

THE GAUHATI HIGH COURT AT GUWAHATI
(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)
LIMITED DEPARTMENTAL COMPETITIVE EXAMINATION (LDCE), 2020
FOR PROMOTION FROM GRADE II TO GRADE I OF ASSAM JUDICIAL SERVICE

Paper- II

Total Marks: 100

Time: 1:00 pm to 4:00 pm

Duration: 3 Hours

GROUP – A

TRANSFER OF PROPERTY ACT

- Q.1. Define the terms:-
(a) 'Attested' in relation to an instrument;
(b) Actionable claim; 1½ + 1½=3 Marks
- Q.2. State the meaning and distinction of vested interest and contingent interest. 1½ + 1½=3 Marks
- Q.3. Whether a third person who is entitled to the benefit of an obligation arising out of a contract and annexed to the ownership of immoveable property, but not amounting to an interest therein, can enforce such obligation against the gratuitous transferee of the property affected thereby? 1 Mark
- Q.4. Write a short note on the Doctrine of *lis pendens* indicating the period of pendency of suit for application of the doctrine. What is the effect of the doctrine? 1+1=2 Marks
- Q.5. What are the essential requirements in order to get the benefit by the transferee against part performance of the contract to transfer by a person for consideration any immoveable property? 3 Marks
- Q.6. How a charge on immoveable property is created? 1 Mark
- Q.7. Distinguish 'Lease' and 'Licence' in respect of immoveable property. 1+1=2 Marks
- Q.8. Whether the possession of the leasehold property by a tenant at sufferance is similar to that of a trespasser of an immoveable property? Give reasons to your answer. 1+2=3 Marks
- Q.9. 'A' shares in 'X', which is a prosperous joint stock company. He also shares in 'Y', a joint stock company facing difficulties. Heavy financial liabilities are expected in respect of the shares in 'Y'. 'A' gives 'B' all his shares by gift in joint stock companies. Whether 'B' refusing to accept the shares in 'Y' can accept the shares in 'X'. Give reasons to your answer. 2 Marks

GROUP – B

CIVIL PROCEDURE CODE, 1908

- Q.1. What do you mean by 'incidental' and 'supplementary' proceedings in a suit?
1+1=2 Marks
- Q.2. Whether a suit lies challenging the validity of a decree passed in a former suit between the same parties on any ground based on an objection as to place of suing?
1 Mark
- Q.3. Whether the Court of first instance ceases to have jurisdiction to execute a decree on the ground that after the institution of the suit and passing of the decree any area stands transferred from that court to the jurisdiction of another court?
1 Mark
- Q.4. Define "Precepts". For how long, the period of attachment of property under a precept continue?
1+1= 2 Marks
- Q.5. Whether the defendant, after his petition for setting aside ex-parte decree stands dismissed is entitled to file first appeal disputing the correctness of the order posting the suit for ex-parte hearing?
1 Mark
- Q.6. Whether a party to a suit is entitled to raise as a ground in the regular first appeal against the decree passed against him, any order passed by the court in its original jurisdiction and the same being not appealable under Section 104 of the C.P.C.?
1 Mark
- Q.7. No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immovable property but for certain claims. What are those claims?
1+1+1=3 Marks
- Q.8. What is the nature of satisfaction mandated by the C.P.C. to be recorded by the Court before ordering summons to be served by substituted service?
1 Mark
- Q.9. Does the Courts have power to mould the reliefs sought for by the plaintiff? If so, under what provision of the C.P.C.
1+1=2 Marks
- Q.10. 'A' as the plaintiff filed a suit for specific performance of contract for sale of a plot land 'X' against the defendant 'B'. Out of total consideration money of Rs. 10,000/- the plaintiff 'A' paid a sum of Rs. 5000/- as advance sale consideration to the defendant 'B'. Suit is decreed. Draw up the decree.
1 Mark.
- Q.11. What are the requirements to be specified in a decree for the partition of property or for the separate possession of a share therein?
2 Marks
- Q. 12. What are the issues those can be decided by the executing Court while adjudication of claims to or objections to attachment of property? What is the nature of the order so passed?
1+1=2 Marks

Q.13. 'A' filed a suit for declaration of his right, title and interest and for recovery of possession in respect of the suit land against the defendant 'B'. The suit was decreed. Before the execution proceeding was initiated, the defendant judgment debtor 'B' died. In the execution proceeding, the decree holder 'A' impleaded only two of the sons of the deceased judgment debtor 'B' without impleading his two daughters. The said two daughters resisted the execution proceeding as the third party interveners claiming their share by way of inheritance over the decretal property. Decide. Give reasons.

2 Marks

GROUP – C

CRIMINAL PROCEDURE CODE

Q.1. Whether the Magistrate has power to take cognizance of an offence on the basis of private complaint resulted in submission of the report under Section 173 Cr.P.C. consequent upon reference under Section 156 (3) Cr.P.C. and accepted the negative police report and closed the proceeding?

1 Mark

Q.2. Does the Courts have power to compel the accused persons to give handwriting or specimen signature during the investigation stage?

1 Mark

Q.3. State the mandatory requirements under Section 164 Cr.P.C. required to be recorded by the Magistrate before recording confessional statement by the accused person.

2 Marks

Q.4. State the prescribed mode of proof of the Magistrate to show compliance of the proviso (6) to sub Section 2 of Section 167 Cr.P.C.?

2 Marks

Q.5. What amendments were introduced in Section 173 of the Cr.P.C. as per the Criminal Law (Amendment) Act, 2018 (22 of 2018)?

1 Mark

Q.6. Disagreeing with the final report of the police, whether the Magistrate has the power to direct submission of charge-sheet?

1 Mark

Q.7. What are the precautions to be taken by a Court after perusal of the Case Diary even in the course of trial?

1 Mark

Q.8. Does the Magistrate has the authority of his own, order for further investigation after he had taken cognizance on the basis of the police report?

1 Mark

Q.9. Whether the Magistrate on taking into account the statements recorded under Section 161 Cr.P.C. and other matters can take cognizance and issue process against the accused even if the police report under Section 173(2) Cr.P.C. is to the effect that no case has been made out?

1 Mark

Q.10. What are the pre-conditions for invoking Session Court's power to take cognizance of an offence?

2 Marks

Q.11. What is the procedural requirement and its purpose for a complaint by Court for an offence under Section 195 (1) (b) Cr.P.C.?

2 Marks

Q.12. Whether a person can be convicted of an offence which is minor in comparison to the one for which he is tried ? Does Section 306 I.P.C. can be treated to be a minor offence in comparison to Section 302 I.P.C. in terms of your answer?

2 Marks

Q.13. In summons cases, what are the options left with the Magistrate in the event of death of the complainant?

2 Marks

GROUP – D

INDIAN PENAL CODE

Q.1. Whether a person committing an offence targeting a computer resource located in India in any place beyond India can be punished under the I.P.C. ?

1 Mark

Q.2. What are the ingredients before a man can be held liable for acts done by another U/S 34 of the I.P.C. ?

1 Mark

Q.3. When "drunkenness" can be taken as a mitigating circumstances under the I.P.C. and the onus of proof thereof the accused person is expected to be discharged?

1 Mark

Q.4. Whether the accused who of his own accord placed himself in a situation by which he became subject to the threats of another person can avail the defence of duress?

1 Mark

Q.5. Explain the terms :-

(a) "instigating a person to commit an offence".

(b) "intentionally aiding a person to commit an offence".

1+1= 2 Marks

Q.6. Define criminal conspiracy?

1 Mark

Q.7. The Sub-Inspector of Police accompanied by more than five constables took an accused to a place where the accused was supposed to point out to the dead body of the victim of offence. At the spot the accused tried to run away, wielded a lathi. The accused was over powered by the police force who gave him a fatal beating. Whether Sections 141, 147 and 149 of the I.P.C. are applicable? Give reasons to your answer.

2 Marks

Q.8. The prosecution case was that seven accused persons having formed an unlawful assembly committed murder in pursuance of a common object. The accused persons

were charged U/S 302/149 I.P.C. But the last four accused persons were acquitted. Whether the remaining three accused persons can be convicted by applying Section 149 I.P.C.?

1 Mark

Q.9. Mention the fundamental distinction between Sections 34 and 149 of the I.P.C.?

$\frac{1}{2} + \frac{1}{2} = 1$ Mark

Q.10. What are the species of mens rea in culpable homicide?

3 Marks

Q.11. Define the term "Assault" with an example.

1+1=2 Marks

Q.12. What is the main ingredient of the offence to be established to attract the provisions of Section 304-B I.P.C.?

1 Mark

Q.13. Accused inflicted several injuries on a person. The medical evidence disclosed that none of the injuries were cumulatively dangerous to life. Whether Section 307 I.P.C. is attracted?

1 Mark

Q.14. Distinguish "criminal misappropriation" and "criminal breach of trust".

1+1=2 Marks

GROUP – E

INDIAN EVIDENCE ACT

Q.1. Distinguish between a 'relevant fact' and a 'fact in issue'.

1+1=2 Marks

Q.2. When is the previous conviction of an accused relevant?

1 Marks

Q.3. What facts are relevant when the existence of a right or custom is in question?

1 Mark

Q.4. Can a confession made to a police officer be proved as against an accused person?

1 Mark

Q.5. When is evidence given by a witness in judicial proceeding relevant in a subsequent judicial proceeding?

1 Mark

Q.6. Is the judgment of a Court refusing probate, a judgment in rem? Give reasons to your answer.

2 Marks

Q.7. How will you use in evidence a document required by law to be attested?

1 Mark

Q.8. What are 'public document' according to Indian Evidence Act? How the contents of public documents are proved?

1+1=2 Marks

Q.9. Can a witness be excused from answering any question upon the ground that the answers will criminate him?

1 Mark

Q.10. Explain briefly how evidence of 'alibi' become relevant.

2 Marks

GROUP – F

LIMITATION ACT,1963

Q.1. How the period of limitation is computed in a suit based upon the fraud of the defendant?

2 Marks

Q.2. What is the effect of acknowledgment in writing in the prescribed period of the limitation for a suit in respect of property or right?

2 Marks

Q.3. How and under what circumstances the disability of one of several persons effects the prescribed period of limitation?

2 Marks
