Delhi Judicial Service (Mains) 2022

Paper 4: Criminal Law · compulsory paper

Duration: 3 hours · Maximum Marks: 200

Important Instructions: (i) Please read the questions carefully and answer them as directed. (ii) 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. (iii) The answer to each question should begin on a fresh page. (iv) Support each of your answers with reasons, relevant legal provisions and principles and also relevant case laws. (v) 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.

Part I: Write short notes on any four out of the following six questions (4 x 10 = 40 Marks)

1. In a case involving two or more accused, is it permissible for the Court to record their joint statement under clause (b) of sub section (1) of Section 313 of the Code of Criminal Procedure, 1973 to save its time? 10 Marks

2. When can the power under sub-section (1) of Section 319 of the Code of Criminal Procedure, 1973 to add and summon an accused can be exercised by the court? 10 Marks

3. Will the medical evidence in sexual offences favouring the accused have any impact on the ocular testimony of the prosecutrix or other material witness or evidence of a person to whom the prosecutrix immediately after the incident narrated the facts? 10 Marks

4. Is there any presumption of correctness attached to the confessional statement recorded under section 164 of the Code of Criminal Procedure, 1973 by the Magistrate? 10 Marks

5. Consideration for awarding sentence to a convict. 10 Marks

6. The legitimate expectations of a victim of crime from the State. 10 Marks

Part II: Attempt any two out of the following three questions (2 x 20 = 40 Marks)

7. Can an accused be convicted on the sole uncorroborated testimony of an accomplice. Explain.

8. Defence of alibi and the burden of proof. Explain. 20 Marks20 Marks

9. Is there any requirement of issuing notice to an accused before arrest in commission of cognizable offences. Elaborate. 20 Marks

Part III: Attempt any four out of the following six questions (4 x 30 = 120 Marks)

10. The marriage of 'A' & 'B' was solemnised on 02.11.2016. The accused was their immediate neighbour and wanted to marry 'A' and threatened to kill her if she refuses. On 15.11.2016 at about 04.30 PM when 'A' was sleeping, the accused entered her bed room with petrol in a Can and threw petrol on her and set her on fire before running away. 30 Marks

'A' came out of her room crying engulfed in flames and upon hearing her cries, her husband 'B' (PW1), who was on the terrace, came down and extinguished the fire and took her to the LNJP Hospital. The Medical Officer (PW15) opined that she had suffered 100% burn injuries. The I.O.

recorded her statement in the presence of PW15. Later on, PW15 declared the deceased fit to make statement when SDM (PW19) also recorded her statement. Next day she succumbed to her injuries.

The accused was arrested on the same day. On his disclosure to the I.O., the accused got recovered the plastic Can and a photo of the deceased from his home. On medical examination of the accused, he was also found to have suffered fresh burn injuries on his both hands.

The accused contended that if the deceased had suffered 100% burn injuries, she could not have put her left thumb impression on both the dying declarations and in case of a female, only the right-hand thumb impression is taken.

In his cross-examination, the I.O. explained that the right thumb and left hand of the deceased were burnt but the left thumb was safe.

Discuss the criminality of the accused.

11. 'A' filed a criminal complaint u/s 138 of the Negotiable Instrument Act, 1881 against 'B' and her proprietary firm for dishonour of a cheque dated 28.10.2016 of Rs. 1,92,000/- on "stop payment instructions". The complainant alleged that he used to supply wooden material to 'B' and the said cheque was given to him by 'B' for wooden material purchased vide Invoice no. 344 dated 28.10.2016. 'A' filed a copy of invoice bearing some cutting thereon. 30 Marks

'B' placed on record a copy of a letter dated 01.10.2016 addressed to her banker to the effect that she lost her blank signed cheque in Kasturba Market where she had gone to buy some goods and for stop payment. She also filed a copy of the complaint lodged with the Police after 23 days of having lost her cheque in Kasturba Market and having given stop payment instructions to her banker.

At the time of framing notice u/s 251 CrPC, 'B' replied that the cheque was stolen by 'A' and she had no liability as she had already filed a complaint to the police.

The accused also filed an application before the MM under section 145(2) of the NI Act that in September 2016, the complainant in her absence used to come to her office for business purposes as they had good business relations, and 'A' came to her office and stole the cheque.

'B' appeared as a witness and testified that the cheque in question and other cheques meant for payment to the suppliers by her family members used to be kept at her residence-cum-office as she used to be in the field most of the time. She admitted in her cross-examination that she was having a running account with the complainant and had put the date on the cheque in question.

Decide the criminal liability of the accused.

12. The marriage of 'A' and 'B' was performed on 05.10.2019. 'B' made a telephonic call on 26.09.2021 at about 01.00 AM to his father-in-law (PW1) and informed him that his wife 'A' had fallen sick and had to be taken to hospital. PW1 and his daughter-in-law (PW5) reached the home of 'B' where they found 'A' in unconscious condition. They took her to a nearby hospital where she was declared 'brought dead'. 30 Marks

PW1 refused to give any statement to the I.O. as his son had gone abroad.

M.O. (PW15) who conducted the post mortem found that the deceased suffered fracture nasal bone and injuries on her right temporal region apart from nail marks and abrasions on her cheeks and lower part of the back. He observed that the injuries were ante mortem in nature.

PW1 and PW5 gave their respective statements to the I.O. two days after the incident. An FIR u/s 498A/304B/302 IPC was registered against the accused. As per the FSL report, the cause of death was 'due to coma caused by craniocerebral injury (head injury) by means of hard blunt and forceful impact upon head'.

The defence of the accused is that (i) PW1 and PW2 gave their statement to the I.O. two days after the incident (ii) there was no evidence of demand of dowry and causing cruelty to the deceased by him (iii) no weapon of offence was recovered from his home (iv) no motive was imputed to him (v) casualty card of the Hospital did not mention any injury on the body of the deceased (vi) no guard was deputed in the mortuary to protect the body prior to the post mortem which was conducted after two days.

In his statement u/s 313 Cr PC, he stated that his wife was sick being anaemic and fell down from the bed and suffered injuries. He admitted that he and the deceased were alone in the home on the night intervening 26/27.09.2021.

Discuss the criminality of the accused.

13. An accident took place between a motorcycle and a Maruti car at about 10 AM on 18.03.2021. The motorcyclist (PW1) became unconscious and a guard posted at a nearby Farm House brought him on the side of the road and informed the police. 30 Marks

The motorcyclist was taken to a nearby Hospital in a PCR van. He was found to have suffered fracture in his right leg and both the wrists of his hands apart from other injuries all over the body. An FIR was registered under section 279/337/338 IPC against the Car driver.

The motorcyclist (PW1) deposed that he was driving the motorcycle on left side of the road and when he reached near the VM Farm, he found that accused was driving his car at very high speed and loud music was being played inside the car which was audible outside and his car collided with his motorcycle. He lost his consciousness and when he regained his consciousness after five minutes, he noticed that he was lying down on one side of the road after being brought by the guard of a Farm House.

In his cross-examination, PW1 stated that the accused was driving the car on the wrong side of the road, however, he admitted the site plan prepared by the I.O. (PW3) on his instructions to be correct.

The IO testified that when he visited the site after receiving information of the accident, he found the motorcycle parked on one side of the road and car on the other side of the road and accordingly he prepared the Site Plan. The IO also got conducted the mechanical inspection of both the vehicles. The mechanical engineer found both the vehicles were damaged from front side.

Discuss the criminal liability of the accused.

14. On 10.06.2019 at about 2 AM, the complainant (PW2), aged about 14 years heard the loud screaming of her mother and came down to the room of her mother from the first floor. She found that the accused had caught hold of her mother and was pouring kerosene oil from a plastic bottle on her. Suddenly he set her on fire with a match stick. PW2 started crying loudly upon which her uncle PW3 came there from his nearby house. In the meantime, the deceased told PW2 that the accused wanted her to sleep with him to have physical relations with her which she refused. The accused fled away by jumping the wall. 30 Marks

The deceased was taken to the LNJP Hospital where the Medical Officer (PW5) found that the deceased suffered 100% burn injuries but was fit to make her statement. The deceased made similar statement to PW5 that the accused wanted her to sleep with him to establish physical relations and on her refusal, he poured kerosene oil on her and set her on fire with the match stick. The deceased succumbed to her injuries two days thereafter. PW2 and PW3 supported the case of the prosecution.

The defence argued (i) the FSL report ruled out smell of kerosene oil (ii) finger prints did not match with the accused (iii) PW2 did not state to the I.O. that the fire was extinguished by PW3 by putting a blanket (iv) it was a case of suicide.

The accused did not explain in his statement u/s 313 Cr PC as to how he suffered burn injuries on his person as his MLC recorded fresh burn injuries.

Discuss the criminality of the accused.

15. The complainant 'A' and the accused 'B' entered into a Loan Agreement on 01.05.2017 whereby the complainant 'A' advanced a loan of Rs. 2 lacs to the accused 'B'. The loan was to be repaid by 'B' on or before 31.12.2018. The complainant 'A' demanded the return of the loan amount in the third week of December 2018 and to discharge his liability, the accused 'B' handed over a cheque of Rs. 2 Lacs dated 26.12.2018 to 'A'. The said cheque was dishonoured for insufficient funds. 30 Marks

After giving notice to 'B', the complainant 'A' filed the complaint under Section 138 of Negotiable Instruments Act, 1881.

The defence of the accused were: (i) 'A' had in fact advanced him loan of Rs.1,76,000/- only and at the same time, he gave a blank signed cheque to 'A' (ii) there was no subsisting liability against him (iii) he had given the cheque to 'A' as security.

The recital of the Loan Agreement mentioned that 'A' had agreed to give a loan of Rs. 2 lacs to 'B' on interest @ 2% per month. As per the terms of the Loan Agreement, Rs.2 lacs included interest @ 2% per month.

'A' admitted in his cross-examination that he had provided a loan to 'B' by a cheque of Rs. 1,76,000/- and 'A' further voluntarily stated that he had also paid cash amount of Rs. 24,000/- to the accused at that time.

Decide the complaint.