Assam Judicial Service Grade III (Mains) 2013

Paper IV · Law II · compulsory paper

100 marks · 3 hours · 9 February 2014 (2013–14 examination)

GROUP A — INDIAN PENAL CODE

1(i). Choose the correct answer: Two young ladies X and Y fight with each other. X knowing herself to be likely to permanently disfigure Y's face, inflicts injury with a blade on the face of Y, leaving a permanent ugly scar on her cheek. Here X is guilty of causing — (a) simple hurt (b) grievous hurt by dangerous means (c) attempt to commit murder (d) grievous hurt by rash and negligent act.

1(ii). Z strikes B. By this provocation, B is excited to violent rage. A, a bystander, intending to take advantage of B's rage and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. A is guilty of — (a) attempt to murder (b) murder (c) culpable homicide not amounting to murder (d) no offence.

1(iii). Section 195-A IPC relates to — (a) Protection of witnesses (b) Protection for victim (c) Threatening to give false evidence (d) None of the above.

1(iv). In the case of an offence punishable with fine only, imprisonment in default of fine shall be: (a) rigorous (b) simple (c) rigorous or simple (d) partly rigorous and partly simple.

2(i). Answer any two, giving reasons and quoting relevant provisions — A police officer obtains certain ornaments from a person by issuing threat to the effect that he will be locked up immediately and will not be released for months. What offence, if any, has been committed by the police officer? (4 marks)

2(ii). A finds a purse with money lying on the road. A did not know to whom did the purse belong. Subsequently A learns that purse belonged to B but A retained the purse and appropriated the money. What offence, if any, has A committed?

2(iii). A goes to his brother-in-law's house to bring his wife. There was a quarrel between A and his brother-in-law B on the question whether his wife should return with him by the night train the same day or on the next day. During the quarrel, A loses his temper and administers a blow with a knife on B's chest, which results in his death. What offence has been committed by A?

3(1). Write short notes on any four — Voyeurism. (3 marks)

3(2). Exceptions to the offence of murder.

3(3). Unlawful assembly.

3(4). Abetment.

3(5). Forgery.

4(a). Define any three — Voluntarily. (2 marks)

4(b). Injury.

4(c). Dishonestly.

4(d). Fraudulently.

GROUP B — CODE OF CRIMINAL PROCEDURE, 1973

5(i). Select the correct answer. Under which Section of the Cr.P.C., a joint trial can be split up — (a) 223 (b) 299 (c) 317 (d) 210.

5(ii). An inquest report must contain the — (a) the names of accused persons (b) apparent cause of death (c) details of the weapons used (d) details of the incident.

5(iii). If it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he, under Section 202 Cr.P.C., postponing the issue of process against the accused — (a) shall commit the case to the Court of Session. (b) may direct an investigation to be made by a police officer. (c) shall call upon the complainant to produce all his witnesses and examine them on oath. (d) shall return the complaint for presentation before the court of Session.

5(iv). Where the court has dispensed with personal attendance of an accused in a summons case, the court, at the time of examination of accused, can — (a) examine the advocate of the accused. (b) examine the accused after defence evidence. (c) examine the other accused on behalf of the accused. (d) dispense with his examination.

6(a). Discuss various provisions of Cr.P.C. under which release of accused on bail is mandatory? (4 marks)

6(b). What do you understand by 'Anticipatory bail'? Which courts are competent to grant 'Anticipatory bail'? (3 marks)

7. Discuss the power of Court to alter the charge and procedure to be adopted whenever a charge is altered or added to by the Court after the commencement of the trial? What is the effect of omission to frame, or absence of, or error in charge? (7 marks)

8(a). Write short notes on any three — Power of Magistrate to award imprisonment in default of fine. (4 marks)

8(b). Procedure of trial in summons cases.

8(c). Limitation for taking cognizance of offences.

8(d). Irregularities which vitiate proceedings.

GROUP C — INDIAN EVIDENCE ACT

9(a). A Statement made by a person to a police officer, in anticipation of death but who survives, would be — (a) admissible as dying declaration under S.32. (b) admissible as former statement of witness under S.157. (c) inadmissible (d) admissible under S.144.

9(b). Burden of proving the plea of insanity lies on (a) the accused (b) the prosecution (c) Either of (a) & (b) (d) Both (a) & (b).

9(c). In a prosecution for rape or attempt to commit rape, when a prosecutrix is cross-examined, she may not be asked any question which tend — (a) to test her veracity (b) to

discover who she is and what is her position in life (c) to know her living standard (d) to shake her credit through her general immoral character.

9(d). If evidence which can be put is not produced, the court may presume that if produced it would be — (a) unfavourable (b) favourable (c) beneficial (d) none of these — to the person who withheld it.

10(a). Discuss any four — Circumstances in which admissions may be proved by or on behalf of the person making it. (4 marks)

10(b). Facts of which court must take judicial notice.

10(c). Modes of proving a signature.

10(d). Circumstantial evidence.

10(e). Promissory estoppel.

GROUP D — LAW OF TORTS

11(i). A tort "actionable per se" is a wrong — (a) for which the plaintiff can sue even though he has suffered no damage (b) for which the proof of damage is a necessary part of the plaintiff's claim (c) of strict liability (d) in which the occurrence speaks for itself about the defendant's negligence.

11(ii). In which of the following torts, the liability is not based on 'fault': (a) Malicious prosecution (b) Conversion (c) Negligence (d) Trespass.

11(iii). In cases of joint tort feasors: (a) The liability is only several (b) The liability is only joint and not several (c) The liability is joint as well as several (d) The liability is neither joint nor several.

12(a). Answer any two — A customer of the bank gives an amount to the bank employee in his capacity as a friend, for being deposited in the account of the customer, without obtaining any receipt for the same. The bank employee misappropriates the amount for his personal gain. A suit for damages is filed by customer against the bank and employee of bank. Discuss the responsibility of bank, if any, and the principle on which your answer is based. (2½ marks)

12(b). The owner of a car requested his friend to drive it from Panbazaar to Dispur so that on reaching Dispur, they could use it for a joint holiday. Shortly after leaving Panbazaar, the friend driving the car caused an accident resulting in bodily injury to a pedestrian. A suit for damages is filed by the pedestrian against owner of the car and the driver. Discuss the liability of owner of the car, if any, and the principle on which your answer is based.

12(c). A and B entered C's premises to locate a leakage in gas pipe. Each one of them held naked flame of a candle to the gas pipe. A's application resulted in an explosion causing damage to C's premises. A suit for damages is filed by C against A and B. B took the defence that his act did not result in explosion. Discuss the responsibility of B, if any, and the principle on which your answer is based.

13(a). Write note on any three — Defence of minority in an action for torts. (4 marks)

13(b). Defence of plaintiff being the wrongdoer in an action for torts.

13(c). Conversion.

13(d). Rule of absolute liability.

13(e). Defenses in an action for a tort of nuisance.

De Facto IAS