

THE GAUHATI HIGH COURT AT GUWAHATI

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

**Main Written Examination (2017) for direct recruitment in Grade-II of Arunachal Pradesh
Judicial Service.**

Date: 20-05-2018 (Sunday),

Time: 1.00pm to 4.00pm

Total Marks: 100 marks

Duration: 3 Hours

PAPER-IV (Law Paper-II)

Group A – CRIMINAL PROCEDURE CODE

1. Choose the correct answer –

Marks: 1x6 = 6

- (a) In a summon case if the investigation is not concluded within six months from the date on which the accused is arrested, Magistrate shall make an order-
- (i) Stopping further investigation.
 - (ii) Calling for a report from the investigation officer for a report as to the cause of delay.
 - (iii) Stopping further investigation, unless the investigation officer prays extension for time to continue the investigation.
 - (iv) None of the above.
- (b) Period of limitation for taking cognizance of an offence U/S 376 I.P.C committed by a husband against his wife who is under 18 years of age-
- (i) 3 years
 - (ii) One year
 - (iii) No limitation.
 - (iv) None of the above.
- (c) Offence against any other laws is non cognizable when punishable with imprisonment for -
- (i) One year.
 - (ii) Two Years.
 - (iii) Less than 3 years.
 - (iv) 7 years.
- (d) Provision for examination of a person accused of rape by medical practitioner is provided in section-
- (i) 51 of Crpc
 - (ii) 53 A of Crpc
 - (iii) 53 B of Crpc
 - (iv) 54 of Crpc
- (e) A second class Magistrate can take cognizance of –
- (i) Such offences as within his competence to enquire into and try.
 - (ii) Any offence irrespective of power to try.
 - (iii) Offences which he can try or commit.
- (f) Provision for compensation to person groundlessly arrested is provided in section –
- (i) 357 A Crpc.
 - (ii) 357 B Crpc.

- (iii) 358 of Crpc.
- (iv) None of the above.

2. Write short notes reflecting relevant provisions of law (Any Three)

Marks -3x3= 9

- (i) Enquiry and Investigation.
- (ii) First Information Report (FIR)
- (iii) Local Jurisdiction of Judicial Magistrate.
- (iv) Continuing Offence.

3. Answer any two

Marks -5x2= 10

- (i) What are the essential contents of charge? Discuss the effect of not framing or error in framing charge. What are the procedures to be followed when charge is altered or fresh charge/charges is/are added.
- (ii) What is/are the term of punishment that a Magistrate can impose in default of fine. Discuss the procedure for recovery of fine as provided in Crpc.
- (iii) Discuss the procedure for trial of a warrant case instituted otherwise than on police report.

GROUP-B – INDIAN PENAL CODE

4. (a) A instigates B to murder D. B is pursuance of the instigation stabs D with a dagger. D recovers from the wound. Whether A is liable for commission of any offence? If yes, under what provision of IPC ?

Marks – 1 ½

- (b) A put jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstances may cause Z to be convicted of theft. Is A liable for commission any offence? If yes, under what provision of IPC ?

Marks – 1 ½

5. Choose the correct answer –

Marks -1x3= 3

- (i) Attempt to commit culpable homicide is punishable under section –
 - (a) 307 of IPC
 - (b) 308 of IPC
 - (c) 306 of IPC
 - (d) 309 of IPC
- (ii) A meets Z on the Highway, shows a pistol and demands Z's purse. Z in consequence surrenders his purse. What offence A is liable for –
 - (a) Robbery.
 - (b) Extortion.
 - (c) Theft.
 - (d) Dacoity.
- (iii) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house trespass. What offence A is liable for-
 - (a) Lurking house trespass
 - (b) House Breaking.
 - (c) House Trespass.
 - (d) None of the above.

6. Answer any three –

Marks – 5x3= 15

- (i) When right of private defence of body extends to causing of death? Discuss referring the relevant provisions of law.
- (ii) Distinguish between common intention and common object.
- (iii) Explain the maxim "actus non facit reum, nisi mens sit rea". Mention at least two offences where mens rea need not be established in order to prove the crime.
- (iv) Define criminal conspiracy. What are the essential ingredients required to be proved to establish a charge for criminal conspiracy U/S 120 B of IPC.

7. Write short notes (any two)-

Marks – 2x2= 4

- (i) "Cruelty" with special reference to section 498 A of IPC.
- (ii) Wrongful gain and wrongful loss with illustration.
- (iii) Defamation.

GROUP-C – LAW OF TORTS

8. Choose the right answer –

Marks: 1x5= 5

- (a) Doctrine of vicarious liability is based on the maxim –
 - (i) Qui facit per alium facit per se.
 - (ii) Ubi Jus ibi remedium.
 - (iii) Respondent superior.
 - (iv) Both (i) and (iii) of above.
- (b) The rule laid down in Ryland Vs Fletcher is known as –
 - (i) Absolute liability.
 - (ii) Strict liability.
 - (iii) No Fault liability.
 - (iv) None of the above.
- (c) The Maxim "ex turpi causa non oritur action" means –
 - (i) When there is wrong there is a remedy.
 - (ii) No action arises from an immoral cause.
 - (iii) Consent to the infliction of harm upon himself.
- (d) Tort is a violation of –
 - (i) Right in rem.
 - (ii) Right in personam.
 - (iii) Both (i) and (ii) of above.
 - (iv) None of the above.
- (e) Malice in fact means-
 - (i) Without evil motive.
 - (ii) In bad faith.
 - (iii) With evil motive.
 - (iv) With evil intention.

9. Write short note (any four)-

Marks – 2 ½ x 4 = 10

- (i) Qui facit per alium facit per se.

- (ii) Liquidated and unliquidated damages
- (iii) Prospective and continuing damages
- (iv) Composite and contributory negligence
- (v) General and Special damages

10. Answer any two –

Marks – 5x2= 10

- (i) Tort is a civil wrong, it essentially differs from crime. Explain.
- (ii) What is nuisance? Distinguish between private and public nuisance.
- (iii) What is malicious prosecution? Discuss the essential ingredients required to be established to succeed in a suit for malicious prosecution.

GROUP-D – LAW OF EVIDENCE.

11.

Marks: 1x5= 5

(a) Which of the document mentioned below is required to be proved as per section 68 of the Indian Evidence Act-

- (i) Sale deed
- (ii) Will
- (iii) Promissory Note
- (iv) Agreement for sale.

(b) for drawing a presumption of genuineness of an electronic document U/S 90 A of the Indian Evidence Act, the document is required to be proved as –

- (i) 5 years old.
- (ii) 10 years old.
- (iii) 20 years old.
- (iv) 30 years old.

(c) The court may presume that evidence which could be and is not produced would, if produced be unfavourable to the person who withholds it U/S 114 of the Indian Evidence Act. The above has been explained under Illustration_____

- (i) a
- (ii) d
- (ii) f
- (iv) g

(d) Secondary evidence is defined in section_____ of the Indian Evidence Act.

- (i) 59.
- (ii) 62.
- (iii) 63.
- (iv) 65.

(e) Leading question is defined under section_____ of the Indian Evidence Act.

(i) 138

(ii) 139

(iii) 141

(iv) 142.

12. Answer any two –

Marks: 3x2= 6

- (a) What are the exceptions to the professional communication under the proviso to section 126 evidence act. A, a client says to B an Advocate – “ I shall obtain possession of property by the use of a forged document on which I request you to sue”. Whether this communication of the client to his Advocate is protected from disclosure as professional communication ? Yes/No. Give reasons.
- (b) Confession before police officer is not admissible. Is there any exceptions ? Discuss with relevant provisions of law.
- (c) What is admission ? Admission in civil cases when not relevant ? A question arises, whether a horse sold by A to B is sound ? A says to B – “go and ask C, C knows all about it”. Whether C’s statement is an admission ? if yes, under what section of the evidence act.

13. What is secondary evidence? When secondary evidence relating to document may be given?

Marks: 5

14. Write short note (any three)

Marks: 3x3= 9

- (a) Promissory estoppel
(b) Res gestae
(c) Falsus in uno falsus in omnibus.
(d) Burden of proof and Onus of proof.
