Delhi Judicial Service (Mains) 2018

Paper 4: Criminal Law · compulsory paper

Time Allowed: 3 Hours. Max Marks: 200. Held on 05.02.2019.

Instructions: (i) Please read the questions carefully and answer them as directed. (ii) All questions are compulsory, unless specified. (iii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time. (iv) Support each of your answers with reasons, relevant legal provisions and legal principles. Length of the answer would not determine the marks. (v) Bare Acts will be provided by this Court in the examination hall for use by you. (vi) Even if you do not know the answer, it is advisable to attempt as much, as the test is not only of the knowledge of law but also of analytical reasoning.

1. The investigating agency files a charge sheet against "A." for commission of offences to be tried as 'Warrant case'. The magistrate tries him following the procedure prescribed for a 'summons trial' case and convicts him. 'A' challenges the conviction before the appellate court and seeks a de-novo trial. Elucidate the powers of an appellate court to order re-trial under Section 386 of the Code of Criminal Procedure. 10 Marks

2. (a) The law presumes that every person committing a crime is sane and liable for his acts. Section 84 of the Indian Penal Code carves out an exception. Elaborate on the doctrine of burden of proof in the context of the plea of insanity. 10 Marks

(b) Expression in Section 84 of the Indian Penal Code is "unsoundness of mind" and not "insanity". Is there any difference between the two? 5 Marks

3. (a) 'X', blind by birth, is a victim of sexual assault. She identifies the accused 'A' only by his voice during the trial. 'A' denies his presence at the spot. Under what circumstances and to what extent is such identification by voice reliable? 5 Marks

(b) Test Identification Parade (TIP) of an accused during investigation is a material piece of evidence. In this context, discuss: 4 x 2.5 = 10 Marks

(i) Is conducting TIP during investigation mandatory?

(ii) Effect of delay in holding TIP.

(iii) TIP of two accused persons arrested in the case conducted jointly.

(iv) Can the accused ask for TIP as a matter of right during investigation?

4. (a) 'A' faces the charge of committing murder of his friend 'B'. The trial court acquits him of the charge for lack of evidence. The State challenges the acquittal in appeal. The High Court declines leave to appeal. Can 'W' - wife of the deceased maintain an appeal against the acquittal? 5 Marks

(b) The doctrine of "locus standi" is totally foreign to criminal jurisdiction. Discuss. 5 Marks

5. What are the essential ingredients of the offence of criminal conspiracy? How can the existence of conspiracy and its objective be established during trial? 10 Marks

6. (a) Elucidate the powers of a police officer to conduct further investigation under Section 173 (8) of the Code of Criminal Procedure after filing of the police report under Section 173 (2) of the Code of Criminal Procedure. Whether a Magistrate can direct re-investigation or investigation de-novo? 5 Marks

(b) Whether the person who is arrested has a right to insist for the presence of an advocate at the stage of police interrogation? 5 Marks

7. (a) The accused in police custody provides information to the Investigating Officer (IO) under Section 27 of the Indian Evidence Act. The IO, to ensure its sanctity, soon thereafter calls independent public witnesses and records the same in their presence. Whether such information is admissible in evidence? 5 Marks

(b) During trial of a case under Section 302/364A of the Indian Penal Code, no objection was taken by the accused to the mode of proof when Call Detail Records (CDRs) of mobile phone recovered from him was adduced in evidence. The CDRs were admitted in evidence and marked as an Exhibit. Whether the same amounts to waiver of insisting of formal proof of documents? Whether such waiver from the accused is permissible in criminal case under Section 294 of the Code of Criminal Procedure?

(c) What is meant by the word 'alibi'? Whether plea of alibi is one of the general exceptions or a rule of evidence? Discuss the relevance of plea of alibi in a criminal trial? 5 Marks + 10 Marks

8. (a) Whether provisions of Section 154 of the Indian Evidence Act make any distinction between a civil or a criminal case. At what stage of the examination can the witness be cross-examined by the party who called him as a witness. 5 Marks

(b) What are the reasons for the witnesses turning 'hostile' during trial. Can a 'hostile' witness be permitted to subvert a criminal trial? To what extent the testimony of a 'hostile' witness can be read against the accused? 10 Marks

9. Distinguish any three of the following: 3 x 5 = 15 Marks

(a) Interested witness and Related witness

(b) Suspension of sentence and Bail

(c) Suspension of sentence and Suspension of conviction

(d) Anticipatory bail and Regular bail

(e) Charge in police case and charge in complaint case

10. 'A' is arrested in a case for commission of offence punishable under Section 302 of the Indian Penal Code on 8th April 2018. He is subsequently remanded to police/judicial custody from time to time. The complainant moves the High Court for a fair and impartial investigation. On the assurance of the Public Prosecutor that investigation would be conducted by an officer not below the rank of Assistant Commissioner of Police (ACP) and the report of the investigation with the opinion of the Investigating Officer (IO) shall be filed within two months, the High Court disposes of the petition on 03.07.18. 10 Marks

On 05.07.18, the police officer files a report under Section 173 of the Code of Criminal Procedure before the Metropolitan Magistrate (MM). Since the report was filed by a police officer below the rank of ACP contrary to the order dated 03.07.18, the MM returned the charge sheet to the police for due compliance. On 09.07.18, the accused filed an application for statutory bail under Section 167 (2) of the Code of Criminal Procedure which was dismissed by the MM observing that the

order dated 03.07.18 of the High Court was an extension of the period within which the investigation could have been completed. The appellant challenges it before the High Court. Decide.

11. The case of the prosecution is that on 03.02.18 at 13:15 hours, a decapitated body was found lying in a Tea Estate. On the basis of a written complaint by 'X', the investigation commenced. 'A' is arrested and makes a disclosure statement on 04.02.18. Pursuant to the disclosure statement, he leads the police to the Tea Estate where the dead body was found on 03.02.18 and got recovered the severed head which was found wrapped with the wearing clothes of the deceased, concealed with soil and dry leaves in a garden drain. The body and severed head were identified by the relatives of the deceased. 'A' also got recovered the weapon used in the crime on 08.02.18 from a concealed place in the presence of an independent public witness 'P'. The post mortem examination report revealed that there were 8 stab injuries on the chest, stomach and other vital parts of the body of the deceased. 30 Marks

During evidence, 'W' - wife of the deceased deposed that her husband was a sweeper by profession. On 02.02.18 he was taken from the house at around 2:00 pm by 'A' on cycle. When in the evening, the deceased did not turn up, she went to A's house and met his father who informed that both 'A' and the deceased had gone to clean a safety tank on 03.02.18. The deceased did not return home that night. Next day, 'W' met 'A' and enquired about her husband. 'A' asked her to go to the police station. She went there but did not find her husband. On 04.02.18, she came to know about the recovery of the beheaded body of her husband.

During trial, 'P', a witness to recovery of weapon of crime turned hostile and denied recovery of the weapon of offence in his presence. 'W' admitted in the cross-examination that she used to suspect that her husband had intimate relations with A's wife. She further admitted that 'A' and the deceased were friends since long.

Decide the culpability of 'A' in the crime.

12. 'X', a Superintendent in the Ministry of Defence committed suicide on 15.01.2018 in his house. His wife lodged a complaint that 'X' was suffering from mental torture as his superior officer 'P' was getting heavy work done from him from 10 am to 10 pm. 'P' would call him at odd hours and even on holidays to get the work done. 'P' had stopped his salary without any reason for 3 months and was threatening to stop his increments. Because of pressure of work, 'X' used to remain silent. She named 'P' to be responsible for the death of her husband. On the basis of the said complaint, an FIR under Sections 306 and 506 of the Indian Penal Code is registered against 'P'. During investigation, the police recovered a suicide note written by 'X' detailing these facts. 'P' seeks quashing of the FIR under Section 482 of the Code of Criminal Procedure. Discuss. 10 Marks

13. 'X' a teacher in a public school at Delhi assaulted 'Y', a second standard student with a wooden stick. It resulted in an injury to her left eye. Despite treatment and surgery, there was loss of eyesight. 'Y's father lodged FIR after 25 days. What is the nature of the offence committed by 'X'. 5 Marks

14. (a) What is the role of a Public Prosecutor in a criminal trial. Under which circumstances can he withdraw from prosecution? 10 Marks

(b) 'X' is facing criminal proceedings for the commission of offences under Sections 506 and 195-A of the Indian Penal Code. The Public Prosecutor files an application to withdraw from the prosecution stating that the Government had no objection to the withdrawal. He files a Government Notification in that regard. Decide. 5 Marks

15. Marriage of 'A' aged about 25 years took place with accused 'B' on 17.01.2018. She committed suicide by jumping into a nearby well of the village within 4 months of her marriage. The reason for her extreme step was her harassment due to demand of dowry and also cruelty meted out to her as 'B' had illicit relations with a woman. There used to be frequent quarrels between them on this issue. 'B' did not mend his ways and continued his relation. 10 Marks

The allegations are duly proved. What offence(s), if any, have been committed by 'B'?

De Facto IAS