Assam Judicial Service Grade III (Mains) 2019

Paper IV · Law II · compulsory paper

100 marks · 3 hours · 15 June 2019

GROUP-A INDIAN PENAL CODE

1(i). Choose the correct answer (1 × 6=6). A instigates B to murder C. B refuses to do so. Is A liable for punishment? (a) No. A has not committed any offence and not liable for punishment. (b) Yes. A is liable for punishment under section 115 of IPC. (c) A is punishable under section 302 IPC for life imprisonment or death. (d) None of the above.

1(ii). A meets Z on the high roads, shows a pistol and demands Z's purse. Z in consequence surrenders his purse. What offence A is liable for? (a) Theft. (b) Extortion. (c) Robbery (d) Criminal misappropriation.

1(iii). Voluntarily causing grievous hurt to deter public servant from his duty is punishable under section (a) 326 IPC (b) 333 IPC (c) 325 IPC (d) 334 IPC

1(iv). A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest and kills Z. What offence A is liable for. (a) Murder (b) Culpable homicide not amounting to murder (c) None of the above

1(v). A, knowing that he is likely to cause death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die, but the death of an unborn quick child with which she is pregnant is thereby caused. A has committed the offence under Section (a) 302 IPC (b) 304 IPC (c) 313 IPC (d) 316 IPC

1(vi). A draws a bill of exchange upon a fictitious person and fraudulently accepts the bill in the name of such fictitious person with intend to negotiate it. What offence A is liable for? (a) Forgery (b) Cheating (c) Cheating by personation (d) None of the above

2(i). Distinguish between (any two) — Criminal conspiracy and abatement [as printed]. (3 × 2=6)

2(ii). Intention and knowledge.

2(iii). Rash and negligent.

3(i). Answer any two — Court is concerned with legal insanity and not with medical insanity. Discuss referring to relevant provisions of the IPC. (3 × 2=6)

3(ii). Explain the maxim "de minimis not curat lex". Which provision of the IPC is founded on the above maxim.

3(iii). Write a short note on vicarious liability under Indian Penal Code.

4. What is the basic principle underlying the doctrine of right of private defence? What are the acts against which there is no right of private defence? When the right of private defence of body extends to causing death. (7)

GROUP-B CODE OF CRIMINAL PROCEDURE

5(I). Choose the correct answer (1 × 6=6). Maximum sentence of imprisonment which can be passed by Addl. Chief Judicial Magistrate is (a) 7 years. (b) 5 years. (c) 3 years. (d) None of the above.

5(II). The provision for examination of a person accused of rape by medical practitioner is provided in section (a) Section 53, (b) Section 53-A (c) Section 54 (d) Section 164A

5(III). Provision for impounding of document produced before the Court under the code of criminal procedure is provided in section (a) 88 Cr.P.C. (b) 91 Cr.P.C. (c) 102 Cr.P.C. (d) 104 Cr.P.C.

5(IV). If the information (under section 154 Cr.P.C.) is given by a woman, against whom an offence of rape under section 376, 376A, 376 B, 376 C, 376 D, 376 E or an offence under section 326-B is alleged to have been committed or attempted, then such information shall be recorded by — (a) a woman police officer or any women officer (b) Officer-in-Charge of the Police Station. (c) Any police person under the direction of the Officer-in-Charge. (d) Any police officer available at the relevant time in the Police Station.

5(V). When a person having accepted a tender of pardon made under section 306 or 307 Cr.P.C., failed to comply with the condition on which tender was made, such person (a) Shall be tried jointly with the other co-accused (b) May be tried jointly with other co-accused or severally, as the Court deems fit. (c) Shall not be tried jointly with other accused. (d) Cannot be tried for the offence in respect of which the pardon was tendered.

5(VI). Provision for awarding compensation to person groundlessly arrested is provided in Section (a) 357 Cr.P.C. (b) 357-A Cr.P.C. (c) 358 Cr.P.C. (d) None of the above.

6(I). Short note (any four) — Order for disposal of properties at conclusion of trial with reference to specific provision of the Cr.P.C. (4 × 3=12)

6(II). Case diary (diary of proceeding in investigation).

6(III). Levy of fine (recovery of fine).

6(IV). Procedure when magistrate cannot pass adequate sentence for want of jurisdiction.

6(V). Anticipatory bail.

7. Who can hold summary trial? Discuss briefly the procedure for summary trial including the particulars of record and judgment in the cases tried summarily? (6)

8. When search warrant may be issued? Discuss briefly the procedure for conducting a search under section 100 Cr.P.C.? (6)

GROUP-C EVIDENCE ACT

9(e). Write short note (any four) — Burden of proof and onus of proof. (2½ × 4=10)

9(f). Test identification parade.

9(g). Estoppels.

9(h). Privilege communication.

9(i). Facts in issue.

10. What is secondary evidence? When secondary evidence relating to any documents may be given? (5)

11. When the person making the dying declaration survives, can the declaration be proved as dying declaration? If yes, given reason, if not, whether can it be proved for any other purpose? (5)

12. When admissions in civil cases are not relevant? All confessions are one species of the genus admission. Discuss. (5)

GROUP-D LAW OF TORTS

13(i). Distinguish between (any four) — Tort and contract. (3 × 4=12)

13(ii). Contributory negligence and composit negligence.

13(iii). Volenti nonfit injuria and contributory negligence.

13(iv). Liquidated and non liquidated damages.

13(v). MALFEASANCE, MISFEASANCE & NONFEASANCE.

14. Discuss the limitations to the application of the maxim volenti nonfit injuria. (4)

15(a). T is an employee of the defendants, after finishing the day's work was bicycling along a road in the defendant's premises towards the pay office to collect his wages. After having travelled some distance T rode across a bus park on the defendants premises and negligently knocked down one 'S', who was also an employee of the defendants. S was killed as a result of the collision and his wife brought a suit against the defendants for damages on the ground that the death of 'S' was caused by the negligence of 'T' who was acting in the course of employment and that defendants were vicariously liable. How will you decide? (4)

15(b). OR 'A' is an employee of defendant — "Sulab International" engaged by the High Court for doing the window cleaning work. A took away some unused locks from the room where he is doing the work of window cleaning. High Court files a suit against the Sulab International. How do you decide? Refer to a decided case.