Kerala Judicial Service Mains 2007 · Question papers

Paper V · compulsory paper

Total marks: 200 · Time: 3 hours

I. Write short notes on any four of the following: (20) 20 marks

(i) Acting dishonestly

(ii) Common intention

(iii) Common Object

(iv) Limitation on sentence of imprisonment in default of payment of fine

(v) Reason to believe

(vi) Unlawful assembly

II. Which are the kinds of hurt designated as 'grievous hurt? What are the differences between (10) the offence under Section 325 and that under Section 326 of the Indian Penal Code? 10 marks

III. Which are the situations when culpable homicide is not murder? Explain. (15) 15 marks

IV. What is dowry death? In what respects it is different from Section 306 of the Indian Penal (10) . Code? , 10 marks

V. A person suffering from a painful bodily ailment consulted a Surgeon, who after due (10) investigation advised that surgery has to be performed on a vital internal organ, though he knew that surgery could also result in fatal consequence. After explaining the Position to the patient and after obtaining his consent, the surgeon performed the surgical operation. The patient died during surgery. . Is the Surgeon guilty of committing any offence punishable under the Indian Penal Code? Explain giving reasons and referring to the relevant provisions of the Code. 10 marks

VI. (a) When does the right of private defence of property commence and how long will it continue? (10) Explain. 15 marks

(b) Can a person in the course of exercise of such a right, cause hurt to any person, and if so, in (5) what circumstances and subject to what limitations?

VII. (a) A instigates B to kidnap C. B refuses to do so. What, if any, is the offence committed by A? (5) Furnish reasons. 15 marks

(b) A instigates B to cause grievous hurt to C with a deadly weapon. Pursuant thereto, B assaults (5) C and causes simple hurt. What are the offences committed by A and B? Explain.

(c) A with the intention of killing his wife, handed over a lighted candle to their five year old child (5) and asked her to hold the candle to the polyester saree portion falling behind the wife (pallu), telling her that they will see a bright and beautiful fire. The child did so, the saree.caught fire, causing severe burn injuries to the wife. What, if any, are the offences which can be attributed to the child and the father?

VIII. (a) Define "Public servant". (10) 25 marks

(b) Is the Food Inspector discharging functions under the Prevention of Food Adulteration Act, (5) 1954, a public servant? Give reasons

(c) A Food Inspector took sample of an article of food exhibited for sale in the grocery shop of (10) the accused for the purpose of sending one part of the sample for analysis to the public analyst. He followed all the requirements of law in Sections 10 and 11 of the PFA Act and PFA Rules, 1955. Finally, complaint was filed against the vendor (shop keeper) for the offence under Section 16(1)(a)(i) of the Act. While giving evidence in Court, the Food Inspector briefly referred to his actions and those of the local health authority and formally proved the various documents prepared by him and stated that the contents of the documents are true and correct. He also got documents of L.H.A. and Public Analyst marked. He did not refer to the individual steps taken by him in taking and dealing with sample. Can the prosecution rely on any presumptions in support of the regularity of the action taken by the Food Inspector? Is it mandatory or discretionary for the Court to raise such a presumption? Refer to any decided case of the Supreme Court of India or High Court of Kerala in support of your answer.

IX. In a prosecution under the Prevention of Food Adulteration Act, (for selling adulterated (10) food article to a Food Inspector) the accused wants to produce the cash bill by which he purchased the food article from a distributor. What all facts should the accused establish to escape from conviction?

10 marks

X. To what extent and in what manner, Court can utilise the services and expertise of Probation (5) Officers? Explain. !

5 marks

XI. (a) A person wilfully and without reasonable excuse enters a Government building. The entry (15) was without any criminal intention.

15 marks

(b) A person is found at 8 p.m. in a private boat, without being able to give a satisfactory explanation for his presence there. :

(c) A person is found in a public passenger vehicle, in a drunken condition.

(d) A person is found in possession of stolen property and he is unable to satisfactorily . account for such possession. :

(e) A person disobeys a direction given by a police officer in exercise of his powers under the Kerala Police Act, 1960 or the Rules framed thereunder. In the above instances, can the person be prosecuted and convicted under the provisions of the Kerala Police Act, 1960? Explain briefly.

XII. (a) Under what circumstances can a Sub Inspector of Police search without Court warrant a (10) building for contraband liquor, under the provisions of the Kerala Abkari Act, 1077? Explain.

20 marks

(b) Can a Magistrate take cognizance of an offence under a provision of the Kerala Abkari Act, (5) 1077, as a private complaint? Explain.

(c) Which Court has jurisdiction to try a case involving possession without lawful authority, of (5) . liquor knowing the same to be unlawfully manufactured? Explain.

XIII. What are the various procedural steps and conditions required to be taken or observed, asthe (10) case may be, by a person who files a complaint as contemplated under Section 142 of the Negotiable Instruments Act, 1881, before filing the complaint?

10 marks

XIV. The State Government invested one of its officers in the Excise Department with powers of (10) an Officer-in-charge of a Police Station for investigation of offences under the NDPS Act, 1985 {Section 53(2)}. The Officer, in the course of his investigation or enquiry, recorded statements of A and B who had knowledge of the offence under enquiry. A died before his evidence could be recorded by the Court in the case launched by the State against the offender. B is examined as a witness in Court.

10 marks

(a) Can the statement of A recorded by the Officer be proved and relied on by the prosecution for proving the truth of the facts contained in the statement? Explain. :

(b) Can the statement of B so recorded be admitted in evidence? Explain.

XV. (a) The accused, found in possession of half metric ton of "roots of sandalwood" raised a conten-
(10) tion that the sandalwood roots were not taken from any forest, but were collected from his own private land. He was prosecuted under the provisions of the Kerala Forest Act, 1961. Is the defence valid in law? Examine. . 10 marks

(b) In another case relating to an accused found in possession of timber allegedly transported from a forest without any authority, permit or pass,

(i) is a similar defence valid in law?

(ii) Can Government rely on any presumption of law?

De Facto IAS