Kerala Judicial Service (Mains) 2022

Paper III · compulsory paper

Marks: 100 · Duration: 3 Hours

Part - I

Answer all the questions. Each question carries one mark. (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. A person in charge of a Private Hospital contravenes the provisions of Section 357C of the Cr.P.C., which provides for providing first aid/medical treatment free of cost to the victims of certain offences. Under which provision of law, can the accused be prosecuted?

(A) Section 159 of the IPC

(B) Section 166 of the IPC

(C) Section 166B of the IPC

(D) Section 171E of the IPC

2. Raju strikes George. George, by this provocation, is excited to violent rage. Sasi, a bystander, intending to take advantage of George's rage and to cause him to kill Raju, puts a knife into George's hand. George kills Raju with the knife. What offence is committed by Sasi?

(A) Culpable homicide

(B) Culpable homicide not amounting to murder.

(C) Murder

(D) None of the above.

3. Can a woman who causes herself to miscarry be punished for the offence under Section 312 of the IPC?

(A) No.

(B) Yes

(C) Does not apply

(D) None of the above.

4. Mr. Ramesh, the owner of a vicious dog, incites the dog to spring upon Mr.Gopi, without his consent with intent to cause annoyance to Mr.Gopi. Is any offence attracted?

(A) Simple hurt

(B) Assault

(C) Criminal force

(D) Act causing slight harm

5. M/s. X., a carrier company, is entrusted by Mr. Arun with property to be carried by land. M/s. X, misappropriates the property. Which offence is attracted?

(A) Criminal misappropriation

(B) Criminal breach of trust

(C) Cheating

(D) Theft

6. The fact in issue before the Court of Session is whether Mr. X murdered Mrs. Y. Under which provision of the Indian Evidence Act, 1872 the marks on the ground, produced by a struggle near the place where the murder was committed would be relevant?

(A) Section 6 of the Indian Evidence Act

(B) Section 7 of the Indian Evidence Act

(C) Section 8 of the Indian Evidence Act

(D) Section 9 of the Indian Evidence Act

7. In which judgment did the Hon'ble Supreme Court conclude that the special provisions of Section 65A and Section 65B of the Indian Evidence Act are a complete code in themselves when it comes to the admissibility of evidence of information contained in an electronic record?

(A) State (NCT of Delhi) v. Navjot Sandhu Alias Afsan Guru [(2005) 11 SCC 600]

(B) Shafhi Mohammad v. State of HP [(2018) 5 SCC 311]

(C) Tomaso Bruno and Another v. State of U.P. [(2015) 7 SCC 178]

(D) None of the above

8. Mr. X. was brutally assaulted by deadly weapons by Mr. Y., and he suffered serious injuries. In anticipation of Mr. X's death, the treating doctor recorded his dying declaration. Mr. X survives. His statement is admissible under which provision?

(A) Section 32 of the Indian Evidence Act

(B) Section 155 of the Indian Evidence Act

(C) Section 157 of the Indian Evidence Act

(D) None of the above

9. Mr. M is a person who is unable to speak. He is called as a witness in a Court of law. To the questions put to him, he responds by writing down the answers. The evidence so given shall be deemed to be

(A) Oral evidence

(B) Documentary evidence

(C) Real evidence

(D) None of the above

10. Which among the following offences under the NDPS Act, 1985 is triable by the Magistrate?

(A) Section 20(b)(ii)(A)

(B) Section 20(b)(ii)(B)

(C) Section 20(b)(ii)(C)

(D) None of the above.

11. Mr.X is a person of unsound mind. Under the influence of madness, Mr.X attempts to kill Mrs. Y. Is Mrs. Y entitled to plead the right of private defence which she would have if Mr. X were sane?

(A) Yes.

(B) No.

(C) will not fall within the General Exceptions

(D) None of the above

12. Sri. Gopalan institutes a civil suit for declaration of easement right and injunction. The defendant files an affidavit containing defamatory allegations against the plaintiff. Will it amount to publication under Section 499 of the IPC?

(A) Yes.

(B) No.

(C) Will not be as it is a document filed in court.

(D) None of the above.

13. Under which enactment is the Traffic Regulatory Committee constituted within the limits of the local authority.

(A) Kerala Road Safety Act, 2007

(B) Motor Vehicles Act, 1988

(C) Kerala Motor Vehicles Taxation Act, 1976

(D) The Kerala Police Act, 2011

14. Penalty for breach of which among the following orders issued under the Protection of Women from Domestic Violence Act, 2005 is punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to rupees twenty thousand or with both.

(A) Residence Order

(B) Monetary relief

(C) Custody orders

(D) Protection order

15. Possession of forged or counterfeit currency notes punishable under Section 489C IPC carries punishment of imprisonment of either description for a term which may extend to 7 years or with fine or with both. The offence is:

(A) Cognizable and Non-bailable.

(B) Cognizable and Bailable

(C) Non-cognizable and Bailable

(D) None of the above.

Part - II

Answer any 15 questions. Answers shall not exceed 120 words (1 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. What is the imprisonment that a court can impose for non-payment of fine, when offence is punishable with fine only?

17. A surgeon in good faith communicates to a patient his opinion that he cannot live. The patient dies as a consequence of the shock. Has the surgeon committed any offence? Can he plead the benefit of any of the exceptions in the Indian Penal Code? Explain.?

18. Mr. Smith knowing that he is likely to cause the death of Mrs. Anne, a pregnant woman, inflicts a stab injury on her abdomen, which, if it caused the death of the woman, would have amounted to culpable homicide. Though Mrs. Anne suffered serious injuries, she does not die, but it causes the death of the unborn quick child with which she is pregnant. Is Mr. Smith guilty of any offence under the IPC? Explain.

19. The relative of a woman subjects the woman to mental cruelty, which is of such a nature as is likely to drive the woman to commit suicide. However, the woman has no case that there was any sort of harassment with a view to coercing her or any person related to her to meet any unlawful demand for property or valuable security. Will the offence under Section 498A IPC be attracted? Explain.

20. A person is charged for the offence punishable under Sections 304B and 498A of the IPC. One of the pieces of evidence relied on by the prosecution is the dying declaration of the deceased. The trial court proceeds to acquit the accused for the offence under Section 304B of the IPC. Can the statement of the deceased taken on record with the aid of Section 32 of the Evidence Act be used against the accused to convict him under Section 498A of the IPC?

21. What is 'Real Evidence'?

22. If in any proceeding, the Court has to form an opinion on any matter relating to information transmitted or stored in any computer resource or any other electronic or digital form, whose opinion can be sought? Explain.

23. Mr. X. was charged for transporting illicit liquor in a vehicle. The vehicle was seized and confiscation proceedings were initiated. Independently, he was tried by the criminal court and was acquitted of all charges. Would this prevent the Abkari Officer in making an order of confiscation under Section 67B(2) of the Abkari Act? Explain.

24. Under Section 138 of the Negotiable Instruments Act, an accused can be punished for a term which may extend to 2 years or with fine which may extend to twice the amount of the cheque. Which is the Court empowered to try the offence and what is the procedure to be followed?

25. In the year 2018, a chit company having branches all over the State of Kerala filed a complaint in the Court of the Judicial Magistrate of the First Class, Ernakulam, under Section 138 of the NI Act, against Mr. Suresh, alleging dishonour of a cheque drawn by the said person. Thereafter, separate complaints are filed against the same person before the respective jurisdictional Magistrates at Kottayam, Alappuzha, Kollam and Thiruvananthapuram. Can the accused seek transfer or whether the cases are to be tried separately. Elucidate.

26. Mr. X was found in unlawful possession of 21 kgs. of Ganja and he was arrested and remanded. What are the considerations that are to be borne in mind by the jurisdictional court while considering the application for regular bail. Explain?

27. If information is given by a woman to the police that her photograph is being propagated in a manner affecting her reasonable privacy through social media, can any action be taken against the service provider or any person in charge of a public place to prevent such occurrence. Explain?

28. Offences under Sections 116, 117, 118 and 119 of the Kerala Police Act are cognizable and bailable. Notwithstanding the same, are there any limitations on the power of the police officer to arrest the offender? Explain?

29. What are the circumstances which enable the court that convicts the accused to release certain offenders after admonition?

30. A complaint was lodged against Mr.Stephen by his wife invoking the provisions of the Protection of Women from Domestic Violence Act, 2005. An interim protection order was passed by the Magistrate. Alleging that Mr. Stephen committed breach of the protection order, a complaint is lodged before the Magistrate who passed the protection order. Facts narrated in the complaint disclosed that Mr. Stephen had subjected his wife to cruelty as defined under Section 498A of the IPC and demanded dowry in violation of the Dowry Prohibition Act, 1961. What is the action, if any, to be taken by the Magistrate?

31. How is the process of age determination undertaken when a person is brought before the Committee or the Board constituted under the Juvenile Justice (Care and Protection of Children) Act, 2015? Explain with reference to case laws.

32. Against an order of confiscation passed by a Forest Officer under Section 61A of the Kerala Forest Act, 1961, what is the remedy available to a person aggrieved?

33. A person trespasses into land proposed to be constituted a reserve forest and allegedly damages an embankment fence. Would this act constitute an offence under the Kerala Forest Act, 1961. Explain.

34. What are the circumstances under which a notice to produce as contemplated under Section 66 of the Indian Evidence Act can be dispensed with by the court?

35. Does the Indian Evidence Act confer powers on the court to forbid any questions that it regards as indecent or scandalous? Are there any exceptions? Explain.

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. What are the five golden principles which constitute the panchsheel of the proof of a case based on circumstantial evidence? Discuss by relying on the case law.

37. Explain the principles with regard to admissibility of electronic record by referring to case laws.

38. Section 114 of the Indian Evidence Act, 1872 says that the Court may presume existence of certain facts. Explain

39. When will the right of private defence of the body extend to causing death?

40. Explain “Trafficking of a person”?

41. Mr.Sasi is a prime witness in a case of murder. He has furnished a detailed statement to the police revealing certain aspects of the prosecution version. Can Mr.Sasi be cross-examined without his statement being shown to him? What is the procedure to be followed if it is intended to contradict him? Explain.

42. While carrying out the seizure and sampling of contraband liquor, the Abkari Officer failed to comply with the provisions of the Kerala Excise Manual. Is the same a ground for acquittal of the accused? Explain.

43. Explain the powers of the Court trying an offence under Section 138 of the Negotiable Instruments Act, 1881 to direct the grant of interim compensation.

De Facto IAS