

PP – 13/2
Procedural Laws
Paper – II

Time : 2½ hours

Full Marks : 150

The figures in the right-hand margin indicate marks.

Answer two questions from each Group.

Group – A

1. (a) Explain the circumstances in which maintenance can be claimed under the provisions of the **Code of Criminal Procedure, 1973**. 10
- (b) A and B were married at Palampur. They last resided together at Delhi. A came on transfer to Jaipur, leaving B behind with her brother at Delhi. He neglected and refused to maintain her. At what place the application for maintenance under Section 125 of the **Criminal Procedure Code** can be filed ? 5

- (c) A had a wife B. Later on A deserted her and started living with C. After two years of their live-in relationship, he abandoned her for another girl. Can Claim maintenance from A ? 5
- (d) A married B fifty years ago in the year 1963. B died in 1980 and A married again. In 2013, A is not able to maintain himself. A wants to claim maintenance from his married daughter, D. D is the daughter of A and B. Can he claim maintenance from her ? 5
2. (a) Discuss the situations in which anticipatory bail may be granted and also when the anticipatory bail can be refused. 10
- (b) Rahul, an M. L. A. from the constituency of Bhopal, applied to the Court of Sessions for anticipatory bail as he was apprehending arrest in a murder case. Whether bail should be granted ? 5

- (c) An accused is arrested in a bailable offence and is released on bail. During the trial, he absconds and accordingly, non-bailable warrants are issued against him. The police arrests him and produces him before the Trial Court. The defence lawyer pleads for bail as the offence is bailable. Whether bail should be granted to A ? 5
- (d) Samay, who is the telecom minister for the state is arrested on the grounds of the alleged misconduct in office and is lodged in jail for over a month. He pleads for the grant of bail on the grounds of "roots in the community". Discuss. 5
3. (a) What determines the jurisdiction of a court in criminal matters ? Are there any exceptions to it ? 10
- (b) A crime of rape is committed so near the border of two districts (District X and District Y), that it is doubtful within which of the districts it was committed. Where will the trial take place in such a case ? 5

(c) Mayank is travelling from Delhi to Mumbai by train. During the night, his luggage is stolen. The theft is discovered at Mumbai and the thief is caught at Mathura. Where will the trial take place ? 5

(d) Akhil, at Agra posts empty parcel to Nikhil at Gurgaon which is payable at delivery. Nikhil pays at Gurgaon and takes the delivery. Where will the offence be tried ? 5

4. (a) What is the procedure for recording a First Information Report (FIR) ? Discuss its evidentiary value. 10

(b) Bindu was raped by her sports teacher Pranjay Sharma. Pranjay threatened her not to disclose about this to anyone. After about two months from the incident, Bindu fainted. On being hospitalised, the doctor told about her pregnancy. Her mother wants to lodge an F. I. R. against Pranjay Sharma. Will the delay in this case cause any effect ? 5

(c) There was a free fight between the two parties A and B. A went to the nearest police station and lodged an F. I. R. After some-time, B also went to the same police station to get another F. I. R. lodged. Can two F. I. Rs be simultaneously filed ? 5

(d) A misappropriates the property of his owner that was entrusted to him. Later on he went to the Police Station and got an F. I. R. registered for theft of the same property. Discuss (if any), the evidentiary value of this F. I. R. 5

Group – B

5. (a) Discuss the applicability of the **Indian Evidence Act, 1872** in relation to Quasi-Judicial Proceedings, Domestic Tribunals and Departmental Proceedings. 10

(b) Whether the court is obliged to follow the provisions of the **Indian Evidence Act, 1872** strictly in case of contempt proceedings ? 5

(c) A tax tribunal formed under the **Income Tax Act, 1961** is hearing an appeal from the orders of lower authority. Whether it is mandatory to follow the substantive rules of evidence which forms part of the principles of natural justice. 5

(d) Discuss whether affidavits are admissible as evidence before arbitration proceedings. 5

6. (a) The term 'Admission' is a term of wider connotation and it can be used to indicate 'confessions'. Discuss in the light of provisions of the **Indian Evidence Act, 1872**. 10

(b) In a case, goods were loaded by the sender and not by the railway servants. The information given by sender was accepted as correct for the purpose of charging freight and a receipt was made out as. "said to contain 200 bags". However, when the

wagon reached its destination, it contained less number of bags. Discuss the liability of railway authorities in the light of admission made by the parties. 5

(c) Whether payment of price by the government due to an order under acquisition proceeding amounts to admission by government ? 5

(d) What is the relevance of a confession made by Mr. Manohar under a promise that immunity shall be given from further action ? 5

7. (a) "Circumstantial evidence has its own limitations. Before acting on that evidence, court must first see, whether the circumstances put forward are sufficient to bring home satisfactorily the guilt of accused." While examining this statement, discuss the difference between direct and circumstantial evidence. 10

- (b) A complainant made verbal complaint in presence of four witnesses that excess cash was withdrawn by the cashier in a bank. Discuss whether the evidence given by these four witnesses is direct or hearsay. 5
- (c) Mr. Ram and Mr. Shyam signed a contract by using digital signature issued by an authorized agency. Whether this electronic contract admissible evidence in the court of law ? 5
- (d) The department officials want to prove suppressed sale by producing photocopies of the bills pertaining to a firm. Whether such photocopies are substantive evidence to prove suppressed sales. 5
8. (a) What do you mean by the term 'Witness' ? Discuss competency of accomplice as a witnesses in a criminal trial. 10
- (g) Suman and her daughter Sakshi (14 years of age) were alone at home on a Sunday afternoon. Suddenly, a person banged into their house with an intention to commit theft

but committed Suman's murder in presence of Sakshi while escaping from the place. Later on when the trial began, Sakshi was produced as witness. Discuss the competency of such witness. 5

- (c) Shazia accused Ram of outraging her modesty. Later on during the cross-examination, she turned hostile and made a statement that she was pressurised to file a false case against Ram. Discuss the action which the court may take against such person in the light of the Supreme Court rulings. 5

- (d) Shamsher, a bearer in a hotel, was fired at by Ranbir, a guest staying in that hotel. Shamsher, then stated to those who gathered there that he had been shot at by Ranbir. Later on at the trial of Ranbir for attempted murder Shamsher gave evidence to the effect that gun went off when Ranbir started to tinker with it after saying that he was going to clean it. Is the previous statement of Shamsher admissible as evidence ? 5

Group – C

9. A entered into an agreement with B for selling his house to B for Rs. 50,00,000 (Rupees Fifty Lacs only). The agreement to sell was executed on 11th, September, 2009. The date fixed for execution of the sale deed was 1st January, 2010, B did not come for execution of the sale deed. A then served a notice on B requesting him for executing the sale deed, however, did not come for making the payments. On 17th September, 2013, B filed a suit for specific performance and claimed an alternate relief of recovery of the earnest money of Rs. 25,00,000 (Twenty Five Lacs only) from A, B also claimed an additional relief of injunction for restraining A from selling the property. Advice and draft a plaint explaining how these reliefs can be claimed. Also advise on the court fees and on the cause of action.

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10. Messrs XYZ Pvt. Ltd. was a company having A, B and C as its directors. A, who was the Director of Messrs XYZ Pvt. Ltd. entered into an agreement with Messrs PQR Ltd. for selling 1,000 computers by presenting them to be the manufacturers of computers. It was agreed that Messrs PQR Ltd. will pay a total consideration of Rs. 70,00,000 (Rupees Seventy Lakhs only) to Messrs XYZ Pvt. Ltd. in advance before the delivery. After the agreement Messrs PQR Ltd. through its directors paid money to C, who was one of the directors of Messrs XYZ Pvt. Ltd. After receiving the money, Messrs XYZ Pvt. Ltd. refused to deliver the computers and refused to refund the money. Later on, it became known that Messrs XYZ Pvt. Ltd. were not manufacturing computers. Messrs PQR Ltd. intends to file a criminal complaint. Advice and draft a complaint explaining the person who will file the complaint and persons against whom the complaint will be filed, also advice on the sections under which the offences have been committed. 25

11. X died on 16, October, 2011, leaving behind an unregistered will in favour of his elder son A with whom he was living at New Delhi on the basis of an unregistered will dated 10, October, 2011. A claimed ownership of two shops and two factories situated at Mumbai. On the basis of the unregistered will, the other son of X namely B and daughter of X namely C were not given any share. A got the mutation of the two shops and two factories sanctioned in his name. B and C are to file a civil suit challenging the will and mutation in favour of A. Advice and draft a plaint by explaining the nature of civil suit to be filed, jurisdiction and the court fees to be paid. 25

12. B, who was a Police Officer, was attacked by X and Y when B came to arrest P, against whom a criminal case was registered, B faced lot of opposition from X, Y and P obstructing B in performing his duties. Draft a complaint by explaining the nature of offence, jurisdiction and reasons as to why criminal complaint be filed. 25

