

1. Constitution

- (a) Explain the rule of severability with reference to clauses (1) and (2) of Article 13 of the Constitution. 236

Eight sections of Bombay Prohibition Act, 1949 are declared *ultra vires* on the ground that they infringed the Fundamental Rights of citizens. Can the rest of the Act survive.

- (b) "Article 14 of the Constitution of India forbids class legislation, but does not forbid classification." Explain.

- (c) Write a critical note on *Maneka Gandhi v. Union of India*, AIR 1978 SC 597 case.

- (d) Discuss the scope of the President and of the Governor under Articles 72 and 161 respectively relating to grant of pardons, etc., and to suspend, remit or commute sentences in certain cases.

2. (a) Discuss in brief, various grounds on which a decree of divorce may be granted under the Hindu Marriage Act, 1955. 239

Hindu

"A" files a petition for divorce on the ground that he cannot move in society with his wife who had been gang raped and it is a kind of cruelty on him. Decide.

- (b) 'An agreement without consideration is void' explain. What are the exceptions to this rule? ICA

TO PA

(c) Write a note on the right of redemption of mortgagor. Can he exercise this right before the expiry of the term of mortgage? Refer to case law.

3. TO PA (a) Explain the rule against perpetuity. Are there any exceptions to this rule? Discuss. 242

- (b) "M" a member of a housing society purchases a plot and later on sells it to "D", a non-member. Under the bye-laws of the society, such transfer is not permitted. "M" claims that the bye-laws of the society infringes Section 10 of the Transfer of Property Act. Decide.

4. (a) Explain the term 'trust' and point out the distinction between executory trust and executed trust. Also discuss the method of creation of a trust. 243

Trust

- (b) Point out if a trust is created in the following cases :

(i) "A" wills some property to "B" with the hope that the property will always be retained in the family.

(ii) "A" by will gives some property to "B" with full confidence that he will dispose it of for the benefit of "C".

5. (a) Discuss the rights and liabilities of partners of a partnership firm. Can a minor become a partner? Discuss his liabilities also. Partnership 243

- (b) What are the rights of a beneficiary as given in the Indian Trust Act? Discuss in detail. Trust

6. (a) Discuss the nature and character of preventive relief granted under the Specific Relief Act, 1963. SRA 245

List of Questions

17

7. (b) Define easement and point out its main characteristics.
- (a) Critically discuss the rule laid down in the case of *Hadley v. Baxendale*. ICA 248
- TORT (b) Discuss the ingredients of the tort of defamation. What defences are available in an action for defamation? Discuss.
8. (a) Discuss the grounds on which a Muslim wife can seek a dissolution on her marriage. 252
Muslim
- (b) Who are the natural guardians of a minor under the Hindu Minority and Guardianship Act, 1956 and what are their powers? Can the mother of a minor become first or equal guardian when the father is alive? Explain.
Hindu
9. (a) Discuss fully the rule of strict liability laid down in *Rylands v. Fletcher*. Has this rule been modified in India? Discuss. TORT 256
- (b) "M" barely six months after birth, lost his father. When he was five years, his mother remarried. The grandfather of "M" moved an application for guardianship of the minor "M" under the Guardians and Wards Act, 1890. It was claimed that second marriage of the mother disentitled her to "M's" custody. Decide.
Hindu
10. (a) "M" is unmarried daughter of "X" and is of 27 years of age. She claims maintenance from her father as she is not able to maintain herself. Is she entitled to maintenance under the Hindu Adoption and Maintenance Act, 1956? 257
Hindu
- (b) "A" is mother of a minor Muslim "B". She sells "B's" immovable property for his necessities and benefit. "A" is *de facto* guardian of "B". Discuss the validity of the sale.
Muslim
- TORT (c) "B" climbed over "C's" wall in pursuit of a fowl. While in "C's" garden, an injury was caused to him by a spring-gun set by "C" without any notice. "B" files a suit for damages. Decide.
- (d) "M" entered into an agreement with "B" and engaged him for the purpose of performing puja and offering prayers to Lord Shiva for "M's" success in a suit and promised to pay Rs. 10,000 to "B" in the event of success. The suit ended into compromise under which "M" obtained a substantial sum, much beyond his expectations. "M" refuses to pay Rs. 10,000 to "B". "B" files a suit against "M". Decide.

2012

a) On July 18, 2005 Radhey Shyam Gupta had instituted a criminal Complaint against Sanjay Agarwal, who was a businessman. Consequently Sanjay Agarwal had to remain in jail and his business was affected. On December, 12, 2005 trial Court acquitted Sanjay Agarwal on the ground that the complaint against him was false and baseless. Sanjay Agarwal wants to file a suit for malicious prosecution against Radhey 140

Shyam Gupta.

In the light of the fact stated above draft a plaint for Sanjay Agarwal.

- (b) Draft a written statement on behalf of Radhey Shyam Gupta in response to the plaint in question (a).

or

'A' with the intention of causing 'B' to be convicted of a criminal conspiracy writes a letter imitating 'B's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy and puts the letter in a place which he knows that the police officer is likely to search.

On the basis of the facts stated above frame a charge and write a judgment of conviction.

Group B

2. (a) 'A' files a suit declaration that he is entitled to certain lands as heir of 'B'. The suit is dismissed. Can he claim, in later suit, title to the same property on the basis of adverse possession? Explain. 141
- (b) Explain and illustrate the rules relating to joinder of plaintiffs and defendants in civil suit.
- (c) "Pleading to state material facts and not evidence." Explain.
3. (a) In what circumstances the property of defendant can be attached before judgment? 142
- (b) Discuss the provisions of Civil Procedure Code regarding the attachment and sale of property in execution proceedings.
- (c) Explain constructive res-judicata.
4. (a) Enumerate the provisions by which place of suing is determined. 143
- (b) There was suit between 'A' and 'B' regarding a house. 'A' won the suit and also obtained the possession of the house. 'B' filed an appeal and he won in appeal. 'A' however did not return the possession of the house to 'B'. Explain the legal procedure to obtain the possession of the house by 'B'.
- (c) Examine the procedure for bringing suit by or against the Government.
5. (a) What do you mean by presumption? Discuss the kinds of presumption. 143
- (b) 'A' prosecuted 'B' for adultery with 'C', 'A's wife. 'B' denies that 'C' is 'A's wife, but the Court convicts 'B' for adultery. Afterwards, 'C' is prosecuted for bigamy in marrying 'B' during 'A's lifetime. 'C' says that she never was 'A's wife. Whether the judgment against 'B' is relevant as against 'C'. Explain with the help of relevant provisions.
- (c) 'A' is accused of defaming 'B' by publishing an imputation intended to harm the reputation of 'B'. Whether the facts of previous publication by 'A' respecting 'B', showing ill-will on

- the part of 'A' towards 'B' is relevant?
6. (a) Explain the law relating to 'burden of proof'. Is the law in relation to civil cases different from criminal cases? Explain. 144
- (b) 'A' sues 'B' for inducing 'C' to breach a contract of service made by him with 'A'. 'C', on leaving 'A's services says to 'A'—"I am leaving you because 'B' had made me a better offer." Whether this statement of 'C' is relevant?
- (c) A witness is asked whether he was ever dismissed from a post on the ground of dishonesty. He denies it. Evidence is offered to show that he was dismissed for dishonesty. Examine the admissibility of evidence.
7. (a) Write short note on any two of the following : 146
- (i) Judicial proceedings
- (ii) Impeaching the credit of witness
- (iii) Evidence of co-accused
- (iv) Fact in issue.
- (b) 'A' is accused of fraudulently delivering to another person a counterfeit coin which at the time when he delivered it, he knew to be counterfeit. Whether the fact that, at the time of its delivery, 'A' was possessed of a number of other pieces of counterfeit coin is relevant.
- (c) The question is, what was the date of birth of 'A'. Whether a letter from 'A's deceased father to a friend, announcing the birth of 'A' on a given date is relevant?
- Group C**
8. (a) When a Magistrate arrests a person without a warrant, is he required to inform the person arrested, of the grounds for such arrest? If so, under which provision of Criminal Procedure Code? Explain. 148
- (b) How summon is served on government servant?
- (c) A Magistrate, who is not empowered, erroneously and in goodfaith, orders the police officer to investigate into a non-cognizable case. What would be the effect of this illegality on the validity of the proceeding?
- (d) Can an offence committed within the State of Jammu and Kashmir be considered under provisions of Code of Criminal Procedure as an offence committed outside of India? Answer with reasons.
9. (a) Give a short account of the procedure to be followed under Section 145 of the Code of Criminal Procedure in case of dispute as to immovable property. 150
- (b) What is summary trial? What offences may be summarily tried and by whom?
- (c) What is meant by taking cognizance of an offence by Magistrate? Under what circumstances can a Magistrate take cognizance of an offence?

44

U.P. Judicial Service Civil Judge (Junior Division) Exam.

- (d) Under what circumstances can a wife claim maintenance from her husband? Is a married woman entitled to claim maintenance from her father?
10. (a) 'A' is accused of obstructing 'B', a public servant, in the discharge of his public functions at a given time and place. Whether the charge should set out the manner in which 'A' obstructed 'B' in the discharge of his functions? Give answer with reason.
- (b) Give a brief account of general provisions of trial in warrant cases as contained in Code of Criminal Procedure.
- (c) What is the effect of non-appearance or death of complainant in a trial of summons cases by Magistrate?

154

2012

1. Write short notes on the following :

156

- (a) Duties of Medical Officer of Municipality.
- (b) Compulsory acquisition of land by Municipality.
- (c) Duties of Municipality.
- (d) Power of Municipality to impose tax.

2. Discuss the following : 157
- (a) Constitution and functions of Gram Panchayat.
 - (b) Assistant Consolidation Officer.
 - (c) Salient features of U.P. Panchayat Raj Act.
 - (d) Tenure-Holders.
3. (a) Discuss the provisions under the U.P. Zamindari Abolition and Land Reforms Act for the prevention of fragmentation of holding and acquisition of large holdings. 161
- (b) Write brief note on different classes of tenures under the U.P. Zamindari Abolition and Land Reforms Act.
4. (a) Who is trespasser? Discuss the procedure for the ejectment of a trespasser of a land belonging to Gram Sabha. 161
- (b) Write short notes on any two of the following :
- (i) The procedure for the recovery of arrears of land revenue.
 - (ii) Board of Revenue.
 - (iii) Intermediatery
5. (a) Discuss the duties of Compensation Officer and Rehabilitation Grants Officer under U.P. Zamindari Abolition and Land Reforms Act. 162
- (b) State the procedure to be followed by the Court when the plea that the land is or is not being used for the purposes connected with agriculture, horticulture or animal husbandry is raised in any suit relating to land held by a Bhumidhar and the declaration has not been made in respect of such land under Section 143 or Section 144 of the Act.
6. (a) Discuss the powers of the Commissioner under U.P. Land Revenue Act. 162
- (b) Distinguish between Revenue Court and Revenue Officer.
- (c) Distinguish between mutation and correction proceedings.
7. IPC ~~(a)~~ Critically examine the maxim "*Actus non facit reum nisi sit rea*" and state exceptions. 162
- ~~(a)~~ (b) Discuss the circumstances under which unsoundness of mind is a defence under Indian Penal Code.
- (c) 'A' entered the house of 'B' with the intention of committing theft. 'B' and other members of his family summoned and attacked 'A' with *lathies*. Finding his life in danger. 'A' whipped out a revolver and fired causing death of 'B'. Explain what offence 'A' has committed.
8. (a) Explain the law relating to constructive criminality and bring out the distinction between "common intention" and "common object". 164
- (b) 'X' gave a kick to 'Y', who had enlarged spleen. As a result of the kick, the spleen was ruptured and 'Y' died. Giving reason, State what offence had been committed?
- (c) Discuss the essentials of 'wrongful confinement' and

- distinguish it with 'wrongful restraint'.
9. (a) Discuss the law relating to "grave and sudden provocation" as laid down in the Indian Penal Code and state the extent to which it may mitigate the responsibility of the accused for the offence of murder. Refer the case laws to illustrate your answer. 165
- (b) Distinguish any two of the following :
- (i) Kidnapping and abduction
 - (ii) Assault and criminal force
 - (iii) Riot and Affray.
10. (a) A student leader of a University declared himself for self-immolation. He got logs piled up in front of the main gate of the University and sprinkled kerosene oil over it. Thereafter he climbed over the pile of wood and sprinkled kerosene oil upon himself too. In the meantime the police came and registered a case of "attempt to commit suicide". Answer, giving reason whether the student is guilty of committing the said offence. 165
- (b) Write note on any two of the following :
- (i) Mistake of fact;
 - (ii) Grievous hurt;
 - (iii) Forgery.
- (c) Explain criminal misappropriation and distinguish it from criminal breach of trust.