

THE GAUHATI HIGH COURT AT GUWAHATI

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Main Written Examination for direct recruitment to Grade-III of Assam Judicial Service, 2021.

Date : 29.05.2022 (Sunday)

Time : 1 P.M. to 4 P.M.

Duration : 3 [Three] hours

Total Marks : 100

PAPER – IV [LAW PAPER – II]

GROUP – A : INDIAN PENAL CODE

1. Choose the most appropriate one out of the choices given below : 1 X 5 = 5

- [i] The Indian Penal Code is divided into _____ ?
- [a] XXIV Chapters and 512 Sections [b] XXIV Chapters and 511 Sections
[c] XXIII Chapters and 512 Sections [d] XXIII Chapters and 511 Sections
- [ii] As per Section 10 of the Indian Penal Code, word 'man' denotes a male human being and 'woman' denotes a female human being of _____ age ?
- [a] above 7 years [b] above 18 years
[c] above 21 years [d] any age
- [iii] A hangman who hangs the prisoners pursuant to the orders of the Court is exempt from criminal liability by virtue of _____ ?
- [a] Section 76, Indian Penal Code [b] Section 78, Indian Penal Code
[c] Section 77, Indian Penal Code [d] Section 80, Indian Penal Code
- [iv] A is invited by B for a cup of tea. While B is in the kitchen preparing tea, A finds a golden ring on the table. He picks it up and places it somewhere in the room with the intention of dishonestly taking it away some time later. A commits _____ ?
- [a] Dishonest misappropriation of property [b] Theft
[c] Attempt to commit theft [d] Cheating
- [v] Which one of the following is not an essential ingredient of the offence of kidnapping under the Indian Penal Code ?
- [a] Minor child [b] Intention of the accused
[c] Without the consent of the lawful guardian [d] Out of the keeping of the lawful guardian

2. Read the following illustrations. Each illustration shows commission of a particular offence under the Indian Penal Code. Name the offence in terms of the Indian Penal Code against each illustration. 1 X 3 = 3

- [i] A enters into or upon the property in the possession B after having taking precautions to conceal such entry from B and other persons, with intent to commit an offence or to intimidate, insult or annoy B.
- [ii] X causes cattle to enter upon a field belonging to Y, intending to cause and knowing that he is likely to cause damage to Y's crop.
- [iii] M intentionally deceives N into a belief that M has performed M's part of a contract made with N, which he has not performed, and thereby dishonestly induces N to pay money.

3. Answer any two from the following three :-

3 X 2 = 6

- [i] How do theft and extortion become robbery? When a robbery can be branded as dacoity?
 - [ii] State briefly criminal misappropriation of property and criminal breach of trust.
 - [iii] What is Kidnapping? Distinguish it from abduction. Whether age is a factor in Kidnapping?
4. A, B, C and D jointly plan to beat up X. While X is being assaulted, his daughter intervenes who is molested by D. While retreating from X's house, B picks up a watch. For what offence A, B, C and D are liable? 4
5. Define the right of private defence. When does a person not have this right? When does this right extend to causing death? When does this right start and when does it end? 7

GROUP – B : CRIMINAL PROCEDURE CODE

6. Choose the most appropriate one out of the choices given below :

1 X 5 = 5

- [i] The term 'taking cognizance' under the provisions of Code of Criminal Procedure, 1973 means -
 - [a] Starting a trial
 - [b] Completing preliminary steps for starting a trial
 - [c] Taking notice of the matter judicially
 - [d] An administrative act to decide if trial is required
- [ii] The Magistrate under the provisions of Section 203, Criminal Procedure Code, 1973 can dismiss a complaint -
 - [a] Even if the proceedings against the accused have commenced
 - [b] Even if there is sufficient ground for proceeding
 - [c] Even if enquiry under Section 202 of the CrPC is not done
 - [d] Even if the complainant is not examined
- [iii] Section 160 of the Criminal Procedure Code, 1973 authorises a police officer to :-
 - [a] summon a person as a witness
 - [b] summon a person for the production of documents
 - [c] summon a person for the production of an article(s)
 - [d] all of the above
- [iv] During inquiry or trial, the accused is remanded to custody :-
 - [a] Under Section 167 [1], Criminal Procedure Code, 1973
 - [b] Under Section 167 [2], Criminal Procedure Code, 1973
 - [c] Under Section 309 [1], Criminal Procedure Code, 1973
 - [d] Under Section 309 [2], Criminal Procedure Code, 1973
- [v] If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment :-
 - [a] Shall not be sold until expiry of six months from the date of attachment
 - [b] Shall not be sold until any claim or objection under Section 84 have been disposed of
 - [c] Both [a] & [b]
 - [d] Either [a] or [b]

7. Discuss the salient differences between the following two [any two] :-

2½ X 2 = 5

- [i] Assistant Public Prosecutor and Public Prosecutor
- [ii] Recording of statement under Section 161 and statement under Section 164.
- [iii] Summons procedure case and warrant procedure case.

8. What is the relevance of Schedule – I of the Criminal Procedure Code, 1973. Discuss its relevance to the Indian Penal Code and bailable/non-bailable and cognizable/non-cognizable offences. 7

9. Under what circumstances and by whom maintenance may be claimed under the provisions of the Criminal Procedure Code, 1973? When a wife is not entitled to maintenance from her husband? When can the Magistrate cancel the order of maintenance allowance to wife? Whether any alteration in the allowance of maintenance can be made? 8

GROUP – C : EVIDENCE ACT

10. Choose the most appropriate one out of the choices given below : -

1 X 5 = 5

[i] The facts which form part of the same transaction are relevant -

- | | |
|---|---|
| [a] Under Section 5 of the Evidence Act | [b] Under Section 6 of the Evidence Act |
| [c] Under Section 7 of the Evidence Act | [d] Under Section 8 of the Evidence Act |

[ii] The plea of alibi is governed by -

- | | |
|------------------------------------|------------------------------------|
| [a] Section 6 of the Evidence Act | [b] Section 8 of the Evidence Act |
| [c] Section 12 of the Evidence Act | [d] Section 11 of the Evidence Act |

[iii] Contents of a document may be proved under Section 61 of the Evidence Act -

- [a] By primary evidence
- [b] By secondary evidence
- [c] Either by primary or by secondary evidence
- [d] Only by primary evidence & not by secondary evidence

[iv] Due execution of a document more than thirty years old coming from proper custody is a -

- | | |
|-------------------------------------|------------------------------------|
| [a] Presumption of fact | [b] Rebuttable presumption of law |
| [c] Irrebuttable presumption-of law | [d] Presumption of fact & law both |

[v] The presumption of continuance of life is contained in -

- | | |
|-------------------------------------|-------------------------------------|
| [a] Section 106 of the Evidence Act | [b] Section 107 of the Evidence Act |
| [c] Section 108 of the Evidence Act | [d] Section 109 of the Evidence Act |

11. Write short notes on any two of the following giving suitable examples : -

2 X 2 = 4

- [i] Primary evidence
- [ii] Public Documents
- [iii] Extra Judicial Confession
- [iv] Doctrine of Estoppel.

12. Discuss the salient differences between the following [any two] :-

4 X 2 = 8

- [i] Giving false information and giving false evidence.
- [ii] Public document and Private document.
- [iii] Admission and confession.

13. Discuss on the various kinds of presumptions under the Indian Evidence Act, 1872 with reference to the specific provisions contained therein. 8

GROUP – C : LAW OF TORTS

14. Write brief notes on any two of the following :-

2½ X 2 = 5

- [i] Doctrine of strict liability
- [ii] Res ipsa loquitur
- [iii] Exception to the maxim volenti non fit injuria
- [iv] Defence of Qualified Privilege

15. Discuss any four from the following case laws :-

4 x 3 = 12

- [i] Rylands vs. Fletcher
- [ii] Asbhy vs. White
- [iii] Jai Laxmi Salth Works [P] Limited vs. State of Gujarat,
- [iv] Union Carbide Corporation vs. Union of India,
- [v] M.C. Mehta vs. Union of India,
- [vi] Municipal Corporation of Delhi vs. Association of Victims of Uphaar Tragedy,
- [vii] DAV Managing Committee & Anr. v. Dabwali Fire Tragedy Victims Association,
- [viii] Sanjay Gupta and others vs. State of Uttar Pradesh through its Chief Secretary and others,

16. "A tort is an infringement of right in *rem* of an individual, giving a right of compensation at the suit of the injured party." Discuss this statement and state how tort differs from a crime and breach of contract. 8

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