

THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court of Assam, Nagaland, Mizoram & Arunachal Pradesh)

MAIN WRITTEN EXAMINATION FOR DIRECT RECRUITMENT TO GRADE - III OF ASSAM JUDICIAL SERVICE, 2023

Date : 12.08.2023 (Saturday)

Time: 1 P.M. - 4 P.M.

Total marks: 100

Duration : 3 Hrs.

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] Abetment of any offence, if the act abetted is committed in consequence of the abetment, and where no express provision is made by the Indian Penal Code for the punishment of such abetment, is dealt under -

- | | |
|------------------------------------|------------------------------------|
| [a] Section 109, Indian Penal Code | [b] Section 110, Indian Penal Code |
| [c] Section 111, Indian Penal Code | [d] Section 112, Indian Penal Code |

- [ii] A is beating Z and Y jumps in to stop the beating. In the process A intentionally strikes Y. As per Section 71 of the Indian Penal Code which of the following should be the punishment ?

- | |
|---|
| [a] A is liable to one punishment for voluntarily causing hurt only to Z. |
| [b] A is liable to one punishment for voluntarily causing hurt to Z and to another for the blow given to Y. |
| [c] A is liable to one punishment for voluntarily causing hurt only to Y. |
| [d] None of them. |

- [iii] Insanity as a defence means that a person at the time of doing an act, by reason of unsoundness of mind is incapable of knowing :

- | | |
|--|------------------------------------|
| [a] the nature of the act | [b] that what he is doing is wrong |
| [c] that what he is doing is contrary to law | [d] either [a] or [b] or [c] |

- [iv] A by putting B in fear of grievous hurt dishonestly induces B to sign and affix his seal in blank paper, and delivers it to A. A has committed ____?

- | | |
|---------------|-------------|
| [a] Extortion | [b] Robbery |
| [c] Cheating | [d] Dacoity |

- [v] A and B agreed to commit the murder of C by poisoning and D was to procure poison, but he did not procure it. A and B are guilty of

- | | |
|--------------------------------------|---|
| [a] No offence | [b] Criminal conspiracy to murder C |
| [c] Abetment to murder by conspiracy | [d] Attempt to murder with the aid of Section 34, IPC |

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 4 = 4

- [i] Z picks up a cheque on a banker signed by X, payable to bearer, but without any sum having been inserted in the cheque. Z fraudulently fills up the cheque by inserting the sum of ten thousand rupees.
- [ii] B finds the key of A's house door, which A had lost, and commits house-trespass by entering A's house at mid-night, having opened the door with that key.
- [iii] 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.

- [iv] M, a man, regularly follows W, a woman, and attempts to contact W to foster personal interaction with her repeatedly despite a clear indication of disinterest by W.

3. Answer any two from the following three :-

3 X 2 = 6

- [i] Limitations on exercise of right of Private Defence.
- [ii] Salient differences between 'Common Intention' and 'Common Object'.
- [iii] Salient differences between 'Wrongful Restraint' and 'Wrongful Confinement', with illustrations.

4. 'In all robbery there is either theft or extortion'. Evaluate the statement. P obtains property from Q by saying- 'Your child is in the custody of my gang, and will be put to death unless you send us Rs. 10,000/-'. Examine.

4

5. Explain the nature and extent of [a] unsoundness of mind, and [b] intoxication, required to exempt a person from criminal liability.

6

GROUP – B: CRIMINAL PROCEDURE CODE

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

1 X 5 = 5

[i] In an application for maintenance, it is not necessary to aver that :

- [a] the wife is unable to maintain herself
- [b] the husband has neglected or refused to maintain the wife
- [c] the husband has sufficient means to maintain the wife
- [d] the husband has treated the wife with cruelty

[ii] Criminal Procedure Code has been included in which of the following Lists in the Constitution of India

- [a] Union List
- [b] State List
- [c] Concurrent List
- [d] All of these

[iii] Under Section 389[3], Code of Criminal Procedure, 1973, the trial court can release an accused on bail after conviction where :-

- [a] the accused is not on bail and he is sentenced with imprisonment for a term not exceeding 3 years and no fine is imposed.
- [b] the accused is on bail and he is sentenced with imprisonment for a term not exceeding 3 years and no fine is imposed.
- [c] the accused is on bail and he is sentenced with imprisonment for a term not exceeding 4 years and no fine is imposed.
- [d] the accused is not on bail and he is sentenced with imprisonment for a term not exceeding 4 years and no fine is imposed.

[iv] Which of the following persons has/have the right to file appeal under Section 372, Criminal Procedure Code, 1973 against an order of acquittal ?

- [a] Victim
- [b] Victim's guardian
- [c] Victim's legal heir
- [d] All the above.

[v] An Assistant Sessions Judge may pass :

- [a] a sentence of imprisonment for life
- [b] a sentence of imprisonment not exceeding 14 years
- [c] a sentence of imprisonment not exceeding 10 years
- [d] a sentence of imprisonment upto 12 years

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

2½ X 2 = 5

- [i] Investigation, Inquiry and Trial
- [ii] Appeal and Revision
- [iii] Compoundable and Non-Compoundable Offences

8. A letter which in the custody of the Postal Authority, is required by an Inspector of Police, who is investigating a serious crime involving the offences of cheating, forgery and misappropriation of money amounting to more than Rs. 100 crores, as an important piece of evidence for the purpose of the said investigation. The Inspector of Police directs the Postal Authority to deliver him the above letter. In such a situation, whether the Postal Authority is legally bound to deliver the letter to the Inspector of Police. If the Postal Authority refuses to abide by the direction of the Inspector of Police and does not deliver the letter to him, what is the procedure the Inspector of Police would require to follow to secure delivery of the letter which is a vital piece of evidence?

6

9. Discuss briefly the constitution and powers of Criminal Courts under the Code of Criminal Procedure, 1973.

9

GROUP – C : EVIDENCE ACT

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

1 X 5 = 5

- [i] Leading questions must be asked
 - A. In cross-examination.
 - B. In re-examination, except with the permission of the court.

Choose the correct option in respect of the above statements.

- [a] A is correct and B is incorrect
- [b] A is incorrect and B is correct
- [c] Both are correct
- [d] Both are incorrect

[ii] A confession made by an accused is relevant and admissible :

- [a] when made to a third person after being detained by a police officer
- [b] when made on being threatened with assault and beatings by public
- [c] when it is extra judicial, voluntary and truthful and beyond reproach
- [d] none of the above

[iii] Documents in respect of which privilege has been provided under Section 123 of the Evidence Act -

- [a] are published official records
- [b] are unpublished official records
- [c] Both [a] and [b]
- [d] Either [a] or [b]

[iv] Under the Evidence Act, the doctrine of res gestae applies to -

- [a] only civil proceedings
- [b] only criminal proceedings
- [c] only to administrative tribunals
- [d] Both [a] and [b]

[v] Presumption as to genuineness of Official Gazettes in electronic form is contained in -

- [a] Section 81A of the Evidence Act
- [b] Section 88A of the Evidence Act
- [c] Section 90A of the Evidence Act
- [d] Section 73A of the Evidence Act

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

2 X 2 = 4

- [i] Privileged communications
- [ii] Judicial Notice
- [iii] Presumption as to Dowry Death
- [iv] Onus Probandi

12. Discuss the salient differences between the following [any two] :- 4 X 2 = 8

- [i] Fact in Issue and Relevant Fact.
- [ii] Primary Evidence and Secondary Evidence.
- [iii] Proved Fact and Disproved Fact.

13. What, if any, are the difference between Estoppel, Acquiescence and Waiver? Explain with illustrations. 8

GROUP – C : LAW OF TORTS

14. Choose the most appropriate one out of the choices given below : - 1 X 4 = 4

[i] The case of 'Rylands vs. Fletcher' has laid down the principle of -

- [a] defamation
- [b] conspiracy
- [c] strict liability of land owner
- [d] none of these

[ii] The principle 'facts speak for themselves' is expressed by the maxim -

- [a] Ubi Jus Ibi Remedium
- [b] Res Ipsa Loquitur
- [c] Novus Actus Interveniens
- [d] Causa Causams

[iii] Easement is a right -

- [a] in rem
- [b] in personam
- [c] neither [a] nor [b]
- [d] in rem in general but is personal in exceptional cases

[iv] Why is defamation a tort ?

- [a] Individuals have the right to be free from bodily harm.
- [b] Individuals have the right to conduct business without interference.
- [c] Individuals have the right to own property.
- [d] Individuals have the right to enjoy good reputation.

15. Write brief notes on any two of the following :- 3 X 2 = 6

- [i] Doctrine of Vicarious liability
- [ii] Inevitable accident
- [iii] Innuendo
- [iv] Contributory negligence

16. Answer any three from the following : - 3 x 3 = 9

- [i] What is nuisance? Distinguish between public nuisance and private nuisance.
- [ii] Explain the difference between libel and slander. When slander becomes actionable per se?
- [iii] Define assault and distinguish it from battery.
- [iv] Distinguish between tortious liability and contractual liability.
- [v] The case of Gloucester Grammar School [1410] and the principle involved.
- [vi] The case of 'Ashby vs. White' [1703] and the principle 'Injuria Sine Damnum'.

17. "Tortious liability arises from the breach of duty primarily fixed by law." – Discuss. 6

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