UP PCS-J (Mains) 2012

Law Paper II: Procedure and Evidence · compulsory paper

Candidates attempt Question No. 1 and four more questions. At least one question must be attempted from each group.

1. (a) On July 18, 2005 Radhey Shyam Gupta had instituted a criminal complaint against Sanjay Agarwal, who was a businessman. Consequently Sanjay Agarwal had to remain in jail and his business was affected. On Dec. 12, 2005 trial Court acquitted Sanjay Agarwal on the ground that the complaint against him was false and baseless. Sanjay Agarwal wants to file a suit for malicious prosecution against Radhey Shyam Gupta. In the light of the facts stated above draft a plaint for Sanjay Agarwal. 20 Marks

1. (b) Draft a written statement on behalf of Radhey Shyam Gupta in response to the plaint in question (a). 20 Marks

OR

1. (c) 'A' with the intention of causing 'B' to be convicted of a criminal conspiracy writes a letter imitating 'B's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy and puts the letter in a place which he knows that the police officer is likely to search. On the basis of the facts stated above frame a charge and write a judgement of conviction. 40 Marks

Group A

2. (a) 'A' files a suit for declaration that he is entitled to certain lands as heir of 'B'. The suit is dismissed. Can he claim, in later suit, title to the same property on the basis of adverse possession? Explain. 20 Marks

2. (b) Explain and illustrate the rules relating to joinder of plaintiffs and defendants in civil suit.

2. (c) "Pleading to state material facts and not evidence". Explain. 10 Marks 10 Marks

3. (a) In what circumstances the property of defendant can be attached before judgement? 20 Marks

3. (b) Discuss the provisions of Civil Procedure Code regarding the attachment and sale of property in execution proceedings. 10 Marks

3. (c) Explain constructive res-judicata. 10 Marks

4. (a) Enumerate the provisions by which place of sueing is determined. 20 Marks

4. (b) There was suit between 'A' and 'B' regarding a house. 'A' won the suit and also obtained the possession of the house. 'B' filed an appeal and he won in appeal. 'A' however did not return the possession of the house to 'B'. Explain the legal procedure to obtain the possession of the house by 'B'.

4. (c) Examine the procedure for bringing suit by or against the Government. 10 Marks 10 Marks

Group B

5. (a) What do you mean by presumption? Discuss the kinds of presumption. 20 Marks

5. (b) 'A' prosecuted 'B' for adultery with 'C' 'A's wife. 'B' denies that 'C' is A's wife, but the Court convicts 'B' for adultery. Afterwards, 'C' is prosecuted for bigamy in marrying 'B' during 'A's lifetime. 'C' says that she never was 'A's wife. Whether the judgement against 'B' is relevant as against 'C'. Explain with the help of relevant provisions. 10 Marks

5. (c) 'A' is accused of defaming 'B' by publishing an imputation intended to harm the reputation of 'B'. Whether the facts of previous publication by 'A' respecting 'B', showing ill-will on the part of 'A' towards 'B' is relevant? 10 Marks

6. (a) Explain the law relating to 'burden of proof'. Is the law in relation to civil cases different from criminal cases? Explain. 20 Marks

6. (b) 'A' sues 'B' for inducing 'C' to breach a contract of service made by him with 'A'. 'C', on leaving 'A's services says to 'A' - "I am leaving you because 'B' had made me a better offer." Whether this statement of 'C' is relevant? 10 Marks

6. (c) A witness is asked whether he was ever dismissed from a post on the ground of dishonesty. He denies it. Evidence is offered to show that he was dismissed for dishonesty. Examine the admissibility of evidence. 10 Marks

7. (a) Write short note on any two of the following:
(i) Judicial proceeding
(ii) Impeaching the credit of witness
(iii) Evidence of co-accused
(iv) Fact in issue 20 Marks

7. (b) 'A' is accused of fraudulently delivering to another person a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit. Whether the fact that, at the time of its delivery, 'A' was possessed of a number of other pieces of counterfeit coin is relevant. 10 Marks

7. (c) The question is, what was the date of birth of 'A'. Whether a letter from 'A's deceased father to a friend, announcing the birth of 'A' on a given date is relevant? 10 Marks

Group C

8. (a) When a Magistrate arrests a person without a warrant, is he required to inform the person arrested, of the grounds for such arrest? If so, under which provision of Criminal Procedure Code. Explain. 10 Marks

8. (b) How summons is served on government servant? 10 Marks

8. (c) A Magistrate, who is not empowered, erroneously and in good faith, orders the police officer to investigate into a non-cognizable case. What would be the effect of this illegality on the validity of the proceeding? 10 Marks

8. (d) Can an offence committed within the State of Jammu and Kashmir be considered under provisions of Code of Criminal Procedure as an offence committed outside of India? Answer with reasons. 10 Marks

9. (a) Give a short account of the procedure to be followed under Section 145 of Code of Criminal Procedure in case of dispute as to immovable property. 10 Marks

9. (b) What is summary trial? What offences may be summarily tried and by whom? 10 Marks

9. (c) What is meant by taking cognizance of an offence by Magistrate? Under what circumstances can a Magistrate take cognizance of an offence? 10 Marks

9. (d) Under what circumstances can a wife claim maintenance from her husband? Is a married woman entitled to claim maintenance from her father? 10 Marks

10. (a) 'A' is accused of obstructing 'B', a public servant, in the discharge of his public functions at a given time and place. Whether the charge should set out the manner in which 'A' obstructed 'B' in the discharge of his functions? Give answer with reason. 10 Marks

10. (b) Give a brief account of general provisions of trial in warrant cases as contained in Code of Criminal Procedure. 20 Marks

10. (c) What is the effect of non-appearance or death of complainant in a trial of summons cases by Magistrate? 10 Marks

De Facto IAS