Gujarat Civil Judge (Mains) 2019 (Nov)

Law PAPER-I (CRIMINAL) · compulsory paper

19 January 2020 · 2½ hours · 75 marks

1. Answer the following questions in detail : (Any four) [24]

(1) Discuss the provisions of the Code of Criminal Procedure, 19 with regard to maintenance of wives, children and parents

(2) Discuss the essential elements of Criminal conspiracy with the punishment prescribed for it.

(3) What is the difference between "Fact in issue" and "Relevant fact"?

(4) Discuss the facts which are required to be proved for establishing the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. Who can file the complaint for this offence?

(5) What kind of residence orders can be passed by the Magistrate in favour of the aggrieved person in the proceedings under the Protection of Women from Domestic Violence Act, 2005?

2. Write short notes : (Any four) [24]

(1) Charge

(2) Common intention and common object

(3) Wrongful restraint and wrongful confinement

(4) Confessions made in police custody

(5) Bail under Section 167(2) of the Code of Criminal Procedure, 1973.

3. Write the answer in brief: [10]

(1) What is the period of imprisonment which an under trial prisoner is required to under go for Section 436-A of the Code of Criminal Procedure, 1973?

(2) Who is duty bound to assist the functions under the Protection of Women from Domestic Violence Act, 2005?

(3) What is the full name of the Act which prohibits selection of sex?

(4) Whose duty it is, to give information to the Register about any birth or death in a hospital?

(5) The person found guilty of committing offences punishable under which Sections of the Indian Penal Code, 1860 may be released after due admonition?

(6) Which defence is not allowed in any prosecution under section 138 of the Negotiable Instruments Act, 1881?

(7) Name any two facts of which the Court shall take judicial notice under Section 57 of the Indian Evidence Act, 1872

(8) Within what time, an inquiry against a child alleged to be in conflict with law must be completed by the Juvenile Justice Board?

(9) Which cases are warrant cases?

(10) What are the ingredients of the offence of rioting?

4. State whether true or false : [7]

(1) Section 320 of the Code of Criminal Procedure, 1973 deals with withdrawal of prosecution.

(2) Cognizance of an offence punishable under Section 188 of the Indian Penal Code, 1860 cannot be taken except on the complaint in writing.

(3) When a heinous offence is alleged to have been committed by a child above the age of sixteen, such a child can be tried as an adult.

(4) When an original document has been lost, its contents cannot be proved by secondary evidence.

(5) When the cheque is issued for payment of donation, the proceedings for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 would not be maintainable against the drawer upon dishonour of such cheque.

(6) A person who is found guilty of an offence is released on probation of good conduct shall not suffer disqualification because of such conviction.

(7) An application for any relief under the provisions of the Protection of Women from Domestic Violence Act, 2005 is to be filed before the Family Court.

5. Write a reasoned order either allowing or dismissing the application. [10]

X, being an accused for offences punishable under Sections 419, 420, 468, 471 of the Indian Penal Code, 1860 has preferred an application for bail under Section 437(6) of the Code of Criminal Procedure, 1973.

The facts of the case are such that an FIR for offences mentioned herein above was lodged by the complainant inter alia alleging that a fictitious account was opened in his name in the bank and transactions worth crores of rupees were done unauthorizedly from the said account. Though X was not named in the FIR as an accused, since his involvement in the offence was revealed during investigation, charge sheet for the above referred offences was filed against X.

It is contended by X in the present application dated 23/09/2008 that charge was framed against him in the present case on 25/06/2008 and the date for taking evidence was fixed on 05/07/2008. Till the filing of the present application, trial against X has not concluded in 60 days as mandated in Section 437(6) of the Code of Criminal Procedure, 1973. That X was in no way responsible for any delay in conclusion of trial. That the provision of Section 437(6) is mandatory in nature. Therefore, X be enlarged on bail.

The application is opposed by prosecution inter alia contending that X was holding the position of Manager in the bank and by misusing his position and by conniving with other accused, he had opened a bogus account and transactions of crores of rupees were done defrauding and cheating the bank. Thus, present is the offence serious in nature. It is also contended that 16 out of 19 witnesses have already been examined in the case. That the provision of Section 437(6) of the Code of Criminal Procedure, 1973 is discretionary and not mandatory.