Himachal Pradesh Civil Judge (Mains) 2017

Criminal Law · Paper III · compulsory paper

Time: 3 Hours. Maximum Marks: 200.

Attempt Five questions in all. Question Nos. 1 and 2 under Part A are compulsory questions. Attempt other three questions from Part B and Part C selecting at least one question from each Part. Each question carries 40 marks.

Write legibly quoting provisions of law and the relevant case laws in support of your answer. Each part of the question must be answered in sequence in the same continuation. Give reasons in support of your answer.

Part A

Q1.

(a)(i) 'A' takes up a stick, saying to 'Z', I will give you a beating. Whether the 'A's' gesture explained by the words may amount to any offence ? If yes, give reasons, case-law and legal provisions in support of your answer. [5 Marks]

(a)(ii) 'A' causes bodily injury to 'Z' by poison and thereby Z' dies in consequence thereof. 'A' pleads against his trial that by resorting to proper remedies and skillful treatment the death might have been prevented. Whether such plea in defence of 'A' may be accepted by the court of law ? Give reason in support your answer. [5 Marks]

(b)(i) 'A' is the paramour of 'Z's' wife. She gives a valuable property to 'A', which 'A' knows to belong to her husband 'Z' and to be such property as she has not authority from 'Z' to give. 'A' takes the property dishonestly. Whether 'A' has committed the offence of theft ? If so, support your answer with the help of relevant provisions of law. [5 Marks]

(b)(ii) 'A', intending himself to be likely permanently to disfigure Z's face, gives 'Z' a blow which does not permanently disfigure Z's face, but which causes 'Z' to suffer severe bodily pain for the space of twenty days. Has 'A' committed any offence ? Support your answer with provisions of law. [5 Marks]

(c)(i) 'A',knowing that he is likely to cause the death of a pregnant woman, does an act and thereby causes bodily injury to the woman, but woman does not die. This bodily injury caused to woman resulted into the death of an unborn quick child with which she is pregnant. Is 'A' guilty of any offence defined under the Indian Penal Code, 1860 ? If so, refer to legal provisions and decided case-law. [5 Marks]

(c)(ii) 'A', under the influence of madness, attempts to kill 'Z' and creates reasonable apprehension of danger to the body of 'Z' arises from such an attempt. Has 'Z' a right of private defence against such an attempt of 'A' ? Support your answer with legal provisions. [5 Marks]

(d)(i) 'A', with the intention of murdering 'Z', instigates 'B', a child under seven years of age, to do an act which causes 'Z's' death. 'B', in consequence of the abetment, does the act in absence of 'A' and thereby causes Z's death. What is, if any, criminal liability of 'A' and 'B' ? Refer to the provisions of law and decided case-law to substantiate answer. [5 Marks]

(d)(ii) 'A' with intention uses criminal force to a woman 'Z' to disrobe her and causes so. What is criminal liability of 'A', if any ? Support your answer with the help of provisions of law. [5 Marks]

Q2.

(a)(i) Explain the terms 'Summons-case' and 'Warrant-case' and distinguish between the two. [5 Marks]

(a)(ii) Describe the different courts of Judicial Magistrates at district level and explain the procedure of their establishment, jurisdiction and powers. [5 Marks]

(b)(i) What is procedure in making an arrest ? When may a Magistrate arrest the offender ? Explain. [5 Marks]

(b)(ii) When may search-warrant be issued ? What is procedure of search of place suspected to contain stolen property and objectionable articles ? Describe. [5 Marks]

(c)(i) What is the basic purpose of filing an FIR ? Discuss in the light of recent changes made in this regard. [5 Marks]

(c)(ii) What is procedure for investigation and how report is submitted on completion of investigation ? Briefly explain. [5 Marks]

(d)(i) What is 'Plea-Bargaining' ? Explain power of the Court in Plea-Bargaining. [5 Marks]

(d)(ii) Discuss the reference and revision and distinguish between the two. [5 Marks]

Part B

Q3.

(a) Discuss the various impacts arising out of dishonour of cheque for insufficiency of funds in the account. Refer to the provisions of law and decided case-law. [10 Marks]

(b) When does a company liable for committing an offence mentioned under Section 138, Negotiable Instrument Act, 1881 ? Explain in the light of decided case. [10 Marks]

(c) Explain the procedure for taking cognizance by the Court in case of offences committed under Section 138, the Negotiable Instrument Act, 1881 and discuss also the procedure of the Court to try the case. [10 Marks]

(d) "A 'Notice', in writing to the drawer of cheque, is mandatory for further legal action committed under Section 138, NIA, 1881." Elaborate while referring to decided cases. [10 Marks]

Q4.

(a)(i) Explain the meaning of the following terms described under the H.P. Excise Act, 2011 : [5 Marks]
(1) Excise duty (2) Liquor.

(a)(ii) Explain in brief the powers of Magistrate to issue warrant for search or arrest given under Section 11, the H.P. Excise Act, 2011. [5 Marks]

(b)(i) What are the restrictions subject to which the State Government may cancel or suspend grant of licenses for manufacture or sale of liquor ? [5 Marks]

(b)(ii) When does a Holder surrender a license granted under the H.P. Excise Act, 2011. [5 Marks]

(c)(i) Explain briefly the provisions of penalty given under Section 39, the H P. Excise Act, 2011. [5 Marks]

(c)(ii) When does a Court take cognizance of any offence punishable under the H P. Excise Act, 2011 ? Discuss in the light of Section 55 of the Act. [5 Marks]

(d)(i) Explain the provisions relating to Appeal and Revision given under the H P. Excise Act, 2011. [5 Marks]

(d)(ii) Write brief notes on the following : [5 Marks] (1) Confiscation of Article (2) Confiscation of Vehicle.

Part C

Q5.

(a) Explain and illustrate the meaning of the following terms under the Wildlife (Protection) Act, 1972 : [10 Marks]

(i) Dealer (ii) Livestock (iii) National Board (iv) Reserve Forest

(v) Trophy

(b) Explain the constitution of State Board for wildlife and duties of the Board provided under the Wildlife (Protection) Act, 1972. [10 Marks]

(c) Discuss the circumstances in which hunting of wild animal may be permitted. Is there provisions for special purposes to grant of permit ? Explain. [10 Marks]

(d) What are the powers of the Collector in respect of declaration of sanctuary by the State Government ? How does Government ensure protection of such sanctuaries ? [10 Marks]

Q6.

(a) Discuss the powers of the appropriate authorities for entry, search, arrest and detention in case of offence committed against the Act. Is there any amendment brought by the Wildlife (Protection) Amendment Act. 2002 ? Explain. [10 Marks]

(b) Write brief notes on the following : [10 Marks]

(i) Compounding of offences. (ii) Cognizance of offences.

(c) Discuss the procedure for forfeiture of property derived from illegal hunting and trade provided in the Wildlife (Protection) Act, 1972. [10 Marks]

(d) Discuss the following : [10 Marks]

(i) Protection of action taken in good faith (ii) Reward to person.

Q7.

(a) Explain and illustrate the following terms defined under the Indian Forest Act 1927 : [10 Marks]

(i) Timber (ii) Tree (iii) Protected Forest (iv) Forest-officer

(v) Forest-Produce.

(b) What are the various duties of the Forest Settlement Officer given in the Indian Forest Act, 1927 ? Explain. [10 Marks]

(c) Describe the prohibited acts declared not to be done by the Indian Forest Act, 1927. [10 Marks]

(d) Discuss the penalties for acts committed in contravention of notification under Section 30 or of rules under Section 32 of the Indian Forest Act, 1927. [10 Marks]

Q8.

(a)(i) Explain role of ‘mens-rea’ in deciding criminal liability. [5 Marks]

(a)(ii) Discuss in brief 'strict liability' in crime. [5 Marks]

(b)(i) Explain 'Intra-territorial' and 'extra-territorial' operation of the Indian Penal Code. [5 Marks]

(b)(ii) How far 'accident' excuses criminal liability of an accused ? Explain. [5 Marks]

(c)(i) When does culpable homicide not amount to murder ? Discuss in brief. [5 Marks]

(c)(ii) Distinguish between theft and extortion. [5 Marks]

(d)(i) Explain briefly the offence of 'Bigamy' and 'Adultery'. [5 Marks]

(d)(ii) Distinguish between 'common-intention' and 'common-object'. [5 Marks]

De Facto IAS