

# **THE GAUHATI HIGH COURT AT GUWAHATI**

**(The High Court Of Assam, Nagaland, Mizoram and Arunachal Pradesh)**

**Main written examination for direct recruitment to Grade-III of Arunachal Pradesh, 2019**

## **LAW PAPER-IV**

**Date: 04.10.2019 (Friday)**

**Time: 1 PM to 4 PM**

**Total Marks: 100**

**Duration: 3 Hours**

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### **INDIAN PENAL CODE**

1. A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. What offence is committed by A? Give reasons with relevant provisions of law. **(2 Marks)**
2. A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill will towards Z and intending to kill him and not having been subject to the provocation, assists A in killing Z. Whether A and B will be liable for the same offence or different offence? Give reasons with relevant provisions of law. **(2 Marks)**
3. What are the various kinds of punishment provided in the Indian Penal Code? What is/are the difference between simple and rigorous imprisonment? **(2 Marks)**
4. A is sentenced to fine of Rupees Four Hundred and four months imprisonment in default of payment. After completion of one month in jail, an amount of rupees two hundred is paid. What order should you pass? **(2 Marks)**
5. When the right of private defence is not available against an act? To what extent the right of private defence may be exercised? **(2 Marks)**
6. In order to get the benefit of general exception u/s. 84 IPC, the accused has to prove his legal insanity and not mere medical insanity. Explain. **(2 Marks)**

7. Choose the right option:

(1 x 5= 5 Marks)

- (i) A, a police officer, whose duty is to prevent robbery, abets the commission of robbery, though robbery be not committed. A will be liable for:-
- (a) Same punishment had the robbery been committed.
  - (b) One half of the longest term of imprisonment provided for the offence, and also fine.
  - (c) One fourth of the longest term of imprisonment provided for the offence and also fine.
- (ii) A informs a Magistrate that Z, a police officer, subordinate to such Magistrate has been guilty of neglect of duty or misconduct knowing such information as to be false, and knowing it to be likely that the information with the Magistrate to dismiss Z. A has committed an offence under section:-
- (a) 182 IPC.
  - (b) 192 IPC.
  - (c) 193 IPC.
- (iii) A holds Z down and fraudulently takes Z's money and jewels from Z's clothes without Z's consent. What offence is committed by A:-
- (a) Extortion.
  - (b) Theft.
  - (c) Robbery.
- (iv) The offence of Criminal Force is defined in Section:-
- (a) 349
  - (b) 350
  - (c) 352
- (v) A makes an attempt to steal some jewels by breaking open a box and finds after so opening that there is no jewel in it:-
- (a) A has committed theft.
  - (b) A has not committed the offence of mischief.
  - (c) A has committed the offence of attempt to commit theft.

8. What are the ingredients of criminal conspiracy? Is criminal conspiracy an independent offence? Z, a common friend of A and B came to the residence of A and B in the morning and told that he would stay for the night as he has some work on the next day. A and B agreed to kill Z by mixing poison with the meal at dinner. However because of some urgency Z did not stay and returned back by afternoon flight on the same day. Are A and B liable for any offence? Give reasons for your answers. **(4 Marks)**

9. When culpable homicide is not murder? **(4 Marks)**

### CODE OF CRIMINAL PROCEDURE

10. Define (any two): **(1 X 2= 2 Marks)**  
(a) Victim.  
(b) Inquiry.  
(c) Offence.

11. Choose the correct option: **(1 X 6= 6 Marks)**  
(i) If a Magistrate not being empowered by law take cognizance of an offence under clause (a) or clause (b) of sub-section 190:-  
(a) It is an irregularity which does not vitiate the proceeding.  
(b) It is an irregularity which vitiates the proceeding.  
(c) None of the above.

(ii) A is charged with cheating B and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B and A had no means of knowing to which of them the charge referred, and offered no defence:  
(a) No error in the charge.  
(b) There is material error in the charge.  
(c) Error is no material.

(iii) The offence u/s. 376 IPC shall be tried as far as practicable by a Court presided over by a woman:  
(a) Yes.  
(b) No.

(c) None of the above.

(iv) Power of arrest by Magistrate is provided in Section:

(a) 44 CrPc.

(b) 47 CrPc.

(c) 82 CrPc.

(v) Period of limitation for filing an application for recovery of maintenance allowance due u/s. 125 Crpc is:

(a) One Year.

(b) Three years.

(c) No limitation.

(vi) A Judicial Magistrate of 1<sup>st</sup> Class upon conviction of a person u/s. 380, 457 and 435 of IPC imposed sentence of imprisonment for 2 years u/s. 380 IPC, 2 years 6 months u/s. 475 IPC and for 3 years u/s. 435 IPC. Are the sentences were to run consecutively:

(a) Sentence is beyond the jurisdiction of the Magistrate.

(b) Sentence is within the jurisdiction of the Magistrate.

12. Discuss briefly the procedure to be followed at the time of taking cognizance, when the accused is found to be residing at a place beyond his territorial jurisdiction. **(2 Marks)**

13. Discuss regarding place of trial of offence committed by letter etc. and where an act is an offence by reason of relation to other offence. **(2 Marks)**

14. Briefly discuss the procedure to be followed when there is a complaint case and police investigation in respect of the same offence. **(2 Marks)**

15. When Court may alter charge? What is the procedure to be followed when charge is altered? What is the effect of error of charge? **(2 Marks)**

16. Discuss the procedure for disposal of property at the conclusion of trial and custody and disposal during pendency of trial, with relevant provisions of law.

**(4 Marks)**

17. Discuss the procedure for trial of a warrant case (instituted on police report) by Magistrate. **(5 Marks)**

### **EVIDENCE**

18. Write short notes (any two): **(2 ½ X 2= 5 Marks)**

- (i) Hostile Witness.
- (ii) Promissory Estoppel.
- (iii) Onus of proof and burden of proof.

19. Distinguish between presumption of law and presumption of facts. **(2 Marks)**

20. General rule is that admissions are to be proved against a person who makes them or his representative-in-interest; but they cannot be proved by the person, who makes them or by his representative-in-interest. What are the exceptions?

**(2 Marks)**

21. Is confession of a co-accused relevant? A is on trial for murder of C. There is evidence to show that C was murdered by A and B and that B made a confession- "A and I murdered C". Whether the confession made by B can be taken into consideration against A? Answer with relevant provisions of law. **(3 Marks)**

22. Discuss the mode of proof of execution of a document required by law to be attested and the document not required by law to be attested. Name one document which the law requires to be attested. **(3 Marks)**

23. When leading question can be asked? Can a party ask leading question to his own witness during examination-in-chief? If yes, under what circumstances? Answer with relevant provisions of law. **(3 Marks)**

24. Relevancy and admissibility are not co-extensive terms. Explain. **(3 Marks)**

25. What is secondary evidence? When secondary evidence relating to a document can be given? Whether notice u/s. 66, evidence is required when the document to be proved itself is not a notice? **(4 Marks)**

## TORT

26. Write short notes (any two): **(3 X 2= 6 Marks)**

- (i) Composite negligence with illustration.
- (ii) The maxim "Ex TurpiCausa Non OriturActio".
- (iii) Absolute and qualified privilege.

27. Answer any two: **(5 X 2= 10 Marks)**

- (i) Discuss the doctrine of alternative danger referring case law.
- (ii) What is "Innuendo"? Explain the rule of innuendo.
- (iii) Privity of contract is irrelevant in an action for tortious liability. Discuss referring to case laws.

28. Distinguish between (any three): **(3 X 3= 9 Marks)**

- (i) Contributory Negligence and Volenti Non Fit Injuria.
  - (ii) General and Special Damages.
  - (iii) Liquidated and Unliquidated Damages.
  - (iv) Fair Comment and justification as defence in defamation suit.
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