

2015

Paper - I

CRIMINAL PROCEDURE CODE 1973, INDIAN EVIDENCE ACT 1872

Time : 3 Hours

Maximum Marks : 100

- Note :**
- (i) Answers must be written in English only.
 - (ii) All questions are compulsory.
 - (iii) Question No. 1 carries 20 marks. All other questions carry equal marks i.e. 16 marks each.
 - (iv) Your answers must be to the point and wherever possible quoting the specific provisions of law.
 - (v) Do not reproduce any question. Write only question number against the answer.
 - (vi) "Other than the cited cases, a candidate should not write his/her roll number, any names (including ones own), signature, addresses or any indication of his/her identity anywhere inside the answer book, otherwise he/she will be penalized".
 - (vii) Marks to each question are indicated by a figure in the margin on the right hand side.
 - (viii) Wherever option has been given only the required number of responses in the serial order attempted shall be assessed. Excess responses shall be ignored.
 - (ix) Candidates are expected to answer all the subquestions of a question together. If subquestion of a question is attempted elsewhere (after leaving a few pages or after attempting another question) the later answer shall be overlooked.

SEAL

P.T.O.

1. Draft Appeal/Revision out of Judgement of J.M.F.C./Metropolitan Magistrate. Mention the court in which the appeal is to be preferred and how it is in limitation. 20

Facts of the case :

The injured and the accused "A" and "B", are residents of the same village. They are residing adjacent to each other. There was a civil suit regarding land between them on the day of incident i.e. 24/10/2014. The injured, his wife and one minor son were in the house. At about 8.35 P.M. while they were taking food, the accused "A" and "B" came in front of his house and started asking why he filed civil suit against them. Saying this they both entered the house of injured. Accused "A", was having an axe in his hand. They accused the injured and rushed on his person. The accused "A", inflicted axe blow on the left leg of injured and accused "B", threw chilly powder on the face of the injured. They both accused and abused the injured and his family members. While the incident was going on, three persons from the neighbourhood came on the spot on hearing the cry of the injured. Those three persons and wife of the injured rescued the injured from the accused. The accused while going gave threat to the injured and his wife. There was light at that time. The injured sustained incised bleeding injury, due to which his cloth (pant) was stained with blood. There was blood spot in the house of the injured. As it was night time and as the police station was 21 km away and as there was no vehicle facility, the injured went to the police station along with his wife by bus next day, at about 9.35 A.M. and lodged a report mentioning all the facts. On the basis of the F.I.R. the case was registered for offence u/s 452, 324, 504, 506, r/w 34 of I.P.C. against the accused. The complainant was referred to Govt. hospital. The Doctor issued a medical certificate mentioning one incised wound on the left leg. The injury was having blood cloth. The I.O. prepared spot Panchanama seized blood stained cloth, recorded the statement of wife, son of the complainant and also those persons who rescued the injured. The statements were recorded immediately. As the accused were not found in the village, they were arrested two days after the incident. The accused "A", made memorandum statement and produced the axe which was blood stained. The said axe was attached under Panchanama from the field of the accused concealed in the bush. After receiving C.A. report medical certificate and on completion of the investigation, chargesheet was submitted in the court. The J.M.F.C. framed the charges against the accused for offence u/s 452, 324, 504, 506, r/w 34 of I.P.C. the accused denied the same. The defence of the accused was of total denial and of false implication due to previous enmity and political rivalry in the village. The defence has not led evidence on their behalf.

Evidence of prosecution :

The prosecution examined the injured complainant, his wife, his son, three panchas, three neighbours, the Doctor and the I.O. Total 11 witnesses were examined. There is direct and circumstantial evidence. Three independent witnesses who were not interested admitted in cross that there were two political parties in the village and the accused were on enmity terms. The panch to the seizure of the axe turned hostile to the prosecution. The clothes, axe were identified by the witnesses. F.I.R. Medical certificate, spot panchanama are proved.

Points given by J.M.F.C. for acquittal :

- (i) There is delay in filing the F.I.R. No Satisfactory explanation from the prosecution.
 - (ii) Some witnesses are related with the injured and not believable.
 - (iii) No independent corroboration as the witnesses who rescued the injured admitted in cross, that there was a politically rival group and there was an enmity on that count between the accused and that group.
 - (iv) There are contradictions and omissions in the evidence of witnesses.
 - (v) Medical evidence is not corroborating on the point of injury. As the Doctor deposed that there was one incised wound and one contusion.
- Hence, the court has given benefit of doubt to the accused.

2. Write short notes on **any four** of the following : 16
- (a) Warrant case
 - (b) Officer incharge of the police station
 - (c) Classes of criminal courts
 - (d) Executive Magistrate
 - (e) Power to stop proceedings in certain cases
3. Write in detail : 16
- (a) What are the general provisions relating to searches ?
 - (b) What is the procedure on arrest of a person against whom warrant is issued and what is the procedure when such a person arrested is brought before a Magistrate ?
4. Answer **any four** of the following : 16
- (a) What is the procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed ?
 - (b) What is the procedure in case of a person of unsound mind tried before court ?
 - (c) What is the procedure in case of an accused being lunatic ?
 - (d) What is the procedure when the appellant is in Jail ?
 - (e) What is the procedure in calling for records while exercising powers of revision ?
5. Write on **any four** of the following questions with illustrations : 16
- (a) Confession caused by inducement, threat or promise, when irrelevant in criminal proceedings ?
 - (b) How much of information received from the accused may be proved ?
 - (c) Burden of proving death of a person known to have been alive within thirty years.
 - (d) Presumption as to abetment of suicide by a married woman.
 - (e) Presumption as to documents being thirty years old.
6. Answer the following : 16
- (a) Court may presume existence of certain facts. Discuss with illustration.
 - (b) Opinion as to handwriting, when relevant ? And opinion on relationship, when relevant ?

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