Assam Judicial Service Grade III (Mains) 2015

Paper IV · Law II · compulsory paper

100 marks · 3 hours · 29 November 2015

Group A — The Indian Penal Code

1(i). Choose the correct answer: Z is carried off by a tiger. A fires at the tiger knowing that by his shot he may hit Z but he wanted to rescue Z. Unfortunately, the shot hits Z and he dies. Is A guilty? (a) Yes, he has committed murder. (b) Yes, he is guilty of culpable homicide and not murder as he had no intention to commit Z's murder. (c) No, the act was done for Z's benefit, in good faith. (d) None of the above.

1(ii). The offence of mischief is defined in Section _____ of the IPC? (a) 434 (b) 425 (c) 420 (d) 299

1(iii). P and Q agree to commit theft in R's house, but no theft is actually committed. Here P and Q are guilty of — (a) Abetment of conspiracy (b) Abetment of instigation (c) No offence (d) Criminal conspiracy

1(iv). De minimus non curat lex implies (a) Every person is liable for his own acts. (b) Trifling acts do not constitute an offence. (c) Necessity knows no law. (d) Nothing is an offence which is done in private defence.

1(v). Grave and sudden provocation is a — (a) Question of fact (b) Question of law (c) Mixed question of fact and law (d) A presumption under law

2(a). Write short notes on the following (any two) — fraudulently. (2.5 marks)

2(b). Sedition.

2(c). Rioting.

2(d). Wrongful gain.

2(e). Forgery.

3. What is unlawful assembly? What is the difference between common intention and common object? (5 marks)

4(a). Distinguish between — Kidnapping and abduction. (2.5 marks)

4(b). Legal and medical insanity.

5. What is criminal force? What is the difference between criminal force and assault? (5 marks)

Group B — Code of Criminal Procedure

6(i). Identify the right answer: The police officer executing the warrant may use adequate force to access the place where search is to be conducted when — (a) A free ingress is not possible (b) The occupant of the place is a hardened criminal and there is possibility to escape (c) The area is such a nature that problem may arise at any time (d) None of these.

6(ii). As per the Code of Criminal Procedure, in case of merger of the complaint with the police report, the procedure to be followed for the trial shall be of — (a) The complaint case (b) The case instituted on the police report (c) Both as per the convenience during the trial (d) None of these.

6(iii). Which of the following offence was made non bailable by the Cr.P.C Amendment Act, 2005? (a) 325 (b) 353 (c) 328 (d) 331.

6(iv). Any police officer may arrest without warrant any person (a) Who has been concerned in any cognizable offence (b) Who has been proclaimed as an offender (c) Who is reasonably suspected of being a deserter from any armed forces (d) All the above.

6(v). Plea bargaining was introduced in India by — (a) The Amendment Act of 1980 (b) The Criminal Law (Amendment) Act, 2005 (c) The Code of Criminal Procedure (Amendment) Act, 1978 (d) The Code of Criminal Procedure (Amendment) Act, 2005.

7. Explain the procedure to be adopted in trial of a summons case? (5 marks)

8. What is inherent power of the court and when can this be exercised? (5 marks)

9. What are the ingredients of an FIR? What is the effect of delay in filing of an FIR? (5 marks)

10. Why is investigation described as "the executive stage in which there should be no judicial interference"? (5 marks)

Group C — The Evidence Act

11. What is dying declaration? Can dying declaration be acted upon without corroboration? (5 marks)

12. Write short note on "Evidence of accomplice". (5 marks)

13. Oral evidence as to the contents of a document are not relevant. Explain. (5 marks)

14. Relevancy and admissibility are not co-extensive terms. Explain. (5 marks)

15(a). Write short notes on the following (any two) — Documentary evidence. (2.5 marks)

15(b). Res gestae.

15(c). Confession.

15(d). Examination-in-chief.

15(e). Estoppels.

Group D — Law of Torts

16(i). Choose the correct answer: Pigeon hole theory was proposed by — (a) Winfield (b) Salmond (c) Blackstone (d) Lord Knight.

16(ii). Where does vicarious liability generally arise from? (a) A contract of service (b) A contract for service (c) A contract of service as well as a contract for service (d) A wrongful act of the master.

16(iii). The famous case Rylands vs Fletcher deals with (a) Fault liability (b) Conditional liability (c) Strict liability (d) Insurance liability.

16(iv). Which one of the following is not a remedy of private nuisance? (a) Injunction (b) Abatement (c) Action for damages (d) Action for specific performance.

16(v). Which of the following is not a valid defence in tort? (a) Volenti non fit injuria (b) Vis major (c) Scienti non fit injuria (d) Consent.

17. What is strict liability? What are its ingredients? (5 marks)

18. Define the tort of defamation. How is libel different from slander? (5 marks)

19. Distinguish between tort and crime? (5 marks)

20(a). Write short notes on the following (any two) — vicarious liability. (2.5 marks)

20(b). Trespass to land.

20(c). Remoteness of damage.

20(d). Absolute liability.

20(e). Ubi jus ibi remedium.

De Facto IAS