Kerala Judicial Service (Mains) 2020

Paper III · compulsory paper

Marks: 100 · Duration: 3 Hours

Part - I

Answer all the questions (Answers to the questions in this Part should be marked only in the OMR Answer sheet. Answers marked/written elsewhere will not be valued)

(15 x 1 = 15 marks)

1. What is the evidentiary value of the opinion of a finger print expert under Section 45 of the Evidence Act?

(A) Substantive

(B) Corroborative

(C) Conclusive

(D) None of the above

2. Who can be the principal Magistrate of Juvenile Justice Board?

(A) Chief Judicial Magistrate

(B) Chief Metropolitan Magistrate

(C) Judicial First Class Magistrate with 3 years experience

(D) Any Judicial Magistrate

3. An accused charged with an offence under the Sec. 8 of the Abkari Act raised a plea of defence under the Sec. 84 of the Indian Penal Code. Can the Court consider that plea?

(A) No, a plea of defence under Sec 84 is available only if the offence is under the Indian Penal Code.

(B) Yes, in view of Sec. 40 of the Indian Penal Code

(C) No, the Abkari Act bars such a plea.

(D) Yes, the Abkari Act contains a specific provision allowing such a plea.

4. A Magistrate refused bail to a person accused of an offence under Section 22 of the NDPS Act, 1985 for possessing 900 grams of Ganja holding that there are reasonable grounds for believing that he has committed the offence. The order is

(A) Correct; in view of the bar under Sec.37 of the NDPS Act, 1985.

(B) Wrong; since the Magistrate could not have entered such a finding.

(C) Wrong; since the offence is bailable.

(D) Correct; since the offence is non-bailable.

5. A 17 year old child who is alleged to have committed an offence under Sec. 302 of the Indian Penal Code is:

(A) Liable to be detained in observation home, whether or not he is prepared to furnish bail,

(B) Entitled to be released on bail if he is prepared to furnish bail.

(C) Not entitled to be released on bail, since the offence is punishable with death sentence,

(D) Entitled to bail at the discretion of the Court.

6. In which among the following cases a Judicial Magistrate cannot release an offender after admonition?

(A) An accused found guilty for rash driving in a public way

(B) An accused found guilty of theft

(C) An accused found guilty of committing theft of property of master

(D) A convict who commit any of the above offence and found guilty while on bail.

7. Which provision of the Evidence Act mandates that no confession made to a police officer shall be proved as against a person accused of any offence?

(A) Section 28

(B) Section 25

(C) Section 21

(D) Section 39

8. Certified copies of public documents as per Section 76 of the Evidence Act is:

(A) Primary Evidence

(B) Secondary evidence

(C) Secondary evidence if the original has been destroyed or lost

(D) Inadmissible.

9. The latest view of the Supreme Court regarding Chapter XVII of the Negotiable Instruments Act is that, it is

(A) punitive

(B) compensatory

(C) restitutive

(D) All the above

10. Which among the following refers to a leading question, under the Indian Evidence Act?

(A) A question loaded with answer

(B) A question which leads to fact in issue

(C) A question which involves complex answers

(D) None of the above

11. As per Section 61 of the Evidence Act, contents of documents may be proved by:

(A) Primary evidence

(B) Secondary evidence

(C) Either primary or secondary evidence

(D) Both primary and secondary evidence

12. In a proceeding under the Protection of Women from Domestic Violence Act, the aggrieved person, apart from the monetary reliefs claimed under S.20, additionally seeks compensation for emotional distress caused to her. Can it be granted?

(A) No

(B) Yes. But it should form part of monetary relief under S.20

(C) Yes, under S.22 of the Act

(D) Yes, under S.18(g) of the Act

13. A first information report for an offence under Section 498A of the Indian Penal Code can be lodged by

(A) Wife

(B) Family member of the victim.

(C) (A) and (B)

(D) Public spirited individual

14. To constitute the offence of kidnapping, the person who is kidnapped must be:

(A) Below 16 years of age

(B) Below 18 years of age

(C) Below 18 years if male and 16 years if female

(D) Below 16 years if male and 18 years if female

15. Robbery is an aggravated form of

(A) Burglary

(B) Extortion

(C) Theft

(D) Either theft or extortion or both

Part - II

Answer any 15 questions. Answer shall not exceed 120 words (one page). If more than 15 questions are answered the first 15 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book.

(15 x 3 = 45 marks)

16. 'A' intentionally and falsely leads B' to believe that certain land belongs to 'A' and thereby induces 'B' to buy the land. The land afterwards becomes the property of 'A' and 'A' seeks to set aside the sale on the ground that, at the time of the sale, he had no title. Explain the application of S.115 of the Evidence Act in deciding the issue?

17. In the course of search conducted in a toddy shop, 2 samples were taken. 'A' sample was sent for chemical examination, Not satisfied with the report can the accused request the Court to send 'B' sample for chemical analysis?

18. Explain the ingredients which prosecution should establish to prove that accused committed offence under S.117(d) of the Kerala Police Act by giving false statement to mislead police

investigation.

19. In a prosecution under S.138 of the Negotiable Instruments Act, the burden of proof required for conviction is “preponderance of probability and not proof beyond all reasonable doubts”. Explain with decisions.

20. Explain the concept of “Reverse Onus”.

21. In a criminal trial, the opinion given by the doctor regarding the nature of weapon used for commission of crime, did not tally with the consistent oral evidence of eye witness. How should the Magistrate appreciate the testimony of doctor? Will it make any difference if the evidence of doctor on crucial aspects is totally contrary to the prosecution case?

22. “The proceedings contemplated under the Protection of Women from Domestic Violence Act, 2005, are in the nature of an inquiry without adjudicating the rights and obligations of parties”. Examine this statement.

23. Explain the term 'Child in conflict with law'. What is the procedure to be followed on apprehension of a child in conflict with law and on a claim of juvenility being raised before any Court?

24. Distinguish between House trespass and House breaking under Indian Penal Code.

25. What are the ingredients to be established by the prosecution to attract offence of sexual harassment under the IPC?

26. Are empowered officers under S.53 of the NDPS Act 1985, police officers for the purpose of attracting bar under S.25 of the Indian Evidence Act?

27. Can the offence of stalking under S.354D, be attributed to a woman, by virtue of S.8 of the IPC, which defines gender?

28. How a hangman who hangs to death a convict, pursuant to a sentence of death is protected against his action?

29. How does a theft become robbery and extortion become robbery?

30. Under what circumstances can S.27 of the Evidence Act be attracted, if the recovery is from an open place?

31. Discuss the scope of S.50 of the Indian Evidence Act in evaluating the relationship between two persons. What are its limits?

32. What is the nature of trial of a forest offence, before a Magistrate? Is there any presumption under the Kerala Forest Act regarding ownership of a forest produce?

33. When does the right to exercise private defence to protect body commence? How long does it continue?

34. Explain with reasons whether a divorced woman is entitled to residence in a shared household, under S.17 of the Protection of Women from Domestic Violence Act, 2005.

35. What are the most important directions issued by the Supreme Court of India in Re:Expeditious Trial of cases under S.138 of the Negotiable Instruments Act, 1881.

Part - III

Answer any 5 questions. Answers shall not exceed 250 words (2 pages). If more than 5 questions are answered the first 5 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book.

(5 x 8 = 40 marks)

36. Explain how far the accused is protected against testimonial compulsion, when he is called upon to give his sample handwriting, blood or voice or to undergo lie detection test, NARCO analysis and BEAP test. Refer to case laws,

37. What are the statutory requirements for invoking the power of Court to release offenders on Probation of good conduct?

38. In a proceeding under S.138 of the Negotiable Instruments Act, accused admitted the signature on the cheque, but denied execution of cheque and receipt of consideration. What is the extent of burden of proof on either side. To what extent presumptions under the above Act can be called in aid?

39. Explain the powers, functions and duties of the Magistrate while considering an application of an aggrieved person under the Domestic Violence Act?

40. Explain the scope of S.27 of the Indian Evidence Act, 1872. Specifically refer to the law laid down in P. Kottayya v. Emperor (AIR 1947 PC 67).

41. 'What are the ingredients that should be proved to establish an offence under S.499 of the Indian Penal Code? What are the defences available to the accused? Is good faith an acceptable defence?

42. What are the offences relating to marriage, contemplated under the Indian Penal Code? Refer to the ingredients of each of the offences.

43. 'A' the servant of 'B' makes an attempt to steal some jewellery kept in an almirah by breaking it open. He finds that there is no jewellery in it. Has he committed any offence? If so, what will be the maximum punishment?