test. "T" wishes to challenge the order. Advise her the grounds.

Law of Torts

16. Distinguish between 'tort' and 'crime'. Does every tortuous act amount to crime or vice-versa?

17. OR — Explain the general defences to a tort, which are provided under law of torts.

18. Explain the major modes of discharge of torts.

19. OR — Distinguish between assault and battery.

20. What is defamation? What are the remedies available to a plaintiff in a suit filed for defamation?

21. OR — Explain trespass ab initio.

22. Discuss the law of Res Ipsa Loquitur.

23. OR — Define the tort of Nuisance. What are the remedies available to a plaintiff in a suit filed for nuisance?

De Facto IAS