

LAW PAPER I
(Tamil & English Versions)

Duration : 3 Hours

Max . Marks:100

General Instructions to candidates

- i. The facts and particulars provided in the Question Paper i.e. the court's name , place , case numbers , documents details, names of parties and witnesses are fictional . Yet candidates have to take 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 Questions are provided in Tamil and English versions . In all matters and in case of doubt , the English version is final .
- iv. The candidates need not provide the cause title with citation while answering the questions . Providing wrong or incomplete cause title or quoting a wrong citation will be detrimental to the candidates .
- v. The candidates shall give answers briefly within the space provided for answering .
- vi. Section A,B,C,D have seven 3 marks questions and four 5 marks questions respectively in each Part and candidates shall answer five 3 mark questions and two 5 marks questions respectively in each Part.

LAW PAPER I
SECTION A
PART A - (5 X 3 =15)
Answer any FIVE Questions .
CODE OF CIVIL PROCEDURE

De Facto IAS

1. Explain , with relevant provisions , the powers of court to call a party to the suit for cross examinations in respect of the facts stated in the affidavit filed along with the application for temporary injunctions .

2. Discuss the legal provisions on the maintainability of caveat in execution proceedings ?

3. What are the principles to be considered by the Court while deciding a petition filed by one co-owner seeking injunction against another co-owner ?

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4. What is the procedure to be adopted by the court , while deciding an applications seeking temporary injunctions , when the relief sought in the said applications and in the main suit are identical ?

5. What are the factors to be considered by the Court before it permits examinations of a witness before the examination of a party . Explain briefly with relevant provisions .

6. Explain about the bar of subsequent suit for mesne profits , under Order 2 Rule 2 of Code of Civil Procedure .

7. Describe the validity of transfer of property in violations of the order of temporary injunctions .

PART B - (2 X 5 =10) **Answers any TWO Questions**

8. (a) The Plaintiff withdrew a suit filed by him for injunction against his father as settled out of court by filing a memo . Subsequent to the dismissal of suit based on the said memo , he filed an applications under order IX Rule 9 read with Section 151 of the code of civil Procedure to restore the suit with an allegations that his father played fraud on him by not settling the matter and he withdrew the suit believing the false promise of his father . Explain the maintainability of such application /

(b) Explain the maintainability of appeal against consent decree with relevant provisions.

9. (a) What is the period of limitation for bringing the legal representatives of the deceased decree holder or judgement debtor in execution proceedings on record ? Explain the procedure for bringing the legal representatives of the deceased parties on execution proceeding on record with relevant provisions .

(b) “ A decision under Order XXII Rule 5 of the Code of Civil Procedure would act as res judicata in a subsequent suit between the same parties or persons claiming through them “ Explain .

10. Elaborate , how the defendant shall prove that the suit against him barred under Order II, Rule 2 of Code of Civil Procedure ?

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11. Explain the maintainability of the suit for damages in the light of the Tamil Nadu Property (prevention of Damage and loss) Act , 1992 .

SECTION B

PART A - (5 x 3 = 15)

12. “ During a criminal trial , the counsel appointed by the victim takes over the prosecution from the state Prosecutor “, Examine the same in the light of the legal provisions .

13. When is a person said to be under arrest ? Are the terms ‘Custody ‘ and ‘Arrest ‘ synonymous ? Explain with an illustration .

14. Explain the role of a Magistrate in ensuring the production of an accused before him within 24 hours of arrest with relevant provisions .

15. Elucidate the importance of registration of FIR and the validity of more than one FIR in one case .

16. Explain the importance and relevance of pre-charge evidence in cases instituted otherwise than on police . Explain the rights of the accused to cross examine the prosecution witness in such a stage .

17. Why a session court cannot directly take cognizance of an offence even though such an offence is exclusively triable by such court ? Explain the expectations to the same with illustration .

18. When a person is having two or more sons , explain his right to claim maintenance against all of them / What is the nature of liability of the sons in such a case ? Is it a joint or several liability or joint and several liability ?

PART - B

(2 x 5=10)

19. Explain the legal consequence of non compliance of the procedure contemplated while carrying out a search , the effect of illegal search and the validity of trial with relevant provisions .

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20. Distinguish “ further investigation “ and “ re-investigation “. Discuss the powers of police , court and the De-Facto Complaint’s right in seeking “ further investigation “ in pre and post cognizance stage.

21. When the magistrate receives a closure report and a protest petition , Explain the procedure to be adopted by the Magistrate .

22. “ Non - Submission of charge sheet within prescribed period of limitation even in pandemic situations would entitle an accused to get bail under Section 167(2) of Code of Criminal Procedure even in heinous offences ” - Discuss .

SECTION C PART -A (5x3=15) INDIAN EVIDENCE ACT

23. What is the evidentiary value of an attesting witness in a will , when he does not know the contents of will . Discuss the suspicious circumstances shrouding the will ?

24. (a) What is the distinction between admission in pleadings and admission in evidence and admission in document ?
(b) Discuss judgement on admission .

25. Explain the Role of courts in using DNA technology in Administration of justice.

26. What is conclusive proof ? State its evidentiary value . Differentiate it from other kinds of presumptions .

27. Explain the admissibility and evidentiary value of CCTV footage .

28. Write short notes with relevant provisions on the following :

- Estoppel by tenant , Estoppel by bailee and Estoppel by licence
- Presumption as regards Electronic Documents .
- Relevancy of facts relating to right or customs

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29. Discuss the relevancy of character of a person or party under the Indian Evidence Act and difference between the relevancy of character of a person or party in civil and criminal cases .

PART-B (2x5=10)

Answer any Two Questions

30. 'X' made a statement before the police under section 161(3) of the code of criminal Procedure , that he saw 'A' stabbing 'c' to death ; In the witness box , he states that he saw 'A' and 'B' stabbing 'c' to death . Discuss the importance of proving contradiction in accordance with the manner followed in the trial courts .

31. Write short notes with relevant provisions on the following :

- a. Best evidence rule
- b. Presumption of fact
- c. Presumption of Law
- d. Judicial Notice
- e. Privileged communications

32. Explain the validity of the evidence recorded through video conference in a Criminal Trial and what are the precautions to be taken by the court while recording such evidence .

33. Investigating Officer submitted several documents along with the final report . But during trial, the prosecution failed to mark the documents . Explain the consequences with the help of legal propositions.

SECTION D

PART -A

(5 x 3=15)

CONSTITUTION OF INDIA

34. Write short notes on the following :

- a. "Court of Record "
- b. Expense charged on consolidated Funds
- c. "PER INCURIAM "

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35. Write short notes on the following :

- a. Equal pay for equal work
- b. Doctrine of waiver
- c. Doctrine of colorable legislation

36. Write short notes on the following :

- a. Constituent assembly
- b. Welfare State
- c. Attorney General as chief Adviser of Government of India .

37. Describe the superintendence powers and duty of the High Court to exercise such powers over Subordinate Courts with relevant provisions contained in Constitutions and Code of Criminal Procedure .

38. How far we have implemented the Directive Principles of State Policy . From which country , we have derived the directive principles of state policy .

39. Write a brief note on the Rule of Law.

40. What are the advantages and impediments in the implementation of the doctrine of Separation of powers under the Indian Constitutions ?

PART -B

(2 x 5 =10)

41. "A law may be constitutional even though it relates to a single individual if on account of some special circumstances or reasons applicable to him and not applicable to others , that single individual may be treated as a class by itself " . Elucidate with the help of relevant case laws.

42. Food adulteration is a great challenge for Indian Society . Refer to the relevant provisions in the Constitution and discuss the same .

43. What are the various types of privacies as contemplated in the justice puttaswamy case ? Explain the same briefly.

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44. Did the right to clean environment entail a legal regulation on bursting crackers /fireworks during Diwali ? Discuss in the light of relevant articles in Indian Constitutions and Judgements of the Apex Court in this regard .

LAW PAPER -II (Tamil & English Versions)

Duration : 3 Hours

Max. Marks :100

General Instructions to Candidates

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- 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 cases of doubt , the English version is final .
- iv. The candidates have to assume themselves as Presiding Officers and to consider the particulars furnished in questions and frame necessary issues and write judgements on given facts
- v. Candidates need not write the cause title of case , case number , name of 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 .

1. **Plaint averments :**

The plaintiffs are the owners of the property bearing Door No.12-B by means of a settlement deed , dated 26.05.1981, executed by the plaintiffs' fathers, Kuppuswamy , in favour of the plaintiffs out of love and affections . The settlement deed cannot be revoked as the executant did not reserve any power of revocation. The defendants manoeuvred to obtain the sale deed in their favour , when Kuppuswamy was not in a sound and disposing state of mind . As the defendants made hostile claim , the plaintiffs have filed the suit for declaration of title . The suit was filed in 1990.

Averments in written statements :

The alleged settlement deed was not executed by Kuppuswamy . The alleged settlement deed was not executed freely , voluntarily and willingly . By making Kuppuswamy in an unconscious state, by injecting sedatives , thumb impression was obtained in a document purporting to be a settlement deed on coming to know of the circumstances , Kuppuswamy executed a revocation deed on 04.08.1981 . Kuppuswamy sold the property in favour of the first defendant on 04.11.1981 . The patta for the suit property stands in the name of the first defendant . The suit was barred by limitations , as the plaintiffs did not question the revocation deed and the sale deed within the period of three years .

Documents and evidence on the side of plaintiffs ;

Ex . A1 - Settlement deed dated 26.05.1981.

The admission made by P.W. 1 during cross examinations is that the executant Kuppuswamy was in the habit of signing the document and the signature of Kuppuswamy as found in the revocations deed - Ex . B-1 is that of Kuppuswamy himself . He has admitted that in Ex.A-1- settlements deed , signature of Kuppuswamy is not found , but thumb impression alone is found .

It is the evidence of P.W .1 that he has not signed as a witness in the settlement's deed . It is not even stated in the evidence that the executant put his thumb impression in the document after fully understanding the contents of the document.

P.W.1 has admitted that he did not choose to question the executant Kuppuswamy about the sale deed after coming about the execution of the sale deed , in favour of the first defendant .

P.W.1 has admitted that in Ex.A-1, it is specifically stated that the settlement deed is irrevocable and was made truly and in Ex.A-1, it is mentioned that due to old age and poor eyesight , the settler was not able to sign .

On the side of the plaintiffs , excepting the first plaintiffs , no other witness has been examined .

Defendants side documents :

Ex . B1 - Revocations of settlements deed dated 04.08.1981.

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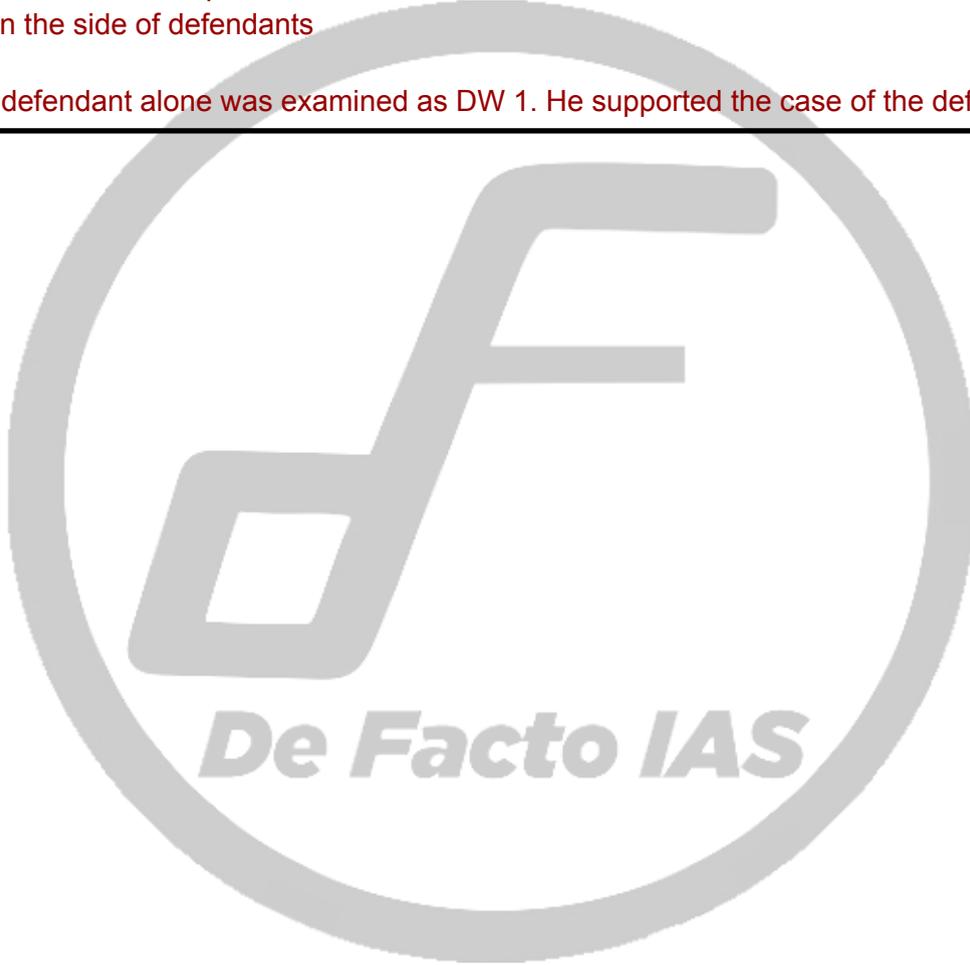
Ex.B2 - Sale deed dated 04.11.1981

Ex. B3 -Patta in the name of the first defendant .

In Ex.B-1 revocations deed, there is recital to the effect that Kuppuswamy used to put signature in the bank while withdrawing money and also that in the Police complaints , he has put his signature .

It is specifically stated in Ex.B-1 Revocation Deed that the executant was administered sedatives and the thumb impression was taken , while the executant was in an unconscious state . Evidence on the side of defendants

The first defendant alone was examined as DW 1. He supported the case of the defendants .



2. Petition averments

The petition mentioned property has been leased out to the respondent on a monthly rent of Rs. 4500/- and the tenancy is for the residential purpose . The respondent / tenant has willfully defaulted in the payment of rent from the month of June 2005 till April 2012 . In the above circumstances , eviction petitions have been filed by the petitioner in RCOP No .1202 of 2012.

Averments in counter affidavit

There is no jural relationship of landlord and tenant between the petitioner and the respondent . The petitioner / landlady , has entered into a sale agreement dated 13.05.2005 with the tenant for the sale of petition mentioned property and the total sale consideration was fixed at Rs. 7,50,000/- . On the date of Agreement , a sum of Rs.2,00,000/- was paid as an advance . Pursuant to the same, the tenant also paid a further sum of Rs . 50,000/- on 29.06.2005. In spite of the tenant being ready and willing to pay the balance of sale consideration and also expressed his willingness to get the sale deed executed on 10.10.2007, The landlady has refused to perform her part of contract . In the above circumstances , the tenant has filed a suit in O.S.No.14552 of 2010 for specific performance to execute a sale deed pursuant to the Sale Agreement entered into between the parties and the same is pending . The jural relationship of landlord and tenant has come to an end , as the tenant has been put in possession pursuant to the Sale Agreement . Hence , the eviction petition is not maintainable . That apart , the tenant has already paid a substantial amount towards part of sale consideration . Hence , there is no necessity to pay the rent , and non-payment of rent is not wilful .

The landlady examined one K. Venkatagiri was the rent collector as P.W.1 and marked no documents . The respondent examined himself as R.W.1 and EX-R1 sale agreement was marked .

Contention on side of petitioner :

Ex R.1 is not at all a sale agreement and it is not even executed by the landlady . It is only a letter sent by the petitioner to one Sakthival and the tenant . At any rate , it cannot be considered as a sale agreement . That apart, even in the alleged sale agreement , there is no specific clause that the tenant has surrendered his possession to the landlady and was put in possession pursuant to the sale agreement .

Respondent's contention

In view of the sale agreement entered into between the parties , which is marked as Ex.R1, the jural relationship of landlord - tenant came to an end the respondent was put in possession pursuant to the sale agreements and it is settled law that the agreements for sale would bring the jural relationship of landlord and tenant to an end .

That apart , in view of the payment of substantial amount towards the part of sale consideration , the respondent cannot be compelled to pay the rent .

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The respondent has filed a suit for specific performance to execute the sale deed pursuant to the sale agreement. When the suit is pending , the landlady has deliberately filed the present petition for eviction without even disclosing the pendency of the suit and there is no bonafide in the petition , and on that ground the eviction petition is liable to be dismissed .

Evidence :

R.W .1 has admitted in his evidence that there is no specific clause in Ex .R1 , that the petitioner / landlady surrendered possession pursuant to the agreement .



3. Plaintiff averments :

The defendant had been engaged in credit dealings with the plaintiff for the purchase of Dyes and Chemicals and as per the books of accounts maintained in the regular course of business by the plaintiff , the defendant is liable to pay a sum of Rs. 2,50,000/- as per the statement of account and after the payment of Rs .1,00,000/- by the defendant by way of a cheque dated 01.09.2005, the defendant is liable to pay the suit amount with interest . The defendant had accepted his liability by way of a letter dated 26.01.2005, promising to pay the due . The defendant had issued a cheque dated 15.02.2005 for a sum of Rs. 1,00,000/- payable to the plaintiff and as the cheque got bounced , the plaintiff had issued a notice for initiating action against the defendant under the Negotiable Instruments Act and after the receipt of the said notice, the defendant by way of a reply notice dated 01.09.2005 had acknowledged his liability and in fact , he has also paid a sum of Rs .1,00,000/- by way of a Cheque dated 1.9.2005. The plaintiff filed this suit on 25-01-2007 for recovery of the balance of Rs 1, 50,000/- with accrued interest .

Averments in written statements:

The defendant had a business transaction with the plaintiff . However the business transaction lasted only till 15.09.2001 and thereafter , there had been no business transaction between the parties . The acknowledgements of the liability on the part of the defendant on 26.01.2005 is not true . The suit laid by the plaintiff is barred by limitations and any acknowledgement of liability beyond the period of three years from 15.09.2001 would not save the suit from the point of limitations and accordingly , the defendant prayed for the dismissal of the plaintiffs suit .

Evidence on the side of plaintiff :

P.W.1 was alone examined .EX A1 TO A6 were marked . P.W.1 supported the case of the plaintiffs . P.W.1 has admitted that the transaction lasted till 15.09.2001.

EX - A1 - Account Book

EX -A2 - Letter dated 26.1.2005

EX - A3 - Cheque dated 15.2.2005

EX - A4 - Cheque dated 1.9.2005 (copy)

EX - A5- Legal notice

EX - A6 - Reply notice dated 01.09.2005

Evidence on the side of defendant

D.W.1 was alone examined without marking any documents .

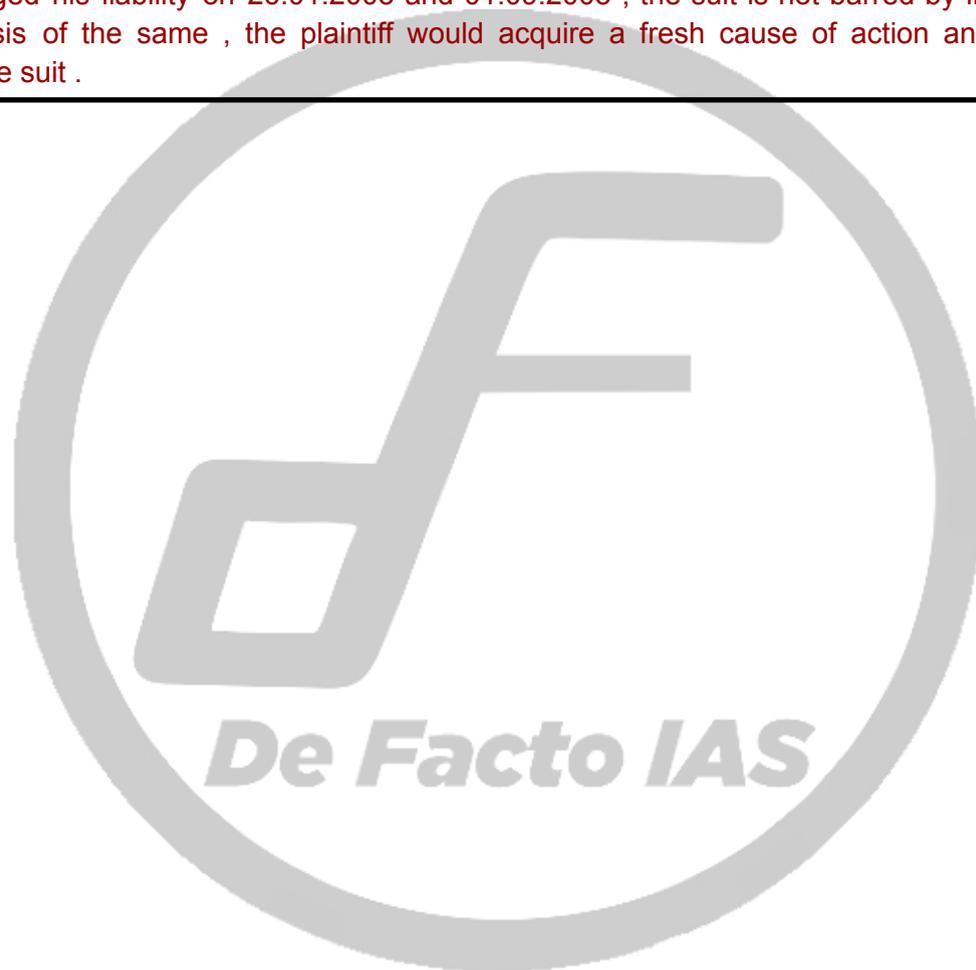
De Facto IAS

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D.W.1 in his evidence , has admitted that the defendant issued a letter dated 26.01.2005 promising to pay a sum of Rs.2,50,000/- to the plaintiff and thereafter , he had issued a cheque dated 15.02.2005 for a sum of Rs. 1,00,000/- and the defendant had issued a cheque dated 01.09.2005 towards the payment of the debt .

Contention on the side of plaintiff

1. The plaintiff has laid the suit on the original cause of action viz., the business dealings made by the defendant with the plaintiff for the purchase of dyes and chemicals .
2. Even if the fact that the transaction had lasted till 15.09.2001 is correct , when the defendant had acknowledged his liability on 26.01.2005 and 01.09.2005 , the suit is not barred by limitation and on the basis of the same , the plaintiff would acquire a fresh cause of action and entitled to maintain the suit .



4. **Plaint averments :**

The first defendant is the owner of the suit property . The plaintiff has been in possession and enjoyment of the suit property by means of a registered lease deed dated 12.3.2015 executed by the first defendant in favour of the plaintiff on a monthly rental of Rs15,000/- . The plaintiff has been regular in the payment of rent without any default. The second defendant Bank claiming to have advanced the loan amount to the first defendant against the suit property , is attempting to dispossess the plaintiff from the suit property colluding with the 3rd defendant . The plaintiff cannot be dispossessed except under due process of law . Hence , this is a suit for permanent injunction to restrain the 2nd and 3rd defendants from interfering with the peaceful possession of the plaintiff .

1st defendant remained in ex parte .

Averments of written statements filed by 2nd defendants and adopted by the 3rd defendants

The 2nd defendants initiated recovery proceedings under SARFAESI Act to recover the loan amount of Rs. 15 lakhs availed by the 1st defendant from the 2nd defendant bank . The 1st defendant mortgaged the suit property with the 2nd defendant on 8.4.2016. The authorised officer of the bank brought the suit property for sale under the above Act. The 3rd defendant purchased the suit property in a public auction held and got a sale certificate . The 3rd defendant shall be put in possession of the suit property in pursuance of sale certificate . When the 2nd and 3rd defendants asked the plaintiff to vacate the suit property , he filed this suit colluding with the 1st defendant. The suit is not maintainable before the Civil Court. The suit is liable to be dismissed .

Evidence on the side of plaintiffs:

P.W.1 was alone examined marking EX- A1 to A3 . He reiterated the plaint averments in his chief examinations as well as cross examinations .

EX - A1 Lease deed dated 12.3.2015

EX - A2 Encumbrance certificate showing lease and mortgage deed

EX -A3 Copy of mortgage deed dated 8.4.2016

Evidence on the side of 2nd and 3rd defendants :

D.W. 1 was alone examined marking EX - B1 alone .

EX - B1 Copy of sale certificate issued to the 3rd defendant. D.W.1 reiterated the averments found in the written statement , in his chief examinations as well as cross examinations .

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LAW PAPER III (Tamil & English Versions)

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- 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 .

De Facto IAS

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1. 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

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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 . 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 .

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2. 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 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 .

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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-wire 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.

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3. 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 Radhakrishnan , 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 except 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 :

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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 deal . 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 deal. 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

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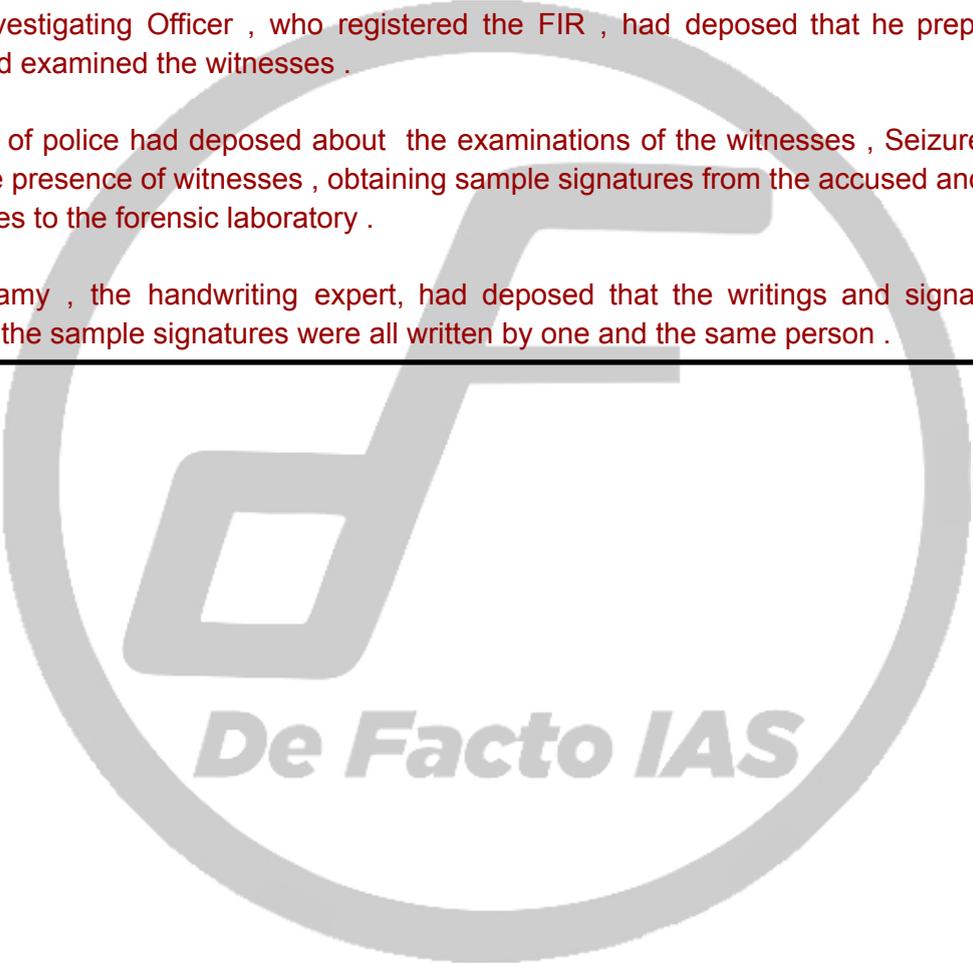
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PW5 Sathyan the rubber stamp maker deposed that he used to prepare stamps for the government officers. The accused came to his house no. 08.12.2006 and asked to make stamps of Tahsildar . He showed his identity card as well as a model for making rubber stamps . He made a stamp of “ Village Administrative Officer ,Chalakkur , 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 .

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4. 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 .

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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 Me=ah 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 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 .

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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 .

