Delhi Judicial Service (Mains) 2015

Paper 4: Criminal Law · compulsory paper

Part A

1. Upon telephonic information received at PS Lajpat Nagar at 0.00 AM on 10.07.2015 that a foul smell was emanating from House No. 292, Lajpat Nagar, Inspector Suri reached the house and found the main door locked. Breaking open the lock and entering the house, he found Sheila, the owner of the house, lying dead on the bed with clotted blood on her clothes and the bedsheet. A blood stained kitchen knife was lying on the bed. It was seized. The Crime Team was summoned but no chance prints could be lifted. The cupboard in the bedroom was found ransacked. Neelam, the daughter of the deceased, reached the house and informed Inspector Suri that Ram was the domestic servant engaged by the deceased and was given a servant quarter to reside on the roof of the house. Inspector Suri found the room on the roof empty. Ram had absconded. On Neelam's statement, an FIR for offences punishable under Section 302 IPC and 380 IPC was registered.

The dead body was sent to the mortuary. The postmortem conducted by Dr. Sunil on the dead body of Sheila in the afternoon of 10.07.2015 revealed that the likely time when Sheila died was around 10.00 PM on July 08, 2015 and there were eight bruise marks on both palms and forearms. There was one stab wound on the chest. Internal examination revealed that the left ventricle of the heart had been pierced and death was on account of shock due to haemorrhage. Dr. Sunil opined later on that the knife seized by Inspector Suri could have caused the stab wound.

During investigation, Chaman, a vegetable vendor in the colony, told Inspector Suri that one Shyam, a carpenter, used to frequent the house and he had seen Ram and Shyam talking secretively in the market for the last few days.

Tracking Shyam, Inspector Suri reached the slum cluster in Lajpat Nagar, where Chet Ram and Brahm Prakash, who were residing in the slum cluster, told him that one Raju, a mechanic, used to frequent the jhuggi of Shyam and was seen by them discussing something secretively with Shyam on 07.07.2015 and in the late afternoon of 08.07.2015. Their statements were recorded by Inspector Suri.

Tracking Ram and Shyam, Inspector Suri apprehended the two on 15.07.2015. On their personal search a mobile phone was recovered from each. The mobile number of Ram was 9879898710 and that of Shyam was 9890768592. The two made a confessional statement admitting the crime and informed that one Sanju was also a participant in the crime and that the stolen jewellery was in the jhuggi of Sanju. The two took Inspector Suri to the slum cluster in Bhogal and jointly pointed out the jhuggi of Sanju, who was apprehended from the jhuggi and made a disclosure statement confessing to the crime and said that the stolen jewellery was put by him in a bag which he had kept with his friend Mohan for safe custody. He took Inspector Suri to village Bharthal, where one Govind Ram was associated in further investigation by Inspector Suri, in whose presence Sanju pointed out a house as that of Mohan. Mohan was present in his house and handed over to Inspector Suri a bag, stating that it was left with him by Sanju. From the bag 4 gold bangles, 2 gold chains, 2 gold pendants and 2 gold earrings were recovered.

Champa, a domestic help working in the adjoining house No. 293, Lajpat Nagar, informed Inspector Suri that on 08.07.2015 at around 10.30 PM, when she was going to the market to buy vegetables, she had seen Shyam walking away from the house of the deceased in a very perturbed condition and when

she asked him why he was disturbed, Shyam said that Ram had fought with Sheila and therefore he was disturbed. She further informed that around 10.45 PM, when she was returning, she saw Ram, Raju and Sanju outside Sheila's house. Her statement to this effect was recorded by Inspector Suri. Thereafter Inspector Suri obtained the call detail records of the mobile phones of Ram and Shyam, which showed that Ram and Shyam not only spoke to each other repeatedly from two days prior to 08.07.2015 but additionally the two were present in Lajpat Nagar from the evening of 08.07.2015 till around 11.00 PM.

Johri Mal, a jeweller, gave his bill book to Inspector Suri, which showed that on different dates he had sold jewellery to Sheila, and per his statement recorded by Inspector Suri the jewellery which he used to sell had JM embossed thereon.

No TIP of the jewellery was conducted. Ram, Shyam, Raju, Sanju and Mohan were not subjected to any TIP either.

At the trial the witnesses deposed as per their statements made to Inspector Suri, with the admission by Neelam that she did not participate in any TIP proceedings concerning the jewellery and identification of the same. Champa also admitted that she was not called upon to participate in any TIP proceedings concerning Ram, Shyam, Raju and Sanju. The CDRs of mobile numbers 9879898710 and 9890768592 were tendered by Inspector Suri, who deposed to prove the facts which surfaced during the investigation and the recoveries made.

Listing the incriminating evidence against all five accused, decide whether the charge has been established or whether against all or some a lesser offence is made out, for which reasons may be stated.

Which provisions of the Indian Evidence Act, 1872 would be applicable to the discussion of the evidence should be brought out clearly, especially concerning Sheila's death and the argument that a kitchen knife was used as the weapon of offence with only one stab blow given and therefore the act which resulted in Sheila's death would at best constitute the offence punishable under Section 304-II IPC.

2. Amit, aged 25 years, meets Nalini, aged 21 years, through the matrimonial website Jeevansathi.com on 01.01.2016. He proposes for marriage through the website and she accepts the proposal. His parents come and finalise the marriage on 15.01.2016 and they perform the roka ceremony. On the same night Amit persuades Nalini to go for a movie with him and on the way back they drop in at his friend's house, whose house keys he was carrying in his pocket. In his friend's house, Amit persuades Nalini to have sexual intercourse with him, saying that there was no harm since they were getting married soon and he had already promised to marry her. The only reason Nalini consented to sexual intercourse is because of Amit's promise to marry her. On 16.01.2016 Amit sends an e-mail to Nalini informing her that he cannot marry her since he was already married to another girl without his parents' knowledge. Nalini files her complaint. A case for cheating and rape under Sections 417 and 376 IPC is filed against Amit. The defence raised by Amit is that Nalini is an adult and their physical relation was consensual. Decide.

3. 'A' is arrested on the charge of murder punishable under Section 302 IPC. The allegation is that he had intentionally run his car over his neighbour 'B' and killed him. 'A' is remanded to custody from time to time for a total period of 90 days, out of which he was in police custody for 10 days and in

judicial custody for 80 days. The investigation could not be completed within 90 days. The lawyer for 'A' files an application for bail on his behalf on the 91st day, praying that 'A' be released on bail and stating that he was willing to abide by any condition for bail imposed by the court. The court fixed the hearing of the application for bail after a week. On the next day (92nd day) the police file the chargesheet under Section 173 Cr.P.C., stating that the report of the serologist with regard to the blood found on the wheels of the car of 'A' was still awaited and would be filed shortly. Decide the bail application of 'A', while also discussing the purpose of granting bail.

4. 'A' is charged with the offence of outraging the modesty of a woman punishable under Section 354 IPC (punishable for a minimum period of one year) and is undergoing trial. He files an application for plea bargaining in the court. He discloses in the affidavit accompanying the application that he has been earlier convicted for an offence under the Motor Vehicles Act. The mutually satisfactory disposition is arrived at, as per which the court awards compensation to the victim and grants probation to 'A'. Is the procedure adopted in compliance with Chapter XXI-A (plea bargaining) Cr.P.C.?

Part B

1. Amina, a Hanafi Muslim, had married Hamid after she had been divorced by her first husband, Yusuf. She has a daughter, Hina, now aged six, from her first husband. Due to physical violence inflicted on her by Hamid, Amina has been forced to shift to her grandfather's house along with her daughter, as both her parents are no more. She is unemployed and had studied only up to class X. Her grandfather is a retired railway station master and has to bear the cost of his treatment for cancer as also support his aged wife. In this background, Amina has filed a petition under Section 125 Cr.P.C. claiming maintenance from Hamid for herself and her minor daughter. When the nikahnama was drawn up between Hamid and Amina, Hamid undertook to bring up Hina as his own daughter, though Yusuf, the biological father, is alive. Hamid has two tempos which he hires out and earns about Rs. 1,50,000 per month; he has two drivers, one cleaner and one helper.

Hamid contends that the petition is not maintainable. Decide with case law. Would Hamid be liable to maintain Hina? What is the quantum of maintenance that can be granted and to whom and why? Give reasons for your decision.

2. Write short notes on any six of the following:

(a) What are the grounds on which anticipatory bail can be granted?

(b) When can bail be cancelled?

(c) Abetment

(d) Criminal conspiracy

(e) Sedition

(f) Incapacity due to unsoundness of mind

(g) Age of criminal responsibility and juvenility

(h) Remission and suspension of sentence

3. At an upmarket cinema hall, a full house was enjoying the screening of a new film. Unknown to them, a transformer belonging to the electricity company caught fire. The oil leaked and the fire spread and two cars parked immediately adjoining the transformer caught fire and then other cars parked

nearby were also engulfed in flames. Soon, fire and noxious fumes from the burning oil, petrol, diesel, upholstery and other materials stored in the parking lot spread in the area. As the ground floor parking was enclosed by walls, due to the chimney effect, the fumes moved upward and through the air conditioning ducts entered the theatre hall. The noxious fumes and smoke stagnated at the upper portion of the balcony. Due to the fire there was an electricity failure in the hall. People started groping their way to the exit, as the only available exit was at the back of the hall. The exit to the foyer was closed and no one could use the staircase. 59 people died due to asphyxiation in the balcony and passageway by inhaling the noxious fumes and smoke. 103 persons were also injured trying to get out.

An FIR was lodged at the local police station and the investigation was handed over to the CBI. During investigation the following facts were revealed:

(i) There were violations of the building bye laws and the Cinematograph Act, 1952 and Rules by changes in the seating arrangements, by closing one exit and narrowing the gangway to add 50 more seats and an owners' box, leaving only one exit at the back of the hall, at the far end of the balcony;

(ii) The owners had allowed illegal parking in front of the transformer room against the requirement of keeping clear access to the transformer room, thus allowing 35 cars to be parked in an area where only 15 cars were permitted, in order to leave adequate space for manoeuvring;

(iii) The owners had been allowed a parapet wall of three feet height around the parking area but they raised 12 feet high walls, thus converting the parking into an enclosed area, which prevented the dispersal of the noxious fumes in the air over the ground floor and instead moved them upwards into the hall;

(iv) The MCD gave an NOC for grant of licence to the cinema hall despite these violations of the building bye laws;

(v) Fire clearance was given despite an initial report recording that there were inadequate fire safety measures, including only one exit and reduced gangway passage;

(vi) The electricity company had attended a fault, only a few hours before the unfortunate incident, when three cables of the same transformer had got burnt, and the repairs were conducted by accused I, J & K by replacing three sockets using the die and hammer instead of the crimping machine, and the loose connections resulted in sparking and the fire;

(vii) The transformer was itself built in violation of safety norms inasmuch as there was neither a platform built for it nor was a soak pit provided to prevent any leak of hot oil to the neighbouring areas;

(viii) The main foyer door was locked from the outside by the gatekeeper;

(ix) Due to the absence of the soak pit, the unauthorised parking, the closing of the main foyer door from outside by the gatekeeper, the closing of exit doors to create additional seating and the owners' box, the narrowing of the gangway to place more seats and leaving only a single exit at the back of the hall, when the noxious fumes moved upwards into the hall, people were unable to move smoothly out of the hall to save their lives;

(x) Each violation of the law contributed to the loss of lives and to the injuries sustained by the theatre goers.

A charge sheet was filed against 16 persons under various sections including Section 304, Part II, IPC before the Ilaqa Magistrate.

The Magistrate summoned the accused and committed the case to the Sessions Court for trial. These 16 accused are:

(a) A & B, the owners of the cinema hall;

(b) C & D, the Director and DGM of the cinema hall;

(c) E, F & G, the Managers of the cinema hall;

(d) H, the gate-keeper of the cinema hall;

(e) I, J & K, responsible officers of the electricity company;

(f) L & M, officers of the Delhi Fire Service;

(g) N, O & P, officers of the Municipal Corporation of Delhi.

Draw up a reasoned order on the charges to be framed against the accused.