Odisha Judicial Service (Mains) 2019

Procedural Law · compulsory paper

Time: 2½ hours. Full Marks: 150 The figures in the right-hand margin indicate marks. Answer Six questions, selecting two questions from each Section.

Section A

1. (a) Define the terms 'Information' and 'First Information Report' and compare them with the term 'Complaint'. [05 marks]

1. (b) What are the provisions relating to Public Prosecutors under the Criminal Procedure Code, 1973. [05 marks]

1. (c) Describe the kinds of punishment and state the powers of various courts to punish. [05 marks]

1. (d) What powers of control have Sessions Courts over subordinate courts? [05 marks]

1. (e) Is a private person bound to assist a police officer ? If so, when? [05 marks]

2. (a) State the obligation of persons to allow search under the provisions of Criminal Procedure Code, 1908. What safeguards have been provided for fair conducting of search? [05 marks]

2. (b) A Sub-Divisional Magistrate without holding inquiry passes an order requiring a person to furnish security for good behaviour and directs that in default he shall suffer rigorous imprisonment for two years. Discuss the legality of the above order. [10 marks]

2. (c) Describe, in brief, the procedure relating to rejection and discharge of surety. [10 marks]

3. (a) How can a wife who has been abandoned by her husband to compel him to maintain her ? How does the criminal court enforce its order of maintenance ? [15 marks]

3. (b) Whether any alternation in the allowance of maintenance can be made ? [05 marks]

3. (c) What are the powers of a Magistrate in dispersing unlawful assemblies ? [05 marks]

4. (a) Under what circumstances can a Magistrate take action for the removal of a public nuisance and which Magistrates are competent to take such action ? [15 marks]

4. (b) Mr. B comes to know that Mr. A intends to shoot Mr. C next day in Connaught Place at 8:00 AM. Thereon Mr. B informs the police about it. The following day Mr. A is arrested by a Police Officer in the same place a few minutes before 8 : 00 AM and on searching him, a fully loaded pistol is found in his possession. Consider the legality of the action taken by the Police Oficer ? [10 marks]

Section B

5. (a) Explain the principle of Res Gestae. [05 marks]

5. (b) Explain the facts showing existence of state of a mind, or of a body, or bodily feeling. [10 marks]

5. (c) Explain 'Admission'. Explain as to how and when an admission is relevant in civil case. [05 marks]

5. (d) Explain the difference between 'Confession' and 'Admission'. [05 marks]

6. (a) Explain the cases in which statement of a relevant fact by person who is dead or cannot be found, etc., is relevant. [15 marks]

6. (b) Whether in criminal cases previous good character is considered relevant or not ? [10 marks]

7. (a) When the language used in the document is, on its face, ambiguous and defective ? Can that document be amended or not? [10 marks]

7. (b) When 'abetment of suicide' by a married woman is presumed by the court? [15 marks]

8. (a) Explain the principle of Estoppel. Explain, in detail, the relief against government under promissory estoppels. [10 marks]

8. (b) A lunatic is competent to testify or not? [05 marks]

8. (c) Who is an 'Accomplice' ? Is an accomplice competent to give witness against an accused person? [10 marks]

Section C

9. (a) Is there any presumption regarding a foreign judgment ? [05 marks]

9. (b) What are the circumstances in which a foreign judgment is not conclusive? [05 marks]

9. (c) Under what conditions can a suit be stayed? [05 marks]

9. (d) What is meant by the inherent powers of the court? [05 marks]

9. (e) Is res judicata a rule of substantive law or a rule of procedure? [05 marks]

10. (a) Write short note on 'Summons'. [15 marks]

10. (b) What do you understand by 'Defence' ? Is there any form of defence provided in Civil Procedure Code, 1908 ? [10 marks]

11. (a) When and how a judgment is pronounced and signed? [10 marks]

11. (b) Define 'Decree' and state its essential elements. [15 marks]

12. (a) What is meant by Equitable Execution ? Illustrate your answer with suitable examples. [10 marks]

12. (b) Explain the procedure of sale of property attached in execution of a decree. [10 marks]

12. (c) What do you understand by 'Rateable Distribution' ? Illustrate it with suitable examples. [05 marks]