Haryana Civil Judge (Mains) 2019

Criminal Law · compulsory paper

Time allowed: 3 hours

Question 1

1. (a) Right to private defence is essentially a right of defence and not offence. Discuss if there is any limitation on exercise of right of private defence.

1. (b) Incitement to violence essential to constitute sedition under Section 124-A of IPC. Substantiate with the help of decided cases.

1. (c) The scope of common object as contemplated by Section 149 of IPC is much broader than the concept of common intention enshrined under Section 34 of IPC. Substantiate this statement

Question 2

2. (a) Discuss the legality of the issue given below: If an accused is charged of a major offence but is not found guilty thereunder, can he be convicted of minor offence, if the facts established indicate that such minor offence has been committed. Substantiate the same citing relevant provisions of the Code of Criminal Procedure.

2. (b) How is the power of a Magistrate to order a police investigation under Section 156 (3) of the Code of Criminal Procedure, 1973 different from the power to direct investigation conferred by Section 202 (1) of the Code of Criminal Procedure, 1973?

2. (c) How a 'victim' as defined in the Code of Criminal Procedure has a right of appeal in view of the proviso to Section 372 of the Code against an order of acquittal in a case where the alleged offence took place prior to 31.12.2009 but the order of acquittal was passed by the trial Court after 31.11.2009? If yes, whether the 'victim' must apply for leave to appeal against the order of acquittal?

2. (d) An accused was charged for having committed the offences of voluntary causing hurt and wrongfully restraining a person. The trial commenced as a summons case during the course of which the Magistrate converted it into a warrant case. Was the action of the Magistrate legal? Explain.

Question 3

3. (a) Can a dying declaration be acted upon without corroboration? Explain the law and the principles on the appreciation of dying declaration as laid down by the Supreme Court of India.

3. (b) 'A' causes the death of his wife and subsequently is arrested by the police. During interrogation, he confesses the crime and states, "If taken to my house, I will show the place where I have hidden the knife used to kill my wife" The Investigating Officer (IO) subsequently takes 'A' to the house from where 'A' takes out the concealed knife from the attic and hands it over to the IO. What is the 'fact discovered' in this case? Explain what are the conditions that must co-exist for a statement to fall within the scope of Section 27 of the Indian Evidence Act, 1872.

3. (c) Write comprehensive notes on the following:

(i) Victim compensation
(ii) Approver
(iii) Corpus delicti
(iv) Rigour mortis

(v) autrefois acquit and autrefois convict

Question 4

4. (a) Polygraph, Narco Analysis and Brain Mapping techniques are essentially confirmatory in nature and are used for improving investigation in criminal cases. Substantiate this statement in view of the law laid down by the Apex Court in Selvi & others v. State of Karnataka.

4. (b) Who is an accomplice? Can a court base the conviction of an accused solely on the basis of the testimony of an accomplice. Substantiate with case law.

4. (c) Examine the criminal liability that can be attached in the following situation with the legal reasoning: A wrote a letter to a widow asking her to pay balance amount for the work he did during the lifetime of her husband. He wrote that in case she failed to deliver money than her husband would face divine displeasure. Can A be charged with the offence of extortion.

Question 5

5. (a) “Under the new Code of Criminal Procedure, 1973, the unmistakable shift in legislative emphasis is on life imprisonment for murder as the rule and capital sentence an exception to be resorted to for reasons to be stated.” Justify the statement by explaining the judicial trend and the provisions in the Code of Criminal Procedure, 1973 that refer to “special reasons” and “pre-sentence hearing.”

5. (b) What are the options before the Magistrate when a final report is filed? During the course of trial, the evidence revealed that the investigation officer was not truthful with the investigation and the real offender was not brought before the court. The Magistrate suo motu ordered further investigation. State the legality of the action by the Magistrate.

5. (c) Examine the criminal liability that can be attached in the following situations:

(i) A steals B’s gold watch from B’s safe and on seeing some persons pursuing him throws the gold watch and starts throwing stones on the pursuers to deter them from continuing the pursuit.
(ii) A removes a pen-drive containing important information from B’s pocket and takes it in his possession. B objects to it. A pulls out a knife from his pocket and says "I will kill you move a step.”