Assam Judicial Service Grade III (Mains) 2012

Paper IV · Law II · compulsory paper

100 marks · 3 hours · 23 December 2012 (printed header: Law Paper-I)

Criminal law, procedure, evidence and torts

1(i). Choose the correct answer — The provisions of Indian Penal Code also apply to any offence committed by — (a) any citizen of India in any place without and beyond India (b) any person in any place without and beyond India (c) any person on any ship or aircraft, which is not registered in India (d) none of the above.

1(ii). A person can be convicted in aid of Section 34 of the Indian Penal Code when a criminal act is done — (a) by several persons in furtherance of common object of all (b) by several persons in furtherance of common intention of not all such persons (c) by several persons in furtherance of the common intention of all (d) none of the above.

1(iii). How many types of punishments to which offenders are liable under the provisions of the Indian Penal Code — (a) Six (b) Five (c) Four (d) Seven.

1(iv). The term for imprisonment in default of payment of fine shall not exceed — (a) one sixth of the term of imprisonment (b) one third of the term of imprisonment (c) one fourth of the term of imprisonment (d) one fifth of the term of imprisonment.

1(v). Nothing is an offence which is done by a child under age of — (a) five years (b) eighteen years (c) ten years (d) seven years.

1(vi). The right of private defence of the body does not extend to the voluntary causing of death of the assailant, if the offence which occasions the exercise of the right be — (a) such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault (b) an assault with the intention of committing rape (c) an assault with the intention of kidnapping or abduction (d) an assault which does not reasonably cause the apprehension of death or grievous hurt.

1(vii). A member of an unlawful assembly is to be punished for imprisonment which may extend to — (a) six months and with fine (b) six months, or with fine, or with both (c) one year, or with fine, or with both (d) one year and with fine.

1(viii). Which one of the following would not constitute 'grievous hurt', within the meaning of Section 320 IPC — (a) permanent privation of the sight of either eye (b) fracture or dislocation of a bone or tooth (c) privation of any member or joint (d) privation of the hearing of either ear.

1(ix). Consent of the victim of sexual offence, constituting 'rape' within the meaning of Section 375 IPC, is not material, if the victim is under the age of — (a) Sixteen years (b) Eighteen years (c) Twenty one years (d) None of the above.

1(x). Making of false electronic record is made punishable under Section 465 IPC, for forgery, by — (a) The Indian Penal Code (Amendment) Act, 1995 (b) The Information Technology Act, 2000 (c) Criminal Law (Amendment) Act, 2005 (d) Code of Criminal Procedure (Amendment) Act, 2005.

1(xi). The provisions of plea bargaining has been introduced in the Code of Criminal Procedure by — (a) The Criminal Law (Amendment) Act, 2005 (b) Code of Criminal Procedure (Amendment) Act, 2005 (c) Code of Criminal Procedure (Amendment) Act, 1978 (d) none of the above.

1(xii). Which of the following persons are entitled to an order of maintenance under Section 125 Cr. PC — (a) wife, unable to maintain herself (b) legitimate or illegitimate minor child, unable to maintain itself (c) father or mother, unable to maintain himself or herself (d) all the above.

1(xiii). A person can be put back into possession of immovable property, under Section 145 Cr. PC, when he has been forcibly and wrongfully dispossessed — (a) within two months next before the date on which report of a Police Officer was received by the Magistrate (b) within six months next before the date on which the report of a Police Officer was received by the Magistrate (c) within eight months next before the date on which the report of a Police Officer was received by the Magistrate (d) none of the above.

1(xiv). A confessional statement recorded in accordance with the procedure prescribed by Section 164 Cr. PC — (a) can be used as substantive evidence without being formally proved (b) cannot be used as substantive evidence without being formally proved (c) cannot be used as substantive evidence at all (d) none of the above.

1(xv). The period of limitation for taking cognizance of an offence punishable with imprisonment for a term not exceeding one year, is — (a) three years (b) two years (c) one year (d) six months.

1(xvi). Which of the following facts the Court is to take judicial notice? (a) The course of proceeding of Parliament of India (b) Articles of war for the Indian Army (c) All public acts passed by the Parliament of the United Kingdom (d) All the above.

1(xvii). The statement made by which of the parties is not admissible in evidence — (a) by an agent of a party, whom the Court regards, under the circumstances of the case, as expressly or impliedly authorised by him (b) by a party interested in the subject matter of the proceeding, if they are made during the continuance of the interest of the persons making the statement (c) by a person from whom the parties to the suit have derived their interests in the subject matter of the suit, if they are made during the continuance of the interests of the persons making the statements (d) by suitor in representative character, when such statements were made while the party making them did not held that character.

2(i). Answer whether true or false — An action in respect of a tort committed by a public servant, which violates the fundamental rights, would lie in the Civil Court.

2(ii). In a suit for specific performance of contract, claim for damages can be made and Court can award compensation for breach of contract.

2(iii). Every breach of a legal provision does not give rise to an action in tort.

2(iv). Vis major can be the defence in an action brought for damages alleging tortious act.

2(v). In an action for recovery of damages for committing the tort of false imprisonment, the plaintiff not only is required to prove that he was imprisoned but also to prove that there was no lawful justification for the defendant for such imprisonment.

2(vi). An action for damages caused by tortious act committed by a public servant, in discharge of his statutory functions and based on the delegation of the sovereign powers of the State to such public servant, will not lie.

3(a). Write short notes on any four, giving the relevant provisions of law — Mens rea.

3(b). Criminal intimidation.

3(c). Criminal breach of trust.

3(d). Right of private defence.

3(e). Culpable homicide.

3(f). Wrongful confinement.

4(i). Answer any two, giving reasons and relevant provisions — A, residing in Guwahati, is agent of B, residing at Delhi. There is an implied contract between A and B that all sums remitted by B to A shall be invested by A, according to B's direction. B remits ₹1,00,000/- to A, with direction to A to invest the same in C's Company. A disobeyed the direction and employed the money in his own business and for his own profit. Whether A has committed any offence punishable under IPC?

4(ii). A attempts to pull B's nose, B, in exercise of his right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion and in consequence hit B on his head by a heavy blunt object resulting in B's death. Whether A has committed murder?

4(iii). A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of B, a wealthy businessman in the village. A under the law was bound to give early and punctual information of the aforesaid fact to the officer of the nearest Police Station. A gave information to the Police Officer that a body of suspicious character passed through the village with a view to commit dacoity in a certain distant place in a different direction. Whether A is guilty of commission of any offence, if so, under what provision of law and why?

5(a). Write short notes on any four, giving relevant provisions — Cognizable offence and non cognizable offence.

5(b). Difference between warrant cases and summons cases.

5(c). Plea bargaining.

5(d). Classes of criminal Courts.

5(e). Maintenance of public order.

6. Describe the procedure to be followed by a Magistrate, on receiving a complaint relating to cognizance of an offence, under Chapter XV of the Code of Criminal Procedure. The relevant provisions are to be mentioned.

7. Discuss the various provisions, of the Code of Criminal Procedure, as to accused persons of unsound mind, with reference to the relevant Sections.

8(a). Write notes on any four, giving relevant provisions — Secondary evidence.

8(b). Public document.

8(c). Burden of proof.

8(d). Estoppel.

8(e). Hostile witness.

9(i). A dies of injuries received in a transaction in course of which she was ravished. Statements made by A as to the cause of her death, are whether relevant, in the matter of whether A was murdered by B.

9(ii). A, who has been in possession of immovable property for fifty years, produces a title deed from his custody relating to the land under his possession and in support of his title. Whether the title deed can be admitted into evidence without there being proper proof of the signature and handwriting of a vendor as well as the contents of the documents, if so, under what provision of Indian Evidence Act.

9(iii). A sues B for the price of goods sold and delivered to B. C deposed in Court that he being the carrier delivered the goods to B. Evidence is adduced to show that, on a previous occasion, C has said that he did not deliver goods to B. Whether such evidence is admissible?

10. Onus probandi does not shift but the onus of proof shifts — explain, giving reasons.

11(a). Write notes on any two — Vicarious liability.

11(b). Tort-feasor.

11(c). Tortious liability.

11(d). Doctrine of res ipsa loquitur.