Delhi Judicial Service (Mains) 2017

Paper 4: Criminal Law · compulsory paper

Time allowed: 3 hours. Maximum marks: 200. All questions are compulsory, unless specified. Support each of your answers with reasons, relevant legal provisions and legal principles. Length of the answer would not determine the marks.

1. Answer any ten questions: (10 marks × 10 = 100 marks)

i) Relevance and evidentiary value of extra judicial confession not made to a Police Officer.

ii) Object and evidentiary value of inquest report.

iii) Relevance and effect of absence of name of the accused in the First Information Report.

iv) Importance, relevance and evidentiary value of police diaries in criminal trial.

v) Legal effect and evidentiary value of simultaneous or joint disclosure statement made by two or more accused.

vi) Relevance and legal effect of failure/absence of motive in murder cases.

vii) Relevance and legal effect of failure to recover dead body (corpus delicti) in murder cases.

viii) Theory of last seen in the company of the deceased.

ix) Relevance and evidentiary value of good and bad character evidence.

x) Discuss whether a criminal court can compel an accused to admit and deny documents even when the accused prefers to maintain silence and states that he would neither admit nor deny the documents.

xi) Marking of a document as Exhibit, proof and evidentiary value of a document in a criminal trial.

xii) Whether pre-trial Test Identification Parade conducted before a Metropolitan Magistrate is evidence and its relevance in a case triable before the Sessions Court.

xiii) Whether court can discard and disbelieve post-mortem report and rely upon ocular statement of eye-witnesses? If yes, when and in which circumstances?

xiv) Law of compensation to the victim who has suffered an injury at the hands of the convicted accused.

2. In Pulukuri Kottayya v. King Emperor AIR 1947 PC 67, it was observed as under: (20 marks)

"S. 27, which is not artistically worded, provides an exception to the prohibition imposed by the preceding section and enables certain statements made by a person in police custody to be proved. The condition necessary to bring the section into operation is that the discovery of a fact in consequence of information received from a person accused of any offence in the custody of a Police officer must be deposed to, and thereupon so much of the information as relates distinctly to the fact thereby discovered may be proved. The section seems to be based on the view that if a fact is actually discovered in consequence of information given, some guarantee is afforded thereby that the information was true, and accordingly can be safely allowed to be given in evidence; but clearly the extent of the information admissible must depend on the exact nature of the fact discovered to which such information is required to relate. Normally the section is brought into operation when a person in police custody produces from some place of concealment some object, such as a dead body, a weapon,

or ornaments, said to be connected with the crime of which the informant is accused. Mr. Megaw, for the Crown, has argued that in such a case the "fact discovered" is the physical object produced, and that any information which relates distinctly to that object can be proved. Upon this view information given by a person that the body produced is that of a person murdered by him, that the weapon produced is the one used by him in the commission of a murder, or that the ornaments produced were stolen in a dacoity would all be admissible. If this be the effect of S. 27, little substance would remain in the ban imposed by the two preceding sections on confessions made to the police, or by persons in police custody. That ban was presumably inspired by the fear of the legislature that a person under police influence might be induced to confess by the exercise of undue pressure. But if all that is required to lift the ban be the inclusion in the confession of information, relating to an object subsequently produced, it seems reasonable to suppose that the persuasive powers of the police will prove equal to the occasion, and that in practice the ban will lose its effect. On normal principles of construction their Lordships think that the proviso to S. 26, added by S. 27, should not be held to nullify the substance of the section. In their Lordships' view it is fallacious to treat the "fact discovered" within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information as to past user, or the past history, of the object produced is not related to its discovery in the setting in which it is discovered. Information supplied by a person in custody that "I will produce a knife concealed in the roof of my house" does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added "with which I stabbed A" these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant."

Elucidate and explain the legal effect of the aforesaid quotation with examples. In terms of your reasoning, please examine the following statement of the accused and indicate the portions which are admissible or not admissible under Section 27 of the Indian Evidence Act.

"Statement made by the accused Inala Sydayya on being arrested. About 14 days ago, I, Kotayya and people of my party lay in wait for Sivayya and others at about sunset time at the corner of Pulipad tank. We, all beat Boddupati Chinna Sivayya and Subbayya, to death. The remaining persons, Pullayya, Kotayya and Narayana ran away. Dondapati Ramayya who was in our party received blows on his hands. He had a spear in his hands. He gave it to me then. I hid it and my stick in the rick of Venkatanarasu in the village. I will show if you come. We did all this at the instigation of Pulukuri Kotayya."

3. 'A' living in a resettlement colony had put his bucket under the water tap in the gali for filling water. 'B', who resided nearby and was present there from before, felt aggrieved and so he threw the bucket of 'A'. A fight ensued between 'A' and 'B'. On hearing noise, many persons living in the neighbourhood assembled and tried to separate 'A' and 'B'. 'C', the brother of 'B' arrived at the spot and picked up a stone lying nearby and threw it towards 'A'. The stone hit 'A' on his arm and he fell down. While falling, 'A' hit his head against a concrete boundary wall and blood started oozing from his head. 'A' was taken to the hospital where he died after two days. The post-mortem report attributes injury on the head of 'A' as the cause of death. Decide whether accused 'C' is guilty of having committed an

offence of murder under Section 302 of the Indian Penal Code or culpable homicide not amounting to murder under Section 304 of the Indian Penal Code or an offence under Section 307 of the Indian Penal Code or any other lesser offence under the Indian Penal Code. (30 marks)

4. Distinguish between "common intention" and "common object". If a person is charged under Section 302/149 of the Indian Penal Code, can he be convicted under Section 302/34 of the Indian Penal Code? (10 marks)

5. Explain and elucidate the difference between kidnapping and kidnapping for ransom? Is the difference justified? (10 marks)

6. Explain the difference between criminal conspiracy and abetment? (10 marks)

7. A dying declaration is a weak type of evidence as the accused does not get an opportunity to cross examine the witness. Critically examine. (10 marks)

8. (i) What is the purpose of examination of an accused under Section 313 of the Code of Criminal Procedure? (10 marks)

(ii) What is the effect of not putting an incriminating evidence in such examination? What are the remedies before an Appellate Court?