Jharkhand Civil Judge (Mains) 2018 (held September 2019)

Paper I · compulsory paper

Full Marks: 100 · Time: 3 Hours. The paper has five Sections, each with two questions of 20 marks; answer one question from each Section. In case of any ambiguity in the Hindi version the English version shall be considered authentic. Questions can be answered in Hindi (Devnagri) or English (Roman) only.

Section A

1. (a) The plaintiff is a resident of Faridabad and filed a suit for declaration against the defendant, a resident of Gurgaon, in District Courts, Gurgaon that he has half share in a house situated in Ghaziabad (U.P.) and a sum of ₹ 1 Lakh is lying deposited in SBI, Gurgaon. The defendant got wrongly executed the house in his name and is also not admitting the claim in the amount lying in the bank. The defendant contested in the suit that the Gurgaon Courts have no jurisdiction to hear the case. How will you decide? Give reasons. 10 Marks

(b) Answer any two of the following: 5×2 = 10 Marks

(i) Ratable distribution

(ii) Mesne Profit

(iii) Interpleader suit

(iv) Garnishee Order

2. (a) Distinguish between Res judicata and Constructive Res judicata. Also, explain the provisions of constructive res judicata in Civil Procedure Code, 1908. 10 Marks

(b) 'A' filed a suit against 'B' for declaration of title in a land. The suit was dismissed by the Trial Court as well as Appellate Court on the ground that 'A' has no possession in the land. 'A' moved an application for amendment in pleadings seeking the relief for possession also over the land in second appeal. Can the amendment be allowed, although the relief for possession on the date of application for amendment in pleadings was barred? Decide. 10 Marks

Section B

3. (a) What do you understand by the doctrine of autre fois acquit and autre fois convict? How does it ensures fair trial? 10 Marks

(b) Critically examine the major changes introduced by the Criminal Law (Amendment) Act, 2013 in the provisions of Code of Criminal Procedure, 1973, especially with regard to the crimes related to women. 10 Marks

4. (a) Whether the Trial Court has discretion while awarding concurrent or consecutive sentences to an accused in a criminal trial? 10 Marks

(b) Answer any two of the following: 5×2 = 10 Marks

(i) Cognizable and Non-cognizable offence

(ii) Anticipatory Bail

(iii) Plea bargaining

(iv) Search and Seizure

Section C

5. (a) 'Private defense is not available for retaliation but for averting the danger which is not created by himself.' Under what circumstances a person can go to the extent of killing in defense of his person? Answer with the help of decided cases. 10 Marks

(b) 'A' severally injured a beautiful girl walking in the market by throwing the acid on her body. She is admitted in hospital in dying state. What offence 'A' has committed and how much punishment he deserves under Indian Penal Code, 1860? 10 Marks

6. (a) It is not necessary to the commission of offence of abetment by conspiracy that the abettor should concert the offence with the person who commits the offence. It is sufficient if he engages in conspiracy in pursuance of which the offense was committed. Explain with decided cases. 10 Marks

(b) 'X', a photographer displays a nude photograph of a young female film artist in his studio. What offence 'X' has committed? If tried in a court, what arguments would you present in his defense? 10 Marks

Section D

7. (a) Explain the 'Privileged Communication'. "'A' client confides in 'B', his lawyer that he has a forged deed in his possession on the basis of which he wants to file a case against 'C' to get possession of land." Is this communication protected under the law from disclosure? Critically examine the statement. 10 Marks

(b) Write detailed notes on: 5×2 = 10 Marks

(i) The doctrine of Res gestae

(ii) FIR is not a substantive piece of evidence.

8. (a) 'An accomplice shall be a competent witness against an accused person and a conviction shall not be illegal merely because it proceeds upon uncorroborated testimony of an accomplice.' Answer with the help of decided cases. 10 Marks

(b) Explain the following any two: 5×2 = 10 Marks

(i) Falsus in uno falsus in omnibus.

(ii) Essential conditions of Dying Declaration

(iii) Cross Examination

(iv) Hostile Witness

Section E

9. (a) Law of Limitation simply bars judicial remedy. It neither affects extra-judicial remedy nor the substantive right. Discuss. 10 Marks

(b) Explain the maxim 'Vigilantibus non dormientibus jura subquienant'. To what extent the doctrine is incorporated in the law of limitation in India? Explain. 10 Marks

10. (a) Can an acknowledgement made under Section 18 of the Limitation Act, 1963, after the expiry of limitation but when there are vacations and the courts are closed, save the limitation? Discuss. 10 Marks

(b) A Hindu wife executed a mortgage deed of the property of her husband, as if it were her own, after the 5 years her husband had disappeared. The mortgage was invalid as the presumption of death does not arise until 7 years. The mortgagee filed a suit more than 7 years after the execution of mortgage

deed and proved that her husband has not been heard of since last seven years. Discuss the validity of the claim of the mortgagee. 10 Marks

De Facto IAS