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GJSDJ(Mains)

Previous Year Paper

(Criminal Law) 25Feb,2024





HIGH COURT OF GUJARAT

MAIN WRITTEN EXAMINATION FOR RECRUITMENT TO THE POST OF DISTRICT JUDGES QUESTION PAPER: CRIMINAL LAW

Date: 25-02-2024 Time: 10:00 am to 01:00 pm Maximum Marks = 100

Q. 1. Attempt Any Two: (10 Marks each)

1. Discuss the right of an accused against self-incrimination. Whether the accused can be compelled to undergo Polygraph test, Narco Analysis test, voice spectrography test in criminal trial? Discuss in light of legal provisions and judicial pronouncements on the issue.
2. What is the stage at which power under Section 319 Cr.P.C. can be exercised by the Sessions Court? Whether the court can exercise the power under the said provision even on the basis of the statement made in the examination-in-chief of the witness concerned without waiting for the cross-examination of the said witness?
3. Discuss the principles relating to the death penalty in light of the legal provisions and judicial pronouncements?

Q. 2. Attempt Any Six (5 Marks Each)

1. Discuss the evidentiary value of dying declaration. Can it be the sole basis of conviction?
2. Discuss whether the same principles will apply to decide appeal against acquittal as in case of appeal against conviction?
3. Section-14 of the SC/ST Act is a special provision. Mention in detail what this section specifically provides for and reasons behind it.
4. Write a brief note on the essential requirements of the Section 50 of NDPS Act and position of law on the basis of pronouncements of the Apex Court in so far as search of vehicle is concerned.

5. Discuss about Leave to appeal in criminal cases by the Complainant. Discuss and explain in brief about the right of victim and its evolution in the concept of victimology.
6. Discuss what would be the legal position and procedure to be followed where the accused is already on bail and graver Section of IPC is subsequently added
7. Is a statement made under Section 164 of the Code of Criminal Procedure substantive or corroborative piece of evidence in nature? (Discuss the appreciation in reference to case law)
8. In a case where "police custody" of the accused is wrongly obtained from the Court and while so, a recovery falling under Section 27 of the Evidence Act is effected. Is the recovery evidence admissible in law?
9. Whether an "extra judicial confession" made by the accused to TV and press reporters in an interview arranged by the police while the accused was in the immediate presence of the police or in police custody, is admissible? Discuss with reasons.
10. What are the objects of recalling a witness under Section 311 of the Code of Criminal Procedure and when courts should not exercise power of recalling a witness for cross-examination?

Q. 3. Write a well reasoned Judgement on the basis of facts, evidence and details given hereunder: (50 Marks)

Accused	: Madhav Babubhai Solanki
Date and time of incident	: 12.06.2016 at 1:00am
Date and time of FIR	: 12.06.2016 at 10:00 am
Date and time of arrest of accused	: 14.06.2016 at 9:00 am
Place of incident	: Village Lakadiya
Police Station	: Lakadiya Police Station
C.R. No.	: 436/2016
Offence	: 302 & 201 of IPC
Muddamal	: Blood stained clothes of accused, weapon of offence (sickle)

Date of charge-sheet	:	26.08.2016
Date of committal	:	11.10.2016
Sessions case No.	:	36/2016
Charges framed on	:	03.11.2016
Date of commencement of evidence	:	16.11.2016

Case of prosecution:

The accused was the husband of the deceased and had four children out of their wedlock. On the fateful night of the incident i.e. the intervening night between 11th & 12th of June, 2016 while the wife and four daughters were sleeping in their house situated in the village Lakadiya, the accused allegedly butchered all the five to death with the sharp cutting weapon. Motive behind the murder was alleged as the extra-marital affair of the accused with a lady, which was opposed by his deceased wife.

FIR of the incident was lodged by brother-in-law (husband of sister of the accused) of the accused stating that accused came to him in the morning of 12/06/2016 at around 6:30 am and told him that some unknown persons came to his house and fired at him and when he tried to escape, also assaulted him over his head, however, he managed to escape and after some time at a distance from his house, saw his house burning. Complainant then reached the house of the accused alongwith the accused where he saw the dead bodies of the wife and daughters of the accused burning. However, instead of extinguishing the fire, the accused threw his blood stained vest in the fire and started warming himself before the fire.

Thereafter, after registration of FIR, post-mortem of the dead bodies was conducted and incised wounds were found on all the dead bodies and the said incised wounds were ante-mortem in nature and cause of death was shock and hemorrhage due to the ante mortem head injuries. The accused was shown as arrested after two days of the incident and on the basis of his disclosure statement, his blood stained clothes and weapon of offence was recovered by the police. Further, the accused also allegedly made extra-judicial confession regarding the commission of offence by him before the two witnesses, PW3 and PW4.

The prosecution adduced the following oral evidence in support of its case:

S. No. Oral Evidence – Witness	Nature of Witness
1. PW-1 Anand Chimanbhai Rathod	Complainant
2. PW-2 Tejas Babubhai Rathod	Witness (Brother of the deceased)
3. PW-3 Jiwan Hasmukh Patel	Witness
4. PW-4 Ram Kumar Shukla	Witness
5. PW-5 Dr. S.P. Sharma	Medical Witness
6. PW-8 Dr. S.P. Gohil	Medical Witness
7. PW-9 Dr. R B Chavda	Medical Witness
8. PW-6 S.I. Uma Shankar Srivastav	Police Witness
9. PW10- B. N. Zala	Police Witness
10. PW-7 Inspector A. S. Jadeja	I.O.

The prosecution also adduced the following documentary Evidence:

S. No. Documentary Evidence	Exhibit No.
1. Written Complaint	[1]
2. Post-mortem report of deceased wife	[2]
3. Post-mortem report of deceased daughters	[3 to 6]
4. Inquest reports of deceased persons	[7 to 11]
5. Discovery panchnama of murder weapon and clothes	[12]
6. Site plan of crime scene	[13]
7. Site plan of discovery of murder weapon	[14]
8. Medical examination report of the accused	[15]
9. Copy of general diary	[16]
10. FIR	[17]

Defense taken by the accused in further statement:

Accused has pleaded that he is innocent and had been falsely implicated in the case. His wife and daughters were murdered by the unidentified persons of rival party, who had killed the brother of the accused and wanted to kill his wife as she was the witness against them in another criminal case against them and the trial in respect of the said offence was pending at the time of incident. He further suffered injuries at the hands of those unidentified assailants.

Arguments advanced by the Prosecution:

Prosecution has argued that the accused has taken the false plea and self-inflicted minor injuries over him to create false defense and as the injuries are minor, prosecution is not supposed to explain the injuries over the body of the accused. The conduct of the accused after the incident was unnatural as instead of extinguishing the fire, the accused started warming himself before the fire. Further, smell of kerosene was coming from the clothes of the accused and no cartridges or pellets were recovered from the scene of occurrence. Apart from the same, his blood stained clothes and weapon of offence was recovered by the police at the pointing of the accused and accused also made extra-judicial confession before two of the independent witnesses, which has been duly proved by the prosecution.

Arguments advanced by the Defense side:

It is argued by the defense side that the prosecution has grossly failed to prove the case and to complete the chain as required in a case of circumstantial evidence. The panchnama of recovery is tainted and is not proved as per law as none of the panch witnesses proved the panchnama and I.O. also did not prove the panchnama by stating the contents of panchnama word by word and only deposed regarding the willingness of accused to point out the weapon of offence and the blood stained clothes and recovery of the same. Further, the panch witnesses were admittedly picked up on the way while I.O. was taking the accused to the alleged place of recovery. PW1 deposed that the accused remained at police station throughout since the registration of FIR while his arrest was shown after 2 days. He further submitted that the testimonies of PW3 and PW4 are not believable as PW-3 in his evidence has deposed that accused confessed before him at 9:00 am on 13.06.2016 that he committed murder of his

wife and four daughters while PW4 deposed that accused came to him at 6:30 am on 12.06.2016 and confessed before him that he killed his wife and four daughters and accused came to his house walking from a distance of 6-7 kms, which facts are not probable in view of the evidence of PW1. Further, PW2 also deposed that the accused met him at 06:30 am on 12.06.2016. Further, as per police yadi, accused was sent for medical examination on 12.06.2016 and as such it is highly improbable that the police would let him free after that.

