Himachal Pradesh Civil Judge (Mains) 2015

Paper III · Criminal Law · compulsory paper

Himachal Pradesh Judicial Services Main Examination 2015 · 3 hours · 200 marks

Question Nos. 1 and 2 are compulsory. Attempt three questions from the rest, selecting at least one question from each part. In all, five questions are to be attempted. Each question carries 40 marks. Write legibly quoting provisions of law and the relevant case laws. Each part of the question must be answered in sequence in the same continuation. Give reasons in support of your answer.

1.

(a)(i) 'A', a foreigner, stabbed 'B' another foreigner in a foreign vessel on the high sea. Both 'A' and 'B' were brought for treatment to Bombay where 'B' died of wounds, 'A' is also present in Bombay. Since 'B' died in Bombay can 'A' be tried for murder in Bombay Court ? Give reasons and legal provisions in support of your answer. [5 Marks]

(a)(ii) Information was received that some persons were gambling in a tent. A party consisting of a Havildar and a Constable of the National Volunteer Corps arrived outside the tent and surrounded it. Soon after, the gun fire was heard and the deceased who was inside the tent was found to have been shot dead. The constable admitted that he had fired the shot but pleaded that he had done so in obedience to the orders of the Havildar. Was the action of the constable Justified ? Decide, by referring to relevant law and case law. [5 Marks]

(b)(i) 'A' was engaged in a fight with another man 'B' when the latter's wife with a baby on her shoulder, intervened. A hit at the woman but the blow accidentally struck the baby who died two days later from the effects of the blow. Was 'A' liable for the murder of baby? Give answer by quoting reasons, law and case law if any. [5 Marks]

(b)(ii) 'A' was prosecuted for abducting a girl below the age of 16 years, under the belief that she was above 18 years. The age of the girl was proved below 14 although she looked more than 16 years. The girl had told the accused (A) that she had attained 18 years of age and the accused on a bonafide belief on her statement, took her away. Can 'A' plead mistake of fact ? Give law and reasons in support of your answer. [5 Marks]

(c)(i) Reeta believed herself to be pregnant and asks 'X' to help her to undergo abortion. 'X' administers her some obnoxious substance to cause miscarriage but later on, it was found that Reeta was not pregnant at that time. Reeta and 'X' are charged for attempt to cause miscarriage. Discuss their liability under law giving reasons and law in support of your answer. [5 Marks]

(c)(ii) "X' enters house of 'Y' to commit theft., He is caught by 'Y' who starts beating him Mercilessly. 'X' apprehending death or grievous hurt at the hands of 'Y' pulls out a knife and stabs 'Y' who is injured seriously. Can 'X' put up plea of right to private defence for causing injuries to 'Y'? Explain with reasons and legal provisions. [5 Marks]

(d)(i) The accused had repeatedly tried his luck at the matriculation examination, but even failed at his last chance. In frustration, he decided to put an end to his life. He made a pact with his 19 years old wife who told him that they both should depart from the world at the same time, and that he should kill her first so that she would predecease him. Thereupon the accused struck her with a crow-bar and not being able to witness a self-perpetrated tragedy, he ran out with blood stains on

his body. The wife died. Can the accused be convicted for charge of murder punishable under Section 302 IPC ? If not, what offence has he committed ? Support your answer with reasons and law. [5 Marks]

(d)(ii) 'X' with the intention of murdering 'Z', instigates 'Y' a child below 7 years, to do an act which may cause Z's death. 'Y' in the absence of 'X' in consequence, does the act and thereby causes Z's death. Discuss the criminal liability of 'X' and 'Y' under law. Give reasons in support of your answer. [5 Marks]

2.

(a)(i) Distinguish between 'Cognizable' and 'Non-cognizable' offence. [3 Marks]

(a)(ii) What do you mean by 'Inquiry' and 'Investigation' under Cr.P.C. ? Distinguish between the two. [3 Marks]

(a)(iii) State the contents of 'Charge' briefly. Also state power of Court to alter charge. [4 Marks]

(b)(i) When is a private person bound to assist a Magistrate or police officer ? [3 Marks]

(b)(ii) What are the different classes of Criminal Courts under Cr.P.C ? How are these courts created ? [4 Marks]

(b)(iii) Distinguish between a 'Summon Case' and 'Warrant Case'. [4 Marks]

(c)(i) Discuss the purpose and procedure for taking security for keeping peace under Section 107 Cr.P.C. and after conviction under Section 106. [5 Marks]

(c)(ii) State briefly the procedure to be followed in a Trial before a Court of Sessions. [5 Marks]

(d)(i) Write a brief note on summary Trials under Cr.P.C. [3 Marks]

(d)(ii) under what circumstances and by whom an Anticipatory Bail can be granted under Cr.P.C.? [3 Marks]

(d)(iii) Discuss briefly the power of Revision vested in High Court under Cr.P.C. On what grounds is this power exercised ? [4 Marks]

Part A

3.

(a) Under what conditions a person shall be deemed to have committed an offence under Section 138 of the Negotiable Instruments Act, 1881 ? What is the punishment prescribed for the offence under the Act ? [10 Marks]

(b)(i) Discuss the nature of the offence committed under Section 138 of the Negotiable Instruments Act ? Is the mens rea essential for the liability under this Section ? [5 Marks]

(b)(ii) 'A' has given a cheque to 'B' of Rupees Five lakhs for the purpose to invest the money in some beneficial scheme. Later on he decided not to invest and conveys his wish to B. The cheque is returned unpaid by the Bank on the ground of insufficiency of funds in the account. Can 'B' invoke Section 138 of the Instruments Act against A ? Give answer with reasons. [5 Marks]

(c)(i) Upon whose complaint, a competent court can take cognizance of an offence punishable under Section. 138 of the Negotiable Instruments Act ? [5 Marks]

(c)(ii) Comment upon the criminal liability of any person nominated as Director of a company by virtue of his holding office under government, under Section 141 read with Section 138 of the

Negotiable Instruments Act. [5 Marks]

(d)(i) Discuss the provisions made under Section 143 of the Negotiable Instrument Act for speedy trial of a case under Section 138. [5 Marks]

(d)(ii) State the objectives of insertion of Chapter XVII (Section 138 to 143) in the Negotiable Instruments Act, 1881 ? [5 Marks]

4.

(a)(i) Explain and illustrate the meaning of the following terms under Himachal Pradesh Excise Act, 2011 : [5 Marks] (a) Excise Revenue, (b) Vehicle.

(a)(ii) Discuss the powers of investigation, search and seizure vested in Excise Officers under H.P. Excise Act, 2011. [5 Marks]

(b)(i) Discuss in whom the power to close liquor vends, is vested under the H.P. Excise Act, under Section 14. [5 Marks]

(b)(ii) Discuss briefly the procedure and power to withdraw licenses, vested under Section 32 of H.P. Excise Act, 2011, with the Authority granting such licenses. [5 Marks]

(c)(i) State the punishments prescribed for the offence of mixing noxious substance with liquor under Section 41 of the H.P. Excise Act, 2011. [5 Marks]

(c)(ii) Discuss the penalty prescribed under Section 46 of the H.P Excise Act, 2011, for consumption of liquor in public places. [5 Marks]

(d)(i) On whose complaints, a judicial Magistrate shall take cognizance of any offence punishable under various sections of the H.P. Excise Act, 2011. Is there any limitation period to file complaints ? Discuss. [5 Marks]

(d)(ii) Who has the power of composition of offences under Section 66 of the H.P. Excise Act, 2011. Under what circumstances the composition fees is accepted ? Discuss. [5 Marks]

Part B

5.

(a) Explain and illustrate the following terms under Wild Life (Protection) Act, 1972 : [10 Marks] (a) Uncured Trophy, (b) Vehicle, (c) Weapon, (d) Animal

(b) Write a brief note on 'the constitution and functions of the National Board for wildlife under Section 5-A & C of the Wildlife (Protection) Act, 1972. [10 Marks]

(c) What are the purposes for declaring any area as sanctuary ? State briefly the powers of collector to settle rights of any person in or over the land comprised within the limits of the sanctuary ? [10 Marks]

(d) State briefly about the Constitution and Functions of Central Zoo Authority of India. [10 Marks]

6.

(a) What do you understand by power to compound offences ? Discuss briefly the procedure of compounding the offences under Section 54. of the Wildlife (Protection) Act, 1972. [10 Marks]

(b) Upon whose complaint a court can take cognizance of any offence against the Act under Section 55 of the Wildlife (Protection) Act, 1972. [10 Marks]

(c) State briefly the provisions of Appeal under Section 46 of the Wildlife (Protection) Act, 1972, from an order refusing to grant or renew a licence for dealing in Trophies and animal articles. [10 Marks]

(d) Discuss briefly the procedure for forfeiture of property derived from illegal Hunting and Trade under the Wildlife (Protection) Act, 1972. [10 Marks]

7.

(a) Briefly explain and illustrate the following terms under the Indian Forest Act, 1927 : [10 Marks] (i) Cattle (ii) Timber (iii) Forest Officer (iv) Reserved Forest.

(b) Discuss the powers and duties of Forest Settlement Officer under the Indian Forest Act, 1927. [10 Marks]

(c) Which of the offences are punishable under Section 33 of the Indian Forest Act, 1927 ? And what are the penalties ? [10 Marks]

(d) Discuss with the power and procedure for the seizure and release of seized property under Section 52 and 53 of the Indian Forest Act, 1927 ? What is the punishment for wrongful seizure ? [10 Marks]

8.

(a) What do you understand by 'Right of Private Defence' ? When, right of private defence of body and property can extend to causing of death ? Refer to case laws. [10 Marks]

(b)(i) Distinguish between 'Wrongful Restraint' and 'Wrongful Confinement'. Give illustrations. [5 Marks]

(b)(ii) Distinguish between 'Murder' and 'Culpable Homicide not amounting to Murder'. Refer to case laws. [5 Marks]

(c)(i) Distinguish between 'Kidnapping' and 'Abduction'. Give illustrations. [5 Marks]

(c)(ii) Distinguish between 'Criminal Trespass' and 'House Trespass' [5 Marks]

(d)(i) Distinguish between 'Criminal Misappropriation of property' and 'Criminal Breach of Trust'. [5 Marks]

(d)(ii) Distinguish between 'Mistake of law' and 'Mistake of Fact'. Illustrate your answer. [5 Marks]