# Tamil Nadu Civil Judge (Mains) 2019

## Law Paper III · compulsory paper

Duration : 3 Hours · Max. Marks : 100

**General Instructions to Candidates**

i) The facts and particulars provided in the Questions Paper i.eThe courts name, place, case numbers,documents details, names of parties and witnesses are fictional. Yet candidates have to conclusively assume them to be true for the purpose of answering the questions.

ii) Candidates may write the answers either in English or in Tamil but not in both.

iii) The Question Paper is provided in Tamil and English versions. In all matters and in case of doubt, the English version is final.

iv) The candidates have to assume themselves as Presiding Officers and to consider the details furnished in the questions and frame necessary charges specifically against each accused if required and write judgement on the facts given.

v) Candidates need not write the cause title of the case, case number, name of the judge,case number,names of the counsel appearing for the parties, list of documents, evidence etc, which would be indicative in nature. No marks will be awarded for writing the cause title etc. Marks will be awarded based on the appreciation of facts and evidence, applications of law on the facts, reasoning given by the candidates for arriving at whatever conclusion they have reached.

vi) There are 4 questions in this section and each question carries 25 Marks.

vii) The candidates need not provide the cause title with citation while answering questions. Providing wrong or incomplete cause title or quoting a wrong citation will be detrimental to the candidates.

viii) The candidates need not frame charges in the questions relating to Special Acts.

**1.** [25 marks]

M.C.15/2010 Vanaja, Petitioner

1. Vazhayil Santha, 2. Jithesh, Respondents

The facts stated in the complaints:

The complainant is the wife of Maneesh Nath and their marriage was duly solemnised on 13.07.2001. After the marriage, she was residing at Vazhayil House, Palloor. The complainant has got two children.

The respondent No.1 is the mother in law and the respondent No.2 is her husband's brother. Both are residing in the above said House where the complainant and her husband reside.

The complainant was in possession of 35 sovereigns of gold ornaments at the time of her marriage. The respondent No.1 used to demand for gold ornaments from the complainant with assurance to redeliver the same shortly. However, after getting the gold ornament, she refused to redeliver the gold ornaments. The respondent No.2 made evil attempts to extract gold and money from the complainant. The respondents colluded with each other to evict the complainant from the shared household.

As the respondents made arrangements to kill the complainant and destroy her household articles by setting fire on her clothes, she lodged a complaint for offences punishable u/s 498 A, 420 r/w 34 IPC

before the court on 11.05.2010. On 21.05.2010, while the complainant was in the kitchen, the respondent No.1 poured Kerosene over the complainant and tried to set fire. Immediately, the complainant rushed to her bedroom and closed the door. Later, the complainant came out from the said house and rushed to Palloor Police Station and lodged a complaint. The complainant assessed Rs.5,00,000/- as compensation for the hardship suffered and prayed for other relief under the Prevention of women from Domestic Violence Act.

The counter filed by the respondents:

After the marriage, only for a few months, the petitioner resided in the Vazhayil house and shifted her residence to Peravoor and stayed there for a few years. The complainant and her husband never resided at Vazhayil House continuously. The respondent No.1 never received any of the ornaments of the complainant nor tried to kill the complainant by pouring kerosene. On the day of the alleged incident, the complainant came to the house of the respondents and poured kerosene on her head and rushed out and approached the police. She lodged a complaint against the respondents to attract section 498 A of Indian Penal Code to trap the respondents in a criminal case.

The complainant and her husband were claiming share in the house and the property by making unnecessary quarrels while they were in the house.

Evidence on the side of complainant

PW1 deposed the facts stated in her complaint. Her marriage took place in the year 2001 and she was residing in the house of the respondents only for 1 ½ years. The jewels were entrusted on different dates within one week from the date of marriage. After 1 ½ years, the petitioner occupied a rented house in Peravoor and lived along with her husband and children for 4 years and thereafter shifted her residence to Mysore and resided there for 1 year. PW2, the husband of PW1, had deposed that they have been in mysore for the past 4 years and he is running a bakery. The Petitioner was not residing in the petition property immediately prior to the filing of the petition.

The protection officer, after enquiry, sent a report to the court stating that he did not notice any domestic violence against the petitioner. During counselling as well as during enquiry by the Protection Officer,he noticed that the petitioner Vanaja had frequent quarrel with her husband and discontinued her children's education for a few times.She is of an extravagant nature and sustained debts few times. The problem started after the marriage of respondent No.2 as she felt that her mother in law has not paid attention on her. She quarreled frequently with her mother in law. The respondents are not prepared to take the petitioner because of her suspecting nature and sense of danger.

The Petitioner ‘s Argument

Once the petitioner had lived in the house of respondent No.1 soon after her marriage, the same would come within the definition of shared household u/s 2 (s) of the Act, and she is entitled to reside in the said house by an order of this court.

The Argument of Respondents:

The complainant soon before filing of the petition or at any point of time must be residing in the shared household along with the respondents. The Petitioner was residing with her own family members and established her own household and started living separately at different places. The petitioner cannot claim that the house of the respondent No.1 wherein she was living immediately after her marriage, is her shared household.

Vazhayil House is in the name of the husband of the respondent No.1.The adjacent vacant land is now in the name of the respondent No.1 It is not a joint family property of the petitioner's husband and her husband has no right to reside in the said house as a member of the joint family.

**2.** [25 marks]

C.C NO. 163/1999 State, rep. By Station house Officer, Thavalakuppam Police Station, Complainant

1. Pandu (29) 2. Suresh Babu (31) 3. K.R. Babu @ Sathiyamoorthy (30), 4. Ramamoorthy (30), Accused

The Station House Officer, Thavalakuppam Police Station has laid a Final report against the accused persons alleging that between 29.12.1998 night hours and 30.12.1998 early morning, in front of the house of the de facto complainant Sivakumar at door No. 196,Cuddalore Main Road, Thavalakuppam, Pondicherry, the accused persons committed theft of one Ambassador car bearing Regn. No. PY-01-E-0369 worth Rs. 3,00,000/- in the possession of one Kalyani.

The prosecution has examined PWs-1 to 11 and marked Exc. P-1 to 14 and M.O-1 through relevant witnesses.

The case of the prosecution in brief is as follows:

PW1, Sivakumar, the de facto Complainant lodged Ex.P-1. complaint stating that he has a car bearing Regn.No PY -01-E-0369 for his personal use and on 29.12.1998 at about 10.00p.m. he parked a car in the portico of his house under lock. On 30.12.1998 at 3.30 a.m. when he came out the car was found missing. On receipt of the complaint, PW-9. S.I of Police, registered a case in cr. No. 100/98 u/s. 379 IPC as per FIR Ex.p-13, and handed over the case file to the Superintendent of Police for further investigation, On 30.12.1998 at 12.30 hours under instructions , he spotted the accused at Koliyanur Salai with M.O.-1 car and arrested them and seized the vehicle at 13.00 hours under Ex.P14 seizure form in the presence of PWs-5 and 6 and produced the accused along with M.O-1 before the Superintendent of Police. On further investigation ,PW-10,Firoze Zia Hussain, Superintendent of Police examined PW-1, Dhanaraj and Natarajan and recorded their statements. On production of the accused before him, he interrogated them and recorded their confession statements. PW-11, another Superintendent of Police, Stalin Jason, examined one Kalyani and recorded her statement and after completing the investigation, laid a charge sheet against the Accused.

When the accused persons were questioned u/s. 313 Cr. P.C, they denied the same and opted to have no oral evidence.

The accused have admitted that they were the employees of Mahaveer Finance India Limited and the said vehicle was involved in the hire purchase. As the said Kalyani was in default of paying the instalments, as per the instructions of their employer, the said vehicle was lifted from the house of PW -1.

PW-1 is the son of one Kalyani, and PW-2 is the husband of the said Kalyani.

PW-3, Lakshminarayanan has deposed that the vehicle was involved in hire purchase and the accused were the employees of their Company. The vehicle involved in the above case is under hire purchase and there was arrears in payment of dues to the said Finance Company and based on that, they have issued a notice and in default of the payment, the accused were authorised by the Finance Company to lift the said vehicle from the premises.

PW-4 is the mahazar witness, turned hostile.

PW-5 and 6 are the witnesses for the confession statement and they have also turned hostile and have not supported the prosecution case.

PW-7, Ramasundaram, Head Constable has deposed that he recorded the statements of PWs-1 to 6 and others.

PW-8 is the mahazar witness for the seizure of a finance company receipt from one Dhanaraj under cover of mahazar Ex.P-12.

PW-9,10 and 11 are the Investigation Officers in the above case.

Arguments of Accused 's Counsel:

PW-1 has not identified the accused. The overt act of A -1 to A-4 has not been stated in the complaint.

PWs-2 to 6 have turned hostile.

No wrongful intention was established by the prosecution, and the benefit of doubt shall be given to the accused.

**3.** [25 marks]

CC No. 36/2009 State rep. By the Station House Officer, Mahe P.S. (Cr. No. 158/2006) Complainant

K.P Sumesh Babu (31) Accused

The case of the prosecution

On 26.12.2006. C.S. Radhakrishnan, working as peon in the Deputy Tahsildar Office, Mahe went to one Sathyan's house under the instructions of Deputy Tahsildar to get the signature rubber seal of Electoral Registration Officer, Mahe. He was informed by Sathyan's wife that one Sumesh had collected a rubber seal in the name of Village Administrative Officer,Chalakkara, Chembra, Mahe . The delivery register was shown to him. He had seen in page 93 of the register dt.03.12.2006 that the accused had signed the register and took the rubber seal. He informed the matter to his superior Dalayan, Tahsildar Revenue,Mahe.

PW 1 went to see the register maintained by Sathyan and ascertained that the forged seal impression was made by the seal maker on the register and the seal was delivered to K.P Sumesh on 08.12.2006. He lodged a complaint before the police. Based on the complaint, HC Renil Kumar registered a case in Cr. No. 158/2006 u/s 472 IPC. Ex P6 is the F.I.R He went to the scene of crime and prepared the Crime Details Form at 19.30 Hrs. Ex.P2 is the Crime Details Form. He examined the witnesses Radhakrishanan, Sathyan. Silvi, Bharathan and Prasanth. Sajith, SI of Police took up the case for further investigation and examined the Deputy Tahsildar.

On 11.01.2007, the accused surrendered before the court. On 20.02.2007, he seized the delivery book in the presence of a witness and the same was sent to the court. The accused was summoned to the police station and sample signatures were taken. On 25.09.2007, he seized the leave letters of the accused from the office of the Deputy Director of Agriculture. He forwarded the admitted signature and delivery book for expert opinion. After obtaining the expert opinion he examined the witness and completed the investigation and laid a charge sheet against the accused u/s 472 IPC.

When the accused was examined by U/S 313 of Crpc on the incriminating circumstances that appeared against him, he denied the same.

Arguments on the side of prosecution:

PW5, the seal maker Sathyan, had deposed that the accused had ordered for making a counterfeit seal with the impression " Village Administrative Officer, Chalakkara, Chembra. Mahe ". The accused had been identified by the witness PW5 in the court as well as before the police. The delivery register maintained by the witness has been seized and produced before the court. The delivery register contains the signature of the accused while taking delivery of the counterfeit seal. The prosecution had obtained a sample signature from the accused and collected his admitted signatures contained in his letter submitted to his Office. The disputed hand writings were forwarded to the forensic laboratory and obtained report was obtained with an opinion that the writings and signature found in the delivery register belong to the accused person and he signed the same while taking delivery of the counterfeit seal. The Regional Administrator, Mahe had authorised PW5 in his letter to make Government seals, as there is no seal maker available in Mahe.

Argument on the side of accused:

Except the signature of the accused in the delivery book, there is nothing produced by the prosecution to show that the accused had connection with the above offence. The prosecution had not recovered the alleged seal made by Sathyan. The delivery book was seized nearly two months from the date of registration of F.I.R The Mahazar witness had stated that he signed the Mahazar in the police station. Therefore, the genuineness of the seizure is doubtful. It clearly establishes that the delivery book is not a genuine one and it was created for foisting the accused in the above case. The investigating officers called the accused to the police station and obtained many signatures from him. When there is no signature obtained from other persons in the delivery book, the prosecution case is doubtful for failure to explain why the signature of the accused alone was obtained in the register. The seal affixed in Ex.P4 book is that of Village Administrative Officers, Chalakkara, Chembra,Mahe " but there is no such office as found in the same. So the alleged seal has no resemblance with the original seal. The prosecution had failed to prove that the accused had placed orders for making seals and took delivery of the same.

Evidence on the side of Prosecution

PW1 Dayalan, the Deputy Thasildar (Revenue), Mahe had deposed the facts stated in the complaint.

PW2 Radhakrishnan had deposed that on 26.12.2006, he went to Sathyan's house to collect the seal of Electoral Registration Officers where Sathyan's wife informed him that one Sumesh had collected the seal from them. He informed the matter to PW1.

PW3 is the Scene Mahazar witness

PW5 Sathyan the rubber stamp maker deposed that he used to prepare stamps for the government officers. The accused came to his house no. 08.12.2006 and asked to make stamps of Tahsildar. He showed his identity card as well as a model for making rubber stamps. He made a stamp of " Village Administrative Officer,Chalakkar, Chembra,Mahe ". The accused acknowledged in the delivery register and took delivery of the rubber stamp. Ex. P5 is the relevant page in the register. The stamp impression is also affixed in the register. During cross examinations, he admitted that he used to insist on letters from the Department while making stamps. The accused represented that the concerned officers were on leave and he undertook to produce the letter. Therefore, his signature was obtained in the register. Ex.P4 is the book maintained by him while delivering the manufactured seal.

Pw6 the Investigating Officer, who registered the FIR, had deposed that he prepared Scene Mahazar and examined the witnesses.

PW7 the SI of police had deposed about the examinations of the witnesses, Seizure of delivery books in the presence of witnesses, obtaining sample signatures from the accused and forwarding the signatures to the forensic laboratory.

PW8 Balasamy, the handwriting expert, had deposed that the writings and signatures under dispute and the sample signatures were all written by one and the same person.

**4.** [25 marks]

CC 25/2010 State rep. by the Station House Officer, Palloor P.S.

( Cr. No. 39/2008) Complainant

M. Arafath (26), Accused

The case of the prosecution

On 23.04.2008 at about 11.25 hrs, in front of the " Prasanthi Nilayam ", Palloor, the accused came in a motorcycle and snatched 5 sovereign of gold locket "Thali' chain from the neck of the complainant's daughter Rejila. The person from the locality came there on hearing the hue and cry of her and the accused left the place. she informed her father, who lodged ExP1 complaint,

Based on the complaint, the Head Constable Vijayan registered a case in Cr. No. 39/08 and visited the scene of crime and prepared a Crime Detail Form in the presence of independent witnesses Raveendran and Prabhakaran. Ex.P2 is the Scene Mahazar.

After two months, police summoned his daughter PW2 to identify the gold chain and the accused. She identified her chain MO-1 and the accused.

On 26.06.2008, S.I Sundar took up the case for further investigation. On that day, he received information that the accused was arrested by SI of Mahe PS in Cr.58/08 of Mahe PS. On 11.07.2008, the accused was produced through P.T. Warrant and remanded in the case. On 26.07.2008, the witnesses were examined and recorded their statements. On 31.07.2008, he laid a charge sheet against the accused u/s 356,379 IPC.

Evidence on the side of Prosecution Witnesses:

PW1 was informed about the chain snatch by the accused who came in the motorcycle in front of " Padayil Nilayam " The complaint was lodged by him and after two months, his daughter was summoned to identify the accused in the police station. No injury was sustained by his daughter in the incident and the hook of the chain was found opened.

PW2 deposed that on 23.04.2008, while she was going towards her husband's house at 11.15 a.m. the accused came in the opposite direction in the bike wearing a cooling glass and wearing a kerchief and he returned and came from her back and snatched her gold chain weighing 5 sovereigns. While snatching,the locket (Thali) was removed from the chain and she began to cry loudly. When the public from the locality and her father came, the accused left the place. Her father gave a complaint.

On 26.6.2008, she was summoned to Mahe police station where she identified the accused and the gold chain (MO-1). She admitted that there was no injury in the incident. The hook of the chain was opened, and the locket fell down. The police kept 3 jewels for identification and she identified her

chain. She is working as a teacher and prior to the incident she is not acquainted of the chain. Prior to the incident, she was continuously wearing the chain for 6 months.

PW3, the witness deposed that he had noticed a person wearing a black cooling glass and tied a cloth on his forehead. He was driving a bike and proceeding towards Namath road and within 5 minutes, he returned and proceeded to Thalassery. He identified the accused person standing in the box as the accused found in the scene of crime.

PW 4 is a witness for Scene Mahazar.

PW6 Jaleel deposed that he is running a shop "Jewel Palace" and the police took the accused to his shop to enquire about a gold jewel weighing 5 sovereigns sold by the accused.

PW 7 the witness for the confession statements had admitted that during 2008, he signed in Mahe police station as a witness in the confession statements and he could not recollect the name of the accused and could not identify him, He was treated as hostile by the learned APP. During cross examination by APP, he admitted that he had not read and understood the contents of the Ex. P3. He admitted that he was a witness in more than 10 cases on the prosecution side before this court.

PW 8 the Head Constable registered the case and prepared a Crime Details Form.

The Investigating Officers Pw10 and PW 11 have deposed about the manner in which the investigation was conducted.

Argument of the learned counsel for the accused.

The accused does not know how to drive a motorcycle and he was not holding a Driving License. He had not made voluntary confession statements as alleged.

In the complaint as well as in the 161 CrPc statements of the victim, the description of the accused was not given. No identification Parade was conducted before the Magistrate to identify the accused.

The vehicle used by the accused was not identified by the victim.

The place of occurrence differs and the contradiction put forth was not satisfactorily explained by the prosecution.

The witness for the confession statements and the seizure had not supported the case of prosecution and the only piece of evidence available is the evidence of the victim whose evidence cannot be taken into account without corroboration. Hence he prays for acquittal of the accused person.