Punjab Civil Judge (Mains) 2013

CRIMINAL LAW · compulsory paper

Three hours · 200 marks · Owner's question transcript

Question 1

(a) The decision to arrest is primarily a judicial function. Respond to this statement with reference to pre-arrest and post-arrest procedures in the Code of Criminal Procedure. [10 marks]

(b) Discuss the guidelines laid down by the Supreme Court in the case of D.K. Basu Vs. State of West Bengal 1997 (1) SCC 416 in relation to the safeguards for the arrestee. [10 marks]

(c) A gang of goons were in the habit of terrorizing a residential colony in New Delhi. They would demand money from shop-owners and residents. They would harass girls of the locality and would pass unsavoury comments. Being fed up with the gang, a group of young students from the same locality decided to unite and resist the gang. On 11.07.2013, when the gang had come to the colony again to demand money, a fight broke out between the goons and the students. 'A' who was a witness to the ongoing fight, rushed to the nearest police station and informed 'X', the officer incharge about the ongoing fight. Upon hearing that the fight was going on, 'X' immediately rushed to the place with a troop of constables and arrested a number of goons. He recorded statements of 'B' and 'C', who of the students involved in the fight and also of F, G, H and I, the residents of the colony.
Decide which of the above can be treated as FIR in this case. [10 marks]

(d) The Supreme Court in the case of Shahzad Hasan Khan Vs. Ishtiaq Hasan Khan & another 1987 (2) SCC 684 has approved of the convention that the successive bail application are to be placed before the same judge and not before different judges. Critically analyse the relevance and utility of the said convention as noted by the Supreme Court. [10 marks]

Question 2

(a) Highlight the statutory provisions contained in the Code of Criminal Procedure which give effect to principle of fair trial. In particular, elaborate on the following principles as reflected in the Code of Criminal Procedure:-
i) Separation of judiciary from executive
ii) Public and open hearings
iii) Nemo debet esse judex in propria causa
iv) Right of victim to seek legal assistance
v) Right of accused to have the evidence to be taken in his presence [20 marks]

b) X and Y, sworn enemies of each other had been swept away by flood in the region. To prevent himself from drowning, X clung to a plank of wood. At that time, Y, who was also being carried away by water, tried to save himself by holding on to the same plank of wood. X pushed Y away. Thereafter Y requested X to allow him to hold on the plank. But X refused. Y was drowning in the water and was on the verge of dying when he was miraculously rescued by a noble man.
Later, Y prosecuted X for attempt to murder. Will X be liable under the Indian Penal Code? Give reasons for your answer citing relevant cases wherever required. [10 marks]

(c) Study the facts described below and answer the following questions:-

i) Bubblly is a girl of 10 years who was married to Vishnu aged 21 years. She is fond of dolls and was in the habit of pestering her parents for purchasing new dolls every now and then. After marriage, one day, she pestered her father-in-law for buying a doll at the market place. When he denied, she cried out loudly. Annoyed, the father-in-law reprimanded her and locked her up in a room for an hour as punishment for her mis-conduct in a public place. that night, Bubblly did not have dinner. When Vishnu returned home from work Bubblly went up to him and wept loudly imploring him to purchase the doll from the market place. Since Vishnu was already very tired, he lost his temper and slapped her on the face. Bubblly felt offended and was even more upset. Unable to resist, she kept weeping incessantly. When Vishnu went to sleep, Bubblly took a knife and stabbed him in the chest. Vishnu suffered grievous hurt initially but died few days later.

Bubblly has been charged with the murder of her husband. During her trial, she has taken up the defence of childhood. Will Bubblly's defence stand?

What are the conditions that need to be satisfied for her defence to stand? Justify your answer citing relevant provisions of the Indian Penal Code and case law wherever required. [10 marks]

Question 3

(a) In remote village of Rajasthan, a lady named Chandrawati decided to perform sati as she believed it to be a sacrosanct custom. On the day her dead husband's pyre was being set up, she stuck to the ancient tradition and accompanied the corpse to the place of cremation. Initially, her mother-in-law, brother-in-law and sister-in-law tried to dissuade her from performing sati. But later on, they gave in as Chandrawati was adamant and went to the cremation ground alongwith some other relatives. One of her relatives, Kalawati called up the police and informed the officers of the incident. When the police arrived at the spot, Chandrawati had already entered the pyre with her husband and all the other relatives (with the exception of kalawati) including her mother-in-law, brother-in-law and sister-in-law were present on the scene and were chanting sacred hymns. The pandit was just about to set fire to the wood when the police stopped him.

Keeping the aforementioned facts in mind, fix the criminal liability of each of the persons present on the scene. State reasons for your answer and cite relevant provisions of the Indian Penal Code. Use case law wherever required. [15 marks]

(b) X, Y and Z mutually decided to beat up A. One evening, they gathered near a secluded area through which A passed every evening while returning home after work. X and Z followed A from a distance whereas Y was waiting with hockey sticks a little further. Suddenly, X attacked A from behind, casting blows on him. Z, on the other hand, blew a whistle indicating Y to come with the hockey sticks. Upon Y's arrival, X and Y started beating up A severely whereas Z stood by the side watching the fight. In the meantime, A's eyes fell on a knife lying nearby. He picked up the knife and ran it through Y's chest. In a state of confusion, Z rushed towards Y, picking up a hockey stick. However, A thinking that Z was about to attack him lifted the knife and inflicted grievous hurt on Z in the process.

Keeping in mind the aforementioned facts, determine the criminal liability, if any, of X, Y, Z and A. In each case, substantiate your answer with sufficient reason and case law wherever required. [20 marks]

(c) A, a villager goes to police station to lodge a report. He finds that the policemen at the police station are sleeping and pay no heed to his grievances. He removes a handcuff from the

police station and brings the same before the Superinetendent of Police to show the state of affairs. A is prosecuted for having committed theft of handcuff. Will the prosecution succeed? [5 marks]

Question 4

(a) Comment on the dynamics between Section 162 of the Code of Criminal Procedure and Section 165 of the Indian Evidence Act, 1872 with the help of the principle laid down in the case of Raghunandan Vs. State of UP 1974 (4) SCC 186. [15 marks]

(b) In order for a conviction to be sustained solely on the basis of circumstantial evidence it must be both exclusive and inclusive. Comment on the above statement in the light of the judicial policy in India and with special reference to any landmark judgment of the Supreme Court of India. [10 marks]

(c) The credibility of a witness depends to a great extent on the reactions of a witness to the crime. There are certain standard responses which can be expected from individuals when they witness a crime and if the concerned witness's behavior has deviated from those normally expected standards, it can be sufficient ground to doubt the veracity of the testimony.
Respond to the above statement in the light of the judicial policy in this regard as reflected in cases like State of Karnataka Vs. K. Yarappa Reddy, 1999 (8) SCC 715. [10 marks]

(d) 'A' forges a document and thereafter institutes a suit against 'B', on the strength of the forged document. 'B' appears in the suit. On realizing that the document is forged, 'B' lodges prosecution against 'A' for forgery. 'A' assails the prosecution on the ground that the interdict contained in Section 195 of Cr. P.C. comes into play and cognizance of the offence could not have been taken except on the complaint in writing of the Court or by the Officer authorized by that court, before which the document was tendered. Whether the objection raised by 'A' is legally tenable? [5 marks]

Question 5

(a) What is a chance witness? What is the evidentiary value of the testimony of chance witness? Discuss as to how the judicial approach with regard to appreciation of evidence offered by a chance witness is reflective of the social reality of this country. [10 marks]

(b) A is in the business of construction. In the course of his business, he usually has to deal with a lot of government officials. In relation to the one of his construction projects, B, an official of the PWD Department asks for a bribe of Rs. 5,00,000/- from A for clearing a file. A is very irritated at his behavior. He refuses to pay any kind of bribe. Subsequent to this, B repeatedly calls A and threatens him that A's project will never receive clearance. A after being constantly harassed gets in touch with C who is the Assistant Commissioner of the Anti-Corruption Branch. After due consultation, they decide to gather evidence against B by taping the telephonic conversation between A and B. On July 01, 2013 in the presence of C, A calls up B with the recording device attached to his phone. B's demand for bribe is recorded and pursuant to that, charges are initiated against him in the court. During the course of the trial, B contends that the telephonic conversation cannot be produced in evidence as it was procured illegally in violation of Section 25 of the Indian Telegraph Act which is as follows:-
Intentionally damaging or tampering with telegraphs-If any person, intending-
i) to prevent or obstruct the transmission or delivery of any message, or
ii) to intercept or to acquaint himself with the contents of any message, or
iii) to commit mischief, damages, removes, tampers with or touches any battery, machinery,

telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,
shall be punished with imprisonment for a term which may extend to three years, or with fine or with both.
Decide if the recorded telephonic conversation is admissible in evidence or not. [15 marks]

(c) Test identification parade has no independent value of its own. Respond to this statement and comment on the evidentiary relevance of the test identification parade. [10 marks]

(d) A, a police officer slapped on the posterior of a lady officer in the presence of elite persons. On being prosecuted, A took the defence of "de minimis non curat lex. "Will A succeed? [5 marks]

De Facto IAS