

District Judge (ENTRY LEVEL), DIRECT FROM BAR EXAM- 2021

(Scheduled on 19.03.2023 pursuant to the order dated 11.08.2022 passed in C.W.J.C. No. 9089 of 2022 and the order dated 31.01.2023 passed in M.J.C. No. 2612 of 2022)

Theory Paper-I

Time Allowed: Three Hours

Full Marks: 100

Question paper specific instructions:

Please read each of the following instructions carefully before attempting questions:

- a. Each question carries equal marks. If any question is divided into parts, all parts would carry equal marks.
- b. Answer any ten questions.
- c. Any page or portion of the page left blank in the Answer Booklet must be clearly struck off (X) with pen.
- d. A candidate must not write his / her name or enter any sign or mark of identification inside the Answer Booklet. The candidature of a candidate who breaches this instruction shall be liable to be cancelled.

1.

(a) Differentiate between 'common intention' and 'common object' under Indian Penal Code referring to decided cases.

(b) Discuss abetment by instigation by giving illustrations. How does abetment differ from criminal conspiracy? Explain.

2.

(a) Explain the scope of examination-in-chief, cross examination and re-examination under the Indian Evidence Act. State briefly its objects.

(b) "Where a party fails to question his opponent's witness, the presumption is that his evidence is accepted." Elaborate this statement and indicate the exceptions, if any.

3. According to Section 114 (b) of the Evidence Act, 'the Court may presume that an accomplice is unworthy of credit, unless he is corroborated in material particulars'. According to Section 133, 'an accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.' Re-concile the above opposite statements with case laws.

4. State the factors which are essential to determine whether a person is, or is not, a 'holder' in due course'. Is 'K' a holder in due course in the following cases:-

(a) 'A' issues a promote to 'C' in respect of gambling transaction. 'C' endorses it to 'K' who has no notice of this fact.

(b) 'A' is the payee of a bearer cheque. 'A' lost the cheque on his way to his Office. 'B' finds it and delivers it to 'K'.

5. What are the essential features of a sale? Differentiate between:

(i) Sale and contract of work and material

(ii) Sale and agreement to sell

(iii) Agreement to sell and hire purchase.

Discuss with legal provisions and case laws.

6. Distinguish between an offer and an invitation to receive offer. When would an agreement result into contract? Discuss with the help of legal provisions and case law.

7. What is the principle of frustration of contract? Discuss the impossibility of performance with reference to statutory provisions and case laws.

8.

(a) If a person institutes a suit in a court having no jurisdiction and after withdrawing that suit, he institutes again in the court of competent jurisdiction and makes an application for condonation of delay, how will you decide that application?

(b) Is there any limitation for filing an application for which there is no prescribed limitation under the schedule of the Limitation Act, 1963? Discuss.

9. Under the provisions of Specific Relief Act, 1963 what remedies are available to a person who is illegally dispossessed from his immovable property? Discuss.

10. What are the responsibilities of State Government under the Schedule Castes & Schedule Tribes (Prevention of Atrocities) Act / Rules for providing relief / rehabilitation to the victims of atrocities and for implementing appropriate schemes for the rights and entitlement of victims and witnesses in accessing justice.

Whether the State Government can review the performance of Special Public Prosecutor and Exclusive Special Public Prosecutor specified or appointed under Section 15 of the Act, reports received, investigation made and preventive steps taken by the District Magistrate, Sub Divisional Magistrate and Superintendent of Police relief and rehabilitation facilities provided to the victims and the reports in respect of lapses on the part of the concerned officer? Discuss the measures to be taken by the district administration upon information of atrocities committed.

11. What do you mean by the term 'undue advantage' under Prevention of Corruption Act, 1988? How it runs like a common chord in different offences under Chapter III of the Prevention of Corruption Act, 1988. What do you mean by criminal misconduct by a public servant? Discuss with the help of legal provisions and case laws.

12. 'A' was in Indian Army from where he retired in the year 2005. The marriage of 'A' was solemnised with 'B' as per Hindu Rites in 1987. 'B' gave birth to a female child at her parental home in 2005. 'A' made several efforts to bring his wife back to her matrimonial home from parental home where she was residing. In 2007 'B' filed a complaint case in the court of Chief Judicial Magistrate for offences under Section 498A, 323, 307 I.P.C. against 'A' and his relatives including one lady 'C' with whom 'B' claims 'A' has performed second marriage. In 2010 'A' filed a Matrimonial case before the Principal Judge, Family Court for dissolution of marriage on the ground of adultery / cruelty as well as desertion. 'A' pleaded that his wife had been leading an adulterous life and no child was born out of wedlock between 'A' and 'B'. Wife contested by filing W.S. stating that child was born out of her relation with 'A' and she has been living with her parents because her husband 'A' has married another lady. 'A' filed a petition before the Family Court in 2016 for holding DNA Test of the female child and 'A' to ascertain as to whether 'A' is the biological father of the child or not. Decide the petition filed by 'A' for DNA Test with case laws.

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Theory Paper-II

Time Allowed: Three Hours

Full Marks: 100

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1. Directive principles of State policy are not mere moral precepts but are positive mandates. How far the Directives have been implemented in actual practices? Uniform Civil Code (Article 44) sought to divest religion from social relations and personal laws. Discuss with case laws.

2. How criminal jurisprudence is reflected in three Articles of the Constitution of India? Discuss some important provisions of the Code of Criminal Procedure, 1973 under which such constitutional scheme is translated.

3. 'X' and 'Y' entered into an agreement for construction of National Highway (Road). The agreement contains arbitration clause. 'X' gets another contract for construction of State Highway (Road). He requests 'Y' to join in this construction activity as well. 'Y' communicated 'X' through e-mail that if remuneration of 'Y'

is increased by 15%, then on the same terms and conditions as the earlier agreement he would work together with 'X'. 'X' asks 'Y' to bring labour and machines to start work at the new site. 'Y' fails to start work. 'X' claiming damages demanded arbitration. 'Y' pleads that there is no written agreement much less for arbitration. Decide whether the dispute can be referred to arbitration.

4. What are the principles for determination of compensation under the Motor Vehicle Act, 1988. Explain the role of Claim Tribunals where the dependants have already received the benefit / compensation under another law / Rule. Whether general principle under common law for estimating damage can be applicable for determination of compensation under M.V. Act ? Discuss it with case laws.

5. What are the essentials of a Muslim marriage? Salim, an NRI resides in New York. He offers to marry Gazala in Patna by long distance call over phone. Gazala accepts the offer on phone. Is this a valid marriage under Muslim law? Discuss.

6. Discuss the concept of "Substantial Question of Law" on which the Second Appeal is filed before the High Court under Section 100 C.P.C. Whether Second Appeal can lie in the following cases? Give exact answer with reasons.

(a) Ex-parte decree.

(b) Decision being contrary to law.

(c) Legal inferences drawn from finding of fact.

7. What are the remedies available to an aggrieved person against an Ex-parte decree?

8. What is the mode of retirement of a partner? Discuss the rights and liabilities of a retiring partner with reference to the legal provisions and case laws.

9.

(a) Discuss the principles laid down in Sections 177 and 184 of the Code of Criminal Procedure, 1973 regarding the jurisdiction of criminal courts in inquiries and trials with reference to case laws.

(b) How evidence would be recorded in absence of accused? Discuss with statutory provisions.

10. Please discuss the law relating to grant or denial of anticipatory bail with specific reference to the case of Gurbaksh Singh Sibbia versus The State of Punjab, AIR 1980 SC 1632.

11. What is the meaning of 'Gift' under the provisions of Transfer of Property Act, 1882? What would be the fate of a deed of gift if it is accepted after the death of the donor? Can a person claim a property on the basis of a gift deed which is unregistered?

12. Discuss the provisions relating to guardianship of a minor under Hindu Adoption and Maintenance Act, 1956. Who are the natural guardians of a son?

