Odisha Judicial Service (Mains) 2021

Procedural Law · compulsory paper

JSM – 21/2 · 2½ hours · 150 marks

The figures in the right-hand margin indicate marks. Candidates should attempt six questions, selecting two from Section A, two from Section B and two from Section C.

Section A

1. (a) What is the value and use of FIR? [5 marks]
(b) What precautions should generally be taken by a Magistrate while recording a confession ? [5 marks]
(c) Can a police officer refuse to register a first information report on the ground of territorial jurisdiction over the place of crime ? [5 marks]
(d) 'A is tried summarily by the Chief Judicial Magistrate for the charge of committing theft and is sentences to undergo imprisonment for four months. Can 'A' challenge this decision and, if so, on what grounds ? [5 marks]
(e) Whether an accused person can be a competent witness ? [5 marks]

2. (a) Write a short note on the framing of charge with the relevant provisions under the Criminal Procedure Code. [5 marks]
(b) A police officer has come to know that certain persons sitting in a house equipped with arms are planning to commit a decoity. The police officer approaches the house and arrests all the persons without getting any order from the Magistrate and without any warrant. Examine the validity of their arrest. [10 marks]
(c) Discuss the provision relating to cognizance of offence by Magistrate. [10 marks]

3. (a) Discuss the evidentiary value of statement recorded under Section 313, Cr. PC. [15 marks]
(b) Discuss briefly confession made in police custody. [5 marks]
(c) Write a short note on commitment of case to court of sessions when offence is triable exclusively by it. [5 marks]

4. (a) 'A' is tried upon a charge of theft as a servant and acquitted. Can he be charged again with criminal breach of trust upon the same facts of the theft ? State your answer giving reasons and relevant provisions. [15 marks]
(b) 'Every criminal appeal shall finally abate on the death of appellant.' Is there any exception to the rule ? [10 marks]

Section B

5. (a) What do you understand by a 'retracted confession' ? [5 marks]
(b) What is 'Fact discovered' ? Distinguish between direct and circumstantial evidence. [10 marks]
(c) Can the evidence of a deaf or dumb person be recorded by a court ? If, so in what manner? [5 marks]
(d) What is meant by expert opinion ? [5 marks]

6. (a) 'Hearsay evidence is no evidence.' Explain this rule of law. Is hearsay evidence ever admissible? [15 marks]

(b) What is a pre-condition to raise an obligatory presumption under Section 113-B of the Indian Evidence Act [10 marks]

7. (a) What is “Plea of alibi" ? Explain effect of its failure on the case of prosecution. [10 marks]
(b) What do you understand by “the primary evidence and secondary evidence” ? [15 marks]

8. (a) What are the provisions in the Indian Evidence Act, 1872 regarding admissibility of electronic record ? [10 marks]
(b) Explain a warrant case. [5 marks]
(c) Discuss dying declaration and its evidentiary value. [10 marks]

Section C

9. (a) What suits are of civil nature? [5 marks]
(b) What are the valid grounds for rejection of a plaint ? [5 marks]
(c) When can a person lodge a caveat in the court ? What is the purpose of lodging a caveat ? [5 marks]
(d) What is meant by the pauper suit ? [5 marks]
(e) What is the scope of compromise in a civil suit ? [5 marks]

10. (a) What are the ingredients for granting injunction ? [15 marks]
(b) Discuss the territorial jurisdiction of the courts. [10 marks]

11. (a) An execution court can neither go behind the decree nor question its legality or correctness. Is there any exception to this rule? If so, what? [10 marks]
(b) Write a note on ‘Substituted Service’. [15 marks]

12. (a) Discuss the provisions relating to the property liable to attachment and sale in execution of decree. [10 marks]
(b) Explain attachment before judgement. [10 marks]
(c) What is an interpleader suit ? [5 marks]