Himachal Pradesh Civil Judge (Mains) 2019

Criminal Law · Paper III · compulsory paper

Time Allowed: 3 Hours. Maximum Marks: 200.

This question paper contains eight questions.

Part 'A' is compulsory.

Answer any three questions from Part 'B'.

Each question carries equal marks. Marks are divided and indicated against each part of the question.

Write legibly supporting your answers with relevant statutory provisions and appropriate judicial pronouncements as may be desirable.

Each part of the question must be answered in sequence in the same continuation.

If questions are attempted in excess of the prescribed number only questions attempted first up to the prescribed number shall be valued and the remaining answers will be ignored.

Re-evaluation / Re-checking of answer book is not allowed.

Part A

Q1.

(A) There were two contracts one between the principal and the contractor and another between the contractor and the sub-contractor. Sub-contractor filed a criminal complaint against the contractor under section 403 of the Indian Penal Code alleging that the contractor having received the payment from the principal has misappropriated his money as it was due to him. The contractor made an application to the high court under section 482 of the CrPC for quashing of the complaint. Discuss the liability of the contractor. Also discuss the Inherent Powers of the High Court under section 482 of the CrPC with the help of appropriate case laws. (10 Marks)

(B) In what circumstances may a police officer arrest a person without an order from a magistrate and without an arrest warrant? Can a person other than a police officer make an arrest in any circumstances? Explain with the help of case laws. What safeguards have been incorporated in the Code of Criminal Procedure with regard to the arrest of the females and the objective behind these safeguards. (10 Marks)

(C) (i) "Every offence shall ordinarily be inquired into and tried by the court within the local limits of whose jurisdiction it was committed". Discuss fully this rule. Are there any exceptions to this rule? If yes, what is the reason behind the exceptions? (05 Marks) (ii) A is wounded within the local limits of the jurisdiction of court X, and dies within the local limits of the jurisdiction of court Z. the offence of the culpable homicide of A is to be inquired where? Discuss the legal provisions and the relevant case laws. (05 Marks)

(D) Define the following:- (10 Marks) (i) 'forest produce' under the Indian Forest Act, 1927 (ii) 'excise revenue' under the HP Excise Act, 2011 (iii) 'shifting cultivation' under the Indian Forest Act, 1927 (iv) 'hunting' under the Wildlife (Protection) Act, 1972 (v) 'robbery' under the IPC

Q2.

(A) (i) A has sexual intercourse with a girl B, under the promise to marry her soon. The sexual intercourse continues for a few months and then the boy refuses to marry the girl on account of his

family members not agreeing to the marriage. The girl files a case of rape against the boy. Is the boy liable for the rape of the girl? Discuss the legislative position under the IPC, 1860 and the latest judicial trends. What changes have been brought in the IPC with respect to the offence of rape? (05 Marks) (ii) Discuss the recent changes made in the Code of Criminal Procedure with regard to victim compensation as a step towards Restorative Justice. Also discuss the recent judicial trends with regards to the compensation to the victims of sexual offences in India. (05 Marks)

(B) "What constitutes an outrage to the female modesty is nowhere defined. The essence of a women's modesty is her sex. The culpable intention of the accused is the crux of the matter. Modesty for the purpose of the IPC is an attribute associated with the female human beings as a class." Discuss the above in the light of the IPC provisions which deal with the issue of modesty of a women and also discuss the important case law to substantiate your answer. (10 Marks)

(C) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes. Define the crime under which the liability may arise and support it with the help of appropriate cases. (10 Marks)

(D) The accused inflicted 18 injuries in the arms and legs of the deceased with a gandasa. None of the injuries were on a vital part of the body of the deceased, however one of the injury was on a vital part of the body. The obvious motive was revenge because the deceased's son had caused a serious leg injury which resulted in the amputation of the leg of P, the son of the deceased. Discuss the criminal liability of the accused under the IPC. Also differentiate between culpable homicide, murder and death caused by negligence. (10 Marks)

Part B

Q3.

(A) The accused struck his wife a violent blow on the head with the ploughshare which rendered her unconscious and hanged his wife soon afterwards under the impression that she was already dead intending to create false evidence as to the cause of death. Discuss the criminal liability of the accused. (10 Marks)

(B) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Discuss the criminal liability of A,B and C with the help of legislative provisions and relevant case laws. (10 Marks)

(C) The accused along with three others openly entered the girl's hostel in midnight without concealing themselves and bodily lifted by force one girl inmate of the hostel. They were stopped by the hostel guard and then one of them hit the guard repeatedly with a brick laying on the road, thus causing his death. The girl was taken to an isolated place, kept there for three days and gang raped. Thereafter she was sold to a brothel. Discuss what offences are made out in this problem. (10 Marks)

(D) Lord Coke observed in Semayne's case, "the house of everyone is to him as his castle and fortress, as well for defence against injury and violence, as for his repose". Discuss the above statement in the light of the offences against property and the right of private defence of property as provided in the IPC. (10 Marks)

Q4.

(A) In a complaint case, C levelled allegations against the four police officers that they raided his house without any warrant of search and abused and assaulted his wife and took away certain articles belonging to him. The police officials while denying the allegations pleaded that the raid was conducted by them pursuant to the warrants of search issued by the metropolitan magistrate. Thus, they could not be prosecuted without the sanction of the state government under section 197 CrPC. Decide the application of the police officers. (10 Marks)

(B) 'For every distinct offence of which a man is accused there shall be a separate charge, and every such charge shall be tried separately'. Explain the above statement with the help of case law and also discuss the exceptions to it. (10 Marks)

(C) On account of assault on 1.10.2006 at about 1.00 PM, A died at the spot whereas B sustained injuries. On completion of the investigation, challan was filed against C and D for offences under section 307, 302 read with section 120B IPC. The matter was ultimately committed to the court of sessions. During trial, B made a statement before the sessions judge reiterating the statement made before the police leading to recording of the FIR. Thereupon, an application was filed on behalf of the complainant under section 319 CrPC for summoning of E as an additional accused in respect of the aforesaid assault. This application came to be dismissed. The high court quashed the order of the dismissal and directed the sessions judge to issue summons against E. E challenged this order before the apex court. The ground put forth by E is that he was not named by any other witness in their statements under section 161 CrPC and that he has been ordered to be summoned only on the statement of B. Another contention was that the very presence of B at the given time of occurrence is doubtful and as such E could not be summoned as additional accused. Decide with the help of appropriate case law. (10 Marks)

(D) (i) Distinguish between discharge and acquittal as given in the Code of Criminal Procedure with the help of suitable cases. (05 Marks) (ii) Can bail granted under section 167 (2) of the Code of Criminal Procedure be cancelled by the magistrate suo motu on the presentation of challan report under section 173 of the code of criminal procedure? Give reasons and relevant cases. Also discuss the purpose and rationale behind the anticipatory bail. (05 Marks)

Q5.

(A) Discuss the liability of a company under section 138 of the Negotiable Instruments Act, 1881 with the help of decided cases. (10 Marks)

(B) Who can file a complaint for offences under section 138 of the Negotiable Instruments Act, 1881 and what are the facts required to be proved for establishing the offence? (10 Marks)

(C) Is mensrea an essential requirement for invoking the liability under section 138 of the Negotiable Instruments Act, 1881? What is the nature of the offence under section 138 of the Negotiable Instruments Act, 1881? (10 Marks)

(D) "Section 141 of the Negotiable Instruments Act, 1881 creates a constructive liability". Discuss this statement with the help of the decided cases. Also discuss the rationale and object of section 141 of the Negotiable Instruments Act, 1881. (10 Marks)

Q6.

(A) What was the objective behind the enactment of the Himachal Pradesh Excise Act, 2011? What are the different appointments made under this Act for the purpose of giving effect to the provisions of this Act? (10 Marks)

(B) Who is an excise officer for the purposes of the Himachal Pradesh Excise Act, 2011? What are the different powers of the excise officer under this Act? (10 Marks)

(C) Enumerate the circumstances under which the Himachal Pradesh Excise Act, 2011 imposes a prohibition on the possession of the liquor? What is the penalty for the unlawful production, manufacture, possession, import, export, transport, sale etc. of liquor? (10 Marks)

(D) When can the state government grant lease for the purpose of manufacture, sale etc. of liquor? (10 Marks)

Q7.

(A) Who is a Forest Settlement Officer for the purposes of the Indian Forest Act, 1927? What are the duties and powers of the Forest Settlement Officer under this Act? (10 Marks)

(B) What is a reserved forest for the purposes of the Indian Forest Act, 1927? Also enumerate the activities which are prohibited in a reserved forest. Differentiate between a reserved forest and a village forest. (10 Marks)

(C) Discuss the objective of the provision dealing with the regulation of manufacture and preparation of articles based on the forest produce. How does the state government regulate the manufacture, preparation of articles based on the forest produce? (10 Marks)

(D) Discuss the provisions of the Indian Forest Act, 1927 with regards to the protection of forests for special purposes. Can the owner of any land make a request for the formation or conservation of any forests. (10 Marks)

Q8.

(A) What is illegal hunting and trade for the purposes of the Wildlife (Protection) Act, 1972? Also explain the meaning of 'illegally acquired property" under this Act and the relevant provisions dealing with the identification, seizure and management of such properties under this Act? (10 Marks)

(B) What is the scope and objective of the tiger and other endangered species crime control Bureau under the Wildlife (Protection) Act, 1972?Also discuss the constitution, powers and functions of the tiger and other endangered species crime control Bureau. (10 Marks)

(C) What is a national park for the purposes of the Wildlife (Protection) Act, 1972? Under what circumstances can the state government declare an area to be a national park? Also discuss the purposes behind the declaration of an area as a conservation reserve. (10 Marks)

(D) Discuss in detail the purpose behind the Central Zoo Authority, the constitution of the same and the procedure for recognition of the zoos under the Wildlife (Protection) Act, 1972. (10 Marks)