UP PCS-J (Mains) 2023

Law Paper II: Procedure and Evidence · compulsory paper

1.(a) Plaintiff 'A' is the owner of a house. In one of its portions defendant 'B' resides. The defendant has not paid rent for last ten months. On this very ground the plaintiff wants to get his house vacated and also to recover the arrears of rent. On the above facts, draft a plaint on behalf of 'A' for eviction and recovery of arrears of rent. 15 Marks

1.(b) Draft a written statement on behalf of 'B' is reply to the above plaint of 'A'. 15 Marks

1.(c) Frame issues on the aforesaid pleadings in question 1 (a) and (b). [10 Marks] OR

1. Write a judgement convicting the accused under Section 300-B of Indian Penal Code after framing appropriate charge for the offence. 40 Marks

Section A

2. Answer the following with reasons while mentioning the related decided cases:
(a) 'A' Claiming to be a landlord sues the tenant 'B' for recovery of rent. 'B' takes the plea that 'A' is not the landlord. 'A' fail to prove his title and the suit is dismissed. 'A' then sues 'B' and one 'C for a declaration of his title to the property. Decide. 15 Marks

2.(b) 'A' obtained a decree ex-parte against *B' and in execution of the decree brought the properties of *B' to sale and himself became the purchaser. On appeal by 'B', the appellant court set aside the decree and remanded the suit for re-hearing. Then *B' applied for restitution. While that application was pending, 'A' then contended that as the suit had been decreed, no restitution can be granted. Is 'B' entitled to restitution? 15 Marks

2.(c) 'A' advances loan of 60,000 to 'B'. To bring the suit within the jurisdiction of court, 'A' sues *B' for ? 50,000 only instead of ? 60,000 and obtains a decree. Later on 'A' files a second suit for the balance of ? 10,000 in the same court. 'B' raises an objection. Decide. 10 Marks

3. (a) What do you understand by civil nature of a suit ? Explain. 10 Marks

3.(b) Answer with reasons whether the following suits are of civil nature or not.
(i) A suit for wrongful explosion from a social club.
(ii) Suit to declare an election invalid.
(iii)Collection of contribution for holding festival.
(iv)Right of a Pardanasheen lady to observe. [10 Marks]
(i) A Suit for Wrongful Expulsion from a Social Club
(ii) Suit to Declare an Election Invalid
(iii) Collection of Contribution for Holding Festival
(iv) Right of a Pardanasheen Lady to Observe Purdah

3.(c) Distinguish among appeal, revision and review and explain the following: [20 Marks]
(i) Can the court review suo moto or on its own motion its own decision ?

3. (ii) Can a superior court direct an inferior court to review its previous decision ?

4. (a) Explain with illustration the rules relating to joinder of plaintiffs and defendants in a civil suit. 20 Marks

4.(b) 'A' publishes a series of books under the title 'Rohilkhand and Bundelkhand' so as to Induce the belief that the books are publications of the Rohelkhand and Bundelkhand Universities or either of them. The two Universities join as plaintiffs in one suit to restrain 'A' from using the title. Discuss with reasons whether both the Universities can jointly sue or not? 10 Marks

4.(c) 'A' and 'B' were assaulted by C at an interview in C' 's house. 'A' and 'B' jointly sue C for damages for assault. Was the suit rejected for misjoinder of plaintiffs? Give answer with reason. 10 Marks

5.(a) The Candidates made a 'Gherao' of the Controller of Examination of Public Service Commission. Is this act of the Candidates justifiable ? What offence, if any, was committed by the candidates? Elaborate your answer with the provisions of Indian Penal Code and decided cases. 15 Marks

5.(b) Meenakshi obtained possession of Sheela, a minor girl and employed her for purposes of prostitution. Meenakshi subsequently obtained Manju in adoption, another minor girl from her parents. Meenakshi and the parents of Manju were charged together under Section 372 and 373 Indian Penal Code, 1860. The charges related to both the girls. Can the two charges be tried together? 15 Marks

5.(c) More than two years ago 'A' was sentenced to death but the sentence has not been executed so far. 'A' moves the court that his death sentence be commuted to imprisonment for life as these was undue delay In the execution of death sentence. Decide with leading cases. 10 Marks

6.(a) Under what circumstances can a Magistrate ask sureties for good behaviour ? 10 Marks

6.(b) Narrate in brief the procedure for Session Trial. 15 Marks

6.(c) What is plea bargaining ? Briefly describe its procedure, whether these provisions apply in respect of all types of offences and all types of victims? 15 Marks

7. Write short note on any two of the followings:
(a) Describe briefly the major changes introduced in the Code of Criminal Procedure by the Criminal Law (Amendment) Act, 2018.

7. (b) Now would a Magistrate deal with a situation when he finds that a dispute concerning a piece of land between the two parties is likely to cause a breach of peace ?

7. (c) A public servant was charged under Section 409 IPC. Facts constituting the charge also made out an offence under Section 420 IPC but he was not charged for this offence. Can he be convicted for this offence? Support your answer with decided cases? 20*2=40 Marks

Section C

8. (a) Define 'Evidence'. Discuss the relationship of the Law of Evidence with substantive and procedural law. 10 Marks

8.(b) What is the difference between burden and onus? What are presumptions in the case of burden of proof as to ownership and proof of good faith? 10 Marks

8.(c) Discuss the law relationship to digital signatures as provided in Indian Evidence Act. 10 Marks

8.(d) 'A' a woman whose throat had been cut by some sharp edged weapon indicated by gesture before her death that 'B' was the person who has cut her throat. Is this statement of 'A' made by gestures admissible as evidence against 'B'? 10 Marks

9.(a) When a witness is cross-examined, what other questions can be asked in addition to the questions relating to the incident? 15 Marks

9.(b) How would the court decide that a particular question is proper or improper ? 15 Marks

9.(c) A woman prosecutes a man for picking her pocket, can this question that she had given birth to an illegitimate child ten years before he asked ? Answer with reasons. 10 Marks

10.(a) 'Silence may sometimes amount to an admission'. Explain. 10 Marks

10.(b) The question is, whether 'A' robbed *B'. The fact is that after 'B' was robbed . 'C' said in 'A's presence "the police are coming to look for the man who robbed 'B'" and then immediately afterwards 'A' ran away. Decide the relevancy by giving reasons. 10 Marks

10.(c) Discuss what are the facts which must be taken notice of and what are the facts which need not be proved as per Indian Evidence Act, 1872. 20 Marks