UP PCS-J (Mains) 2016

Law Paper II: Procedure and Evidence · compulsory paper

1.(a) On 5th January, 2010, Mohan Lal Yadav instituted a criminal complaint against Ghanashyam Narayan Singh who was a shopkeeper. As a result of this, Ghanashyam Narayan Singh had to go to jail and his shop was closed. After trial on 5th July, 2011 Ghanashyam Narayan Singh was acquitted by the criminal court on the grounds of false and baseless allegations levelled by Mohan Lal Yadav. Now Ghanashyam Narayan Singh wants to sue Mohan Lal Yadav on the grounds of malicious prosecution. Write a plaint for Ghanashyam Narayan Singh based upon aforesaid facts. 20 Marks

1.(b) Prepare draft of a written statement for the defendant Mohan Lal Yadav on the basis of facts in Question No. 1.(a). 20 Marks

OR

1.(a) On date 15-3-2014, a custom officer takes personal search of one Jai Prakash Narayan at Lucknow Airport. One metal has been recovered from his possession. One uneducated but experienced goldsmith has been called to examine the metal. After examining the recovered metal the goldsmith reveals that the metal is gold. As a result, the gold is seized and the matter has been produced before the court for trial. The accused puts forward his defence on the grounds that (i) the proceeding conducted by the custom officer and the seizure of gold was a prosecution therefore he cannot be put to another prosecution before the court and (ii) the goldsmith who examined the metal was not a qualified expert therefore proceeding was not lawful.
Prepare a draft of charge against the accused into the matter. 20 Marks

1.(b) On the basis of the facts in part (a), decide the matter and give your judgement. 20 Marks

Section A

2.(a) Explain the principle of res judicata between co-defendants. How res judicata differs from res subjudice and estoppel? 20 Marks

2.(b) What are the fundamental rules of pleadings? What are the circumstances in which court can order amendment of pleadings? 10 Marks

2.(c) What procedure need to be adopted to institute a pauper suit in court of law? Who can institute such suit? Discuss the procedure in detail in pauper suit. 10 Marks

3.(a) When can a temporary injunction be granted by a civil court? Give details of kinds of injunctions. 20 Marks

3.(b) What is interpleader suit? When and by whom can it be instituted? 10 Marks

3.(c) Under what circumstances can the property of defendant be attached before judgement? 10 Marks

4.(a) Distinguish among legal setoff, equitable setoff and counter-claim. Discuss also how they are claimed and what their effects are. 20 Marks

4.(b)(i) A sues B on bill of exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to pay him compensation which B claims to set off. Answer with reasons. 10 Marks

4.(b)(ii) A dies intestate and in debt in B. C takes out administration to A's effects and B buys part of the effects from C. In a suit for purchase money by C against B, the latter wants to set off the debt. Answer with reasons. 10 Marks

Section B

5.(a) Explain 'admissions' and 'confessions'. Distinguish between the two to establish how far they are admissible in the court as an evidence. 20 Marks

5.(b) Are the following admissions/confessions admissible?

5.(b)(i) A undertakes to collect rents for B. B sues A for not collecting rent due from C to B. A denies that rent was due from C to B. Whether the statement by C that he owed rent of B is admissible against A? 10 Marks

5.(b)(ii) A is being tried for the murder of C. There is evidence to show that C was murdered by A and B, and that B said A and myself had murdered C. Whether the statement of B can be considered as confession against A? 10 Marks

6.(a) Write exhaustive but brief notes on any two of the following:
(i) Privileged communications
(ii) Direct and circumstantial evidence
(iii) Burden of proof
(iv) Expert opinion 10+10=20 Marks

6.(b) Answer with reasons:

6.(b)(i) The question is whether a horse sold by A to B is sound. A tells B to go and ask C, as C knows all about it. Whether C's statement is an admission? 10 Marks

6.(b)(ii) A sues B for damage done by dog of B. B knows the dog to be ferocious. Whether the fact that the dog had previously bitten X, Y, Z and they had made complaint to B is relevant? 10 Marks

7.(a) In what circumstances, statement made by persons, who are dead or who otherwise cannot be called as witness, may be proved in a case? Explain with illustrations. 20 Marks

7.(b) Who is an accomplice? Describe the relevancy of the evidence of an accomplice. Support your answer with the help of statutory provisions also. 10 Marks

7.(c) What is the relevance of DNA test evidence in India? After Sheena Bora murder case, analyze the relevancy of DNA evidence as corroborative evidence and circumstantial evidence. 10 Marks

Section C

8.(a) On the basis of decided cases, discuss briefly the distinction between the procedure of investigation by a police officer in cognizable and non-cognizable offences. Specially for the protection of women against heinous crimes, what major amendments are made in the Criminal Procedure Code by the Criminal Law (Amendment) Act, 2013 (No. 13 of 2013)? Discuss in brief. 20 Marks

8.(b) Under the Code of Criminal Procedure, 1973, Section 2, how are bailable and non-bailable offences distinguished? Under what circumstances of Section 437 of the Code, bail may be given in case of non-bailable offence? Discuss in brief. 10 Marks

8.(c) Can a police officer during investigation seize any property without the permission from the court? Describe the procedure to be followed by the officer after seizure of such property. 10 Marks

9.(a) What is plea bargaining? Briefly describe its procedure. Whether these provisions apply in respect of all types of offences? Can victim of crime make any objection against this bargaining? Explain. 20 Marks

9.(b) Describe briefly the procedure to be adopted by a Magistrate in complaint cases. 10 Marks

9.(c) In what circumstances and in respect to which offences after conviction in the case, a Session Court or a Judicial Magistrate may order for obtaining security for keeping peace from the convicted person? Describe. 10 Marks

10.(a) Explain clearly the distinction in trials between summons case and warrant case. 5 Marks

10.(b) Discuss the prosecution process of offences against marriage as provided under the Criminal Procedure Code, 1973. 5 Marks

10.(c)(i) An incident of murder happens within the jurisdiction of a police station. The police station in-charge starts investigation in the case. The aggrieved party approaches the concerned Judicial Magistrate to complain against irregularities being committed by the police station in-charge during investigation. Can the Magistrate order to stop further investigation in the case? If so, then how? Answer with reasons. 10 Marks

10.(c)(ii) What is 'judgement' under the Criminal Procedure Code, 1973? What are essentials to be incorporated in a judgement? Discuss. 20 Marks

De Facto IAS