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Delhi Higher Judicial Service

**Previous Year Paper
Mains May 2022**



Duration: 2 Hours

Maximum Marks: 150

GENERAL KNOWLEDGE & LANGUAGE

Important Instructions

- (i) Please read the questions carefully and answer them as directed.
- (ii) All questions are compulsory, unless specified.
- (iii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time.
- (iv) The answer to each question should begin on a fresh page.
- (v) This paper is to test the candidate's awareness of current affairs, general knowledge, and English language. Credit will be given for substance, cohesive and concise presentation, articulation of views and ideas, and employment of appropriate vocabulary and expression.

- 1. Write in about 250 words on **any four** of the following:

- (i) Global Switch to Green Energy: Opportunities and Challenges
- (ii) "The family as an institution is too noble to be understood through the notion of justice." Comment on the given statement.
- (iii) OTT Platforms – Defying conventions or embedded in platform capitalism?
- (iv) Is democracy in global retreat?
- (v) The Blockchain Ecosystem
- (vi) Benefits and drawbacks of India's National Education Policy 2020
- (vii) Leisure in a culture of workaholism
- (viii) "Identity politics is a defense against invisibility." Would you agree?

(20 marks x 4 = 80 marks)

2. Using your own words; summarize the following passage in about 250 words:

"If we are to believe the weekly *Elle*, which some time ago mustered seventy women novelists on one photograph, the woman of letters is a remarkable zoological species: she brings forth, pell-mell, novels and children. We are introduced, for example, to *Jacqueline Lenoir* (*two daughters, one novel*); *Marina Grey* (*one son, one novel*); *Nicole Dutreil* (*two sons, four novels*), etc.

What does it mean? This: to write is a glorious but bold activity; the writer is an 'artist', one recognizes that he is entitled to a little bohemianism. As he is in general entrusted - at least in the France of *Elle* - with giving society reasons for its clear conscience, he must, after all, be paid for his services: one tacitly grants him the right to some individuality. But make no mistake: let no women believe that they can take advantage of this pact without having first submitted to the eternal statute of womanhood. Women are on the earth to give children to men; let them write as much as they like, let them decorate their condition, but above all, let them not depart from it: let their Biblical fate not be disturbed by the promotion which is conceded to them, and let them pay immediately, by the tribute of their motherhood, for this bohemianism which has a natural link with a writer's life.

Women, be therefore courageous, free; play at being men, write like them; but never get far from them; live under their gaze, compensate for your books by your children; enjoy a free rein for a while, but quickly come back to your condition. One novel, one child, a little feminism, a little connubiality. Let us tie the adventure of art to the strong pillars of the home: both will profit a great deal from this combination: where myths are concerned, mutual help is always fruitful.

For instance, the Muse will give its sublimity to the humble tasks of the home; and in exchange, to thank her for this favour, the myth of child-bearing will lend to the Muse, who sometimes has the reputation of being a little wanton, the guarantee of its respectability, the touching decor of the nursery. So that all is well in the best of all worlds - that of *Elle*. Let women acquire self-confidence: they can very well have access, like men, to the superior status of creation. But let men be quickly reassured: women will not be taken from them for all that, they will remain no less available for motherhood by nature. *Elle* nimbly plays a Molièresque scene, says yes on one side and no on the other, and busies herself in displeasing no one; like Don Juan between his two peasant girls, *Elle* says to women: you are worth just as much as men; and to men: your women will never be anything but women.

Man at first seems absent from this double parturition; children and novels alike seem to come by themselves, and to belong to the mother alone. At a pinch, and by dint of seeing seventy times books and kids bracketed together, one would think that they are equally the fruits of imagination and dream, the miraculous products of an ideal parthenogenesis able to give at once to woman, apparently, the Balzacian joys of creation and the tender joys of motherhood. Where then is man in this family picture? Nowhere and everywhere, like the sky, the horizon, an authority which at once determines and limits a condition. Such is the world of *Elle*: women there are always a homogeneous species, an established body jealous of its privileges, still more enamoured of the burdens that go with them. Man is never inside, femininity is pure, free, powerful; but man is everywhere around, he presses on all sides, he makes everything exist; he is in all eternity the creative absence, that of the Racinian deity: the feminine world of *Elle*, a world without men, but entirely constituted by the gaze of man, is very exactly that of the gynaeceum.

In every feature of *Elle* we find this twofold action: lock the gynaeceum, then and only then release woman inside. Love, work, write, be business-women or women of letters, but always remember that man exists, and that you are not made like him; your order is free on condition that it depends on his; your freedom is a luxury, it is possible only if you first acknowledge the obligations of your nature. Write, if you want to, we women shall all be very proud of it; but don't forget on the other hand to produce children, for that is your destiny. A jesuitic morality: adapt the moral rule of your condition, but never compromise about the dogma on which it rests."

(40 marks)

3. Write on **any three** of the following in about 100 words each:

- (i) Metaverse: possibilities and concerns
- (ii) The gig economy in India
- (iii) Hydroponics farming
- (iv) Work from home: boon or bane?
- (v) Impact of inflation on India's economic recovery after covid pandemic
- (vi) Gender inclusivity in armed forces

(10 marks x 3 = 30 marks)

102

DELHI HIGHER JUDICIAL SERVICE MAINS EXAMINATION (WRITTEN) 2022

Duration: 3 Hours

Maximum Marks: 200

LAW-I

Important Instructions

- (i) Please read the questions carefully and answer them as directed.
- (ii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time.
- (iii) The answer to each question should begin on a fresh page.
- (iv) Support each of your answers with reasons, relevant legal provisions and principles as also any relevant case law. Length of the answer would not determine the marks.
- (v) Even if you do not know the answer, it is advisable to attempt as much as the test is not only of the knowledge of law but also of analytical reasoning.

PART-I

Write short notes on any four out of the following six questions:

I. 'A' filed a suit in the court of District Judge (Commercial), New Delhi, for permanent injunction to restrain 'B' from infringing the trademark of 'A' and from passing off his goods as that of 'A'. 'B' files an application under Order VII Rule 11 CPC, contending that the court at Delhi had no territorial jurisdiction to entertain the suit. The said application is allowed by the court. Discuss -

- (i) What will be the nature of order i.e. whether of rejection of plaint or of return of plaint; and
- (ii) What will be the remedy available against the order i.e. whether of appeal or a revision petition or a petition under Article 227 of the Constitution of India, and to which court/bench it would lie?

✓ 2. 'A', after termination of tenancy of 'B' @ Rs.8,000/- per month, files a suit, for ejectment of 'B' from the said premises at Delhi, for recovery of arrears of *mesne* profits @ Rs.10,000/- per month for the period of 6 months and for recovery of future *mesne* profits @ Rs.12,000/- per month, from the date of institution of suit till the date of delivery of possession of the premises. On what amounts will the court fee for the said reliefs be computed and when will it be payable?

3. An arbitral award of recovery of money is pronounced at Mussoorie, in an arbitration proceeding, venue whereof was at Mussoorie and the seat whereof was at Delhi. The only property of the party, against whom the award has been passed and from the attachment and sale whereof the money under the award can be recovered, is situated at Kanpur. In the court of which place, would the application for execution of arbitral award lie?

✓ 4. 'A', on 27th July, 2021 files a suit in the court at Delhi, against 'B', for recovery of money, pleading cause of action to have accrued on 1st July, 2018. 'B', on receipt of summons of the suit, on 20th September, 2021 files an application under Order VII Rule 11 of the CPC for rejection of *plaint*, on the ground of the relief claimed therein, on the averments in the *plaint*, being barred by time. 'A', on 1st October, 2021 files an application for amendment of *plaint*, to plead acknowledgement of liability by 'B' on 30th March, 2019. Which application will be decided first and why?

✓ 5. When does cause of action for defamation occur? Whether the said cause of action is a recurring one i.e. whenever the effect of defamation is felt/occurs. Answer giving reasons.

✓ 6. Whether in your view the trade mark 'Collector's Choice' is similar or deceptively similar to registered trade mark 'Officer's Choice? Answer in brief, giving reasons.

(10 marks x 4 = 40 marks)

PART-II

Attempt any two out of the following three questions:

✓ 7. Whether the cause of action for infringement of design and cause of action for passing off in the design, can be clubbed together and a composite suit

can be filed? Discuss with reference to the various judicial decisions, on this subject.

Ansver given

8. A Public Sector Undertaking issued an advertisement for filling up of 12 vacancies in a post, by competitive examinations, and of which 5 were in the unreserved category, 4 reserved for OBCs, 1 reserved for Scheduled Castes, 1 for Scheduled Tribes and 1 for Ex-Servicemen category. Only 5 unreserved category candidates obtained marks more than qualifying marks. Of the 7 OBC candidates who obtained marks more than qualifying marks for the said category, two had marks more than last 2 candidates in the unreserved category. The fifth candidate in the OBC category, who was not selected and was put in the waiting list, sought legal redressal contending that the two OBC category candidates who had more marks than the last 2 candidates in the unreserved category, should have been appointed in the unreserved category and which would have resulted in his being selected in the OBC category. Decide, giving reasons.

9. A company has its registered office at Delhi and branch offices at Mumbai, Calcutta and Madras. A trader in Pune is infringing trademark of the company. The company files a suit at Delhi, for permanent injunction, to restrain the said trader from infringing the trademark of the company. The defendant/trader takes the defence, that the suit should have been filed at Pune, where he is carrying on his business, or at Mumbai where the Plaintiff company has its office and which is also close to Pune, where the defendant/trader is carrying on his business. The defendant/trader, thus contends that the court at Delhi has no territorial jurisdiction to adjudicate the suit. Decide the said plea of territorial jurisdiction, giving reasons.

(20 marks x 2 = 40 marks)

PART-III

Attempt **any four** out of the following six questions:

10. 'A', on 15th March, 2004 files a suit against 'B', for recovery of possession of immovable property, pleading –

(i) That 'A' had entered into an agreement with 'B' on 1st February, 2001, for sale of the said property and as per the said agreement, 'B'

was to pay the balance sale consideration and get the sale deed executed within 18 months therefrom;

(ii) That 'B' never tendered or offered the balance sale consideration and remained quite in the matter;

(iii) That upon 'B' not coming forward to perform his part of the agreement to sell, 'A' forfeited the earnest money and 'B' ceased to have any rights under agreement to sell;

(iv) That 'B', however, in December 2003 had forcibly entered and occupied the said property, which was lying vacant.

17(1)(a)

'B' contests the said suit, pleading his readiness and willingness and also pleading that 'A', against receipt in cash, without receipt of further sale consideration, on 1st July 2001, in part performance of the agreement to sell, had put 'B' into possession of the property and that 'B' was continuing in possession of the property in part performance of the agreement to sell and the default was on the part of 'A'.

[There is no registered document between the parties.]

Discuss the merits/demerits of the pleas of the respective parties with respect to delivery of possession in part performance of the agreement to sell, with special emphasis on dates.

11. Critically analyse the judgment in the Delhi University Photocopy case in The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services.

12. Meta Platform Incorporated, being the parent company of INSTAGRAM, in accordance with its terms of service and guidelines, disabled the account of 'X', a resident of Delhi, for the reason of posts put by 'X' on his INSTAGRAM account. 'X' files a petition under Article 226 of the Constitution of India, impugning the action of disabling of his INSTAGRAM account. It was his contention, that the action of Meta Platform Incorporated was violative of his fundamental right of freedom of speech and expression. Discuss, giving reasons, the possible outcome.

13. 'A' engaged 'B' to carry out the construction work for 'A'. In terms of the contract between 'A' and 'B', 'B' furnishes unconditional and unequivocal performance bank guarantee of a nationalized bank in favour of 'A'. 'A', on 4th May, 2020 invoked the bank guarantee and the bank which had

issued guarantee, credited the amount of the guarantee to the account of 'A' on 4th May, 2020 itself. 'B', on 5th May, 2020 filed a suit for permanent injunction to restrain the bank from making payment under bank guarantee and to restrain 'A' from invoking performance bank guarantee or from receiving the money thereunder. In the said suit, alternatively, if 'A' had received money under the bank guarantee, a direction was sought to 'A' to deposit the amount so received in the court, in order to secure the said amount. It was pleaded by 'B', that it had completed work as per specifications and without any complaint from 'A', and 'B' had been writing to 'A' to issue certificate for completion of work but 'A', instead of issuing such certificate, had invoked the bank guarantee. 'A', besides contradicting the said pleas of 'B', also pleaded non-performance by 'B'. Decide the application for interim relief in the said suit.

14. Section 48 of the Patents Act 1970 confers upon the patentee of a product, "the exclusive right to prevent third parties from the act of making, using, offering for sale, selling or importing for those purposes that product in India". Section 107A of the said Act provides that "any act of making, constructing, using, selling or importing a patented invention solely for uses reasonably related to the development and submission of information required under any law for the time being in force, in India, or in a country other than India, that regulates the manufacture, construction, use, sale or import of any product, shall not be considered as infringement of patent rights".

Whether a patented product can be exported from India, solely for the purposes of development and submission of information required under any law for the time being in force, in India, or in a country other than India, that regulates the construction, use, sale or import of the patented product?

15. The Commercial Division of the High Court dismissed the application for condonation of delay in applying for setting aside of an arbitral award, holding that no sufficient cause had been disclosed. Axiomatically, the petition under Section 34(1) of the Arbitration and Conciliation Act, 1996, for setting aside of Arbitral Award is also dismissed. What is the legal remedy available against such orders, and why?

(30 marks x 4 = 120 marks)

102

DELHI HIGHER JUDICIAL SERVICE MAINS EXAMINATION (WRITTEN) 2022

Duration: 3 Hours

Maximum Marks: 200

LAW-II

Important Instructions

- (i) Please read the questions carefully and answer them as directed.
- (ii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time.
- (iii) The answer to each question should begin on a fresh page.
- (iv) Support each of your answers with reasons, relevant legal provisions and principles as also any relevant case law. Length of the answer would not determine the marks.
- (v) Even if you do not know the answer, it is advisable to attempt as much, as the test is not only of the knowledge of law but also of analytical reasoning.

PART-I

Write short notes on any four out of the following six questions:

1. Please explain elaborately the purpose for which Claim Tribunals are constituted under the Motor Vehicles Act, 1988. Also explain which Applicants can approach the said tribunal for relief.
2. Please elaborate the grounds for dissolution of marriage under the Divorce Act, 1869.
3. Please elaborate the requisites of a valid adoption under the Hindu Adoptions and Maintenance Act, 1956.
4. An employee is not paid the prescribed minimum wages. What is the remedy available to such an employee under the Minimum Wages Act, 1948 to recover his unpaid dues? Please give details.

5. Please state with reference to statutory provisions and case laws as to the procedure that an Arbitral Tribunal is to follow while conducting arbitration proceedings.

6. A bank advanced a loan of Rs.5 crore to its customer. As a security for the loan the customer deposited the title papers of his residential property and created a mortgage in favour of the bank.

Over time the borrower started defaulting in repayment of the agreed instalments. The bank now seeks to take steps to sell the mortgaged property to realise its unpaid dues. Please elaborate the steps the bank is obliged to take under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for the said purpose.

(10 marks x 4 = 40 marks)

PART-II

Attempt **any two** out of the following three questions:

7. An unregistered firm institutes a suit against a statutory tenant for eviction. The Defendant raises an objection that the Plaintiff – Firm is an unregistered firm and hence the suit be dismissed in view of Section 69 of the Partnership Act. Please elaborate in detail, with reference to statutory provisions as to whether such a plea would be acceptable in the court.

8. A Plaintiff files a suit against its bankers seeking decree of Declaration declaring that the corporate guarantee issued by it is vitiated by fraud and mis-representation and therefore invalid in law. Other consequential reliefs are sought.

The Defendant files an application for dismissal of the suit on the ground that the Civil Court has no jurisdiction to adjudicate the suit. The Defendant relies upon the provisions of Section 18 of the Recovery of Debts and Bankruptcy Act, 1993 to plead that a Civil Court has no jurisdiction.

Please decide this application filed by the Defendant, elaborating the legal pronouncements.

9. Please explain the principle that would be followed by a Claims Tribunal constituted under Section 165 of the Motor Vehicles Act, 1988 to award compensation to a victim of an accident involving death or bodily injury arising out of use of motor vehicle.

(20 marks x 2 = 40 marks)

PART-III

Attempt any four out of the following six questions:

10. Mr. Ramesh is working in a bank. With a view to downsize their staff, the bank floated a voluntary retirement scheme. The scheme required Ramesh to make an application for voluntary retirement. The competent authority of the bank had absolute power at its sole discretion to accept the application. The request of Ramesh to seek voluntary retirement was not to take effect until and unless it was accepted in writing by the competent authority. The scheme also contained a clause that an employee who opts for voluntary retirement cannot withdraw his application.

Ramesh waited for one month but received no news from the bank about his request for voluntary retirement. He thereafter changed his mind realising that opportunities for employment outside the bank were very poor. He sent a letter to the bank withdrawing his application for voluntary retirement. The bank however refused the withdrawal application of Mr. Ramesh and passed an order of voluntary retirement of Mr. Ramesh.

Mr. Ramesh started appropriate proceedings challenging the said order granting him voluntary retirement.

Decide whether the act of the bank in passing an order for voluntary retirement of Mr. Ramesh is valid. Elaborate in detail keeping in view relevant provisions of the Indian Contract Act, 1872 and the legal pronouncements.

11. A public auction of a plot was conducted by the Bikaner Development Authority. R.C. Limited made the highest bid of Rs 1 crore. As per the terms and conditions in the auction, R.C. Limited being the highest bidder deposited a sum of Rs 25 Lakhs with the authority being the earnest deposit under the terms and conditions of the auction.

The bid of R.C. Limited was accepted by the authority and R.C. Limited was asked to pay the balance amount within three months.

R.C. Limited failed to pay the balance amount within three months and requested the authority for grant of three months additional time to make the payment.

The authority declined to extend the time to make the payment. The Authority thereafter, on expiry of three months forfeited the earnest deposit made.

The Bikaner Development Authority held a fresh auction of the land and now received the highest bid of Rs. 1.25 crores. The new bidder paid the entire consideration within the stipulated period and completed the transaction with the Authority.

R.C. Limited now seeks refund of the earnest deposit paid to Bikaner Development Authority and files a suit.

Decide the suit filed by R.C. Limited keeping in view the applicable statutory provisions of the Indian Contract Act, 1872 and judicial pronouncements.

12. APAR Limited entered into an agreement with DDA for construction of a bridge on a Nala. The agreement provided that in case of any dispute or differences between the parties in connection with the agreement the same shall be referred to the sole arbitration of the Chairman, DDA or his nominee.

APAR Limited completed construction of the bridge and requested for release of full payment in terms of the agreement. DDA, however, deducted large amounts stating that there were some defects in the bridge. APAR Limited denied the contention of DDA and sought reference of disputes to arbitration. The Chairman, DDA appointed a retired Chief Engineer of DDA as the Sole Arbitrator to arbitrate the disputes between the parties.

APAR Limited seeks to challenge the appointment of the Arbitrator by Chairman, DDA. APAR Limited seeks appointment of an Arbitrator by a neutral authority.

Please decide the above dispute giving details of case laws and legal provisions.

13. Mr. A enters into an Agreement to Sell with Mr. B to purchase the flat of Mr. B for a consideration of Rs. 50 Lakhs. As per the Agreement, 10% of the sale price was to be paid in advance by Mr. A. Balance consideration was payable within three months of the Agreement.

Mr. A paid Rs. 5 Lakhs as advance payment in terms of the Agreement to Sell.]

On expiry of three months from the date of Agreement to Sell, Mr. A contacted Mr. B and told him that he has the balance money ready and that the sale transaction be completed, appropriate deed be executed and possession of the flat be handed over to him. | S.1C

Mr. B however pleaded that he needs more time to vacate the flat and move to a new accommodation. This interaction continued for another six months and the matter did not progress further though Mr. A repeatedly told Mr. B that he has the funds and seeks to make the payment and complete the transaction.

Finally, Mr. A sent a legal notice to Mr. B. In reply Mr. B repeats his plea for more time to locate an alternate accommodation. Mr. A then filed a suit for specific performance of the Agreement to Sell against Mr. B.

Please elaborate in these circumstances what facts are to be proved by Mr. A to enable the court to pass a decree of specific performance *in his* favour. Please also elaborate the statutory provisions and judicial pronouncements that would help Mr. A to get a decree of specific performance.

14. A borrower had a factory in Uttar Pradesh where he had installed his plant and machinery. The property was mortgaged by the borrower with the bank for obtaining financial facilities. The borrower committed defaults. The bank initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

The bank put the property to auction. A third party made a bid which was declared the highest bid. The bid was accepted by the bank and the bidder paid the initial stipulated amount. Certain disputes arose between the bank and the auction purchaser. The auction purchaser did not pay the balance bid amount claiming infirmities on the part of the bank. The bank cancelled the confirmed bid of the auction purchaser.

The auction purchaser filed a suit seeking to challenge the act of the bank. The bank took the plea that the suit is not maintainable and the auction purchaser has the remedy of approaching the DRT.

Please decide the above objections of the bank. Elaborate the statutory provisions and legal pronouncements in this regard.

15.

Ravi and Rupali were working as colleagues in the same office. Over time due to social interaction they grew fond of each other. Ravi proposed Rupali for marriage and she readily agreed. The two got married.

However, Ravi repeatedly used to spend several days outside the matrimonial home claiming that he has to spend time with his parents.

The couple was over time blessed with a daughter.

After three years of marriage Rupali learnt that Ravi had earlier also married and his first wife continues to live with Ravi's parents. That was the reason why Ravi used to leave the matrimonial home frequently to stay with his parents.

Given the above facts please elaborate keeping in view the Hindu Marriage Act, 1955 the status of marriage between Ravi and Rupali. Please also elaborate the status of the baby girl who was born to Ravi and Rupali. Elaborate the issue giving details of the statutory provisions and legal pronouncements.

(30 marks x 4 = 120 marks)

101

DELHI HIGHER JUDICIAL SERVICE MAINS EXAMINATION (WRITTEN) 2022

Duration: 3 Hours

Maximum Marks: 200

LAW-III

Important Instructions

- (i) Please read the question carefully and answer them as directed.
- (ii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time.
- (iii) The answer to each question should begin on a new page.
- (iv) Support each of your answers with reasons, relevant legal provisions and principles as also any relevant case law. Length of the answer would not determine the marks.
- (v) Even if you do not know the answer, it is advisable to attempt as much as the test is not only of the knowledge of law but also of analytical reasoning.

PART-I

Write short notes on any four out of the following six questions:

1. Evidentiary value of multiple contradictory dying declaration.
2. Delay in lodging FIR - causes and impact.
3. Prescribed minimum sentence – is it in conflict with interest of justice?
4. Narco Analysis vs. Right to Silence.
5. Relationship in the nature of marriage as understood in the Protection of Women from Domestic Violence Act, 2005.
6. Mode of proving electronically recorded voice.

(10 marks x 4 = 40 marks)

PART-II

Attempt any two out of the following three questions:

7(a) Describe the power of revision under Section 399 Criminal Procedure Code, 1973. How are the powers of revision different from the power to hear appeal?

7(b) An accused files a revision petition against his conviction under Section 379 IPC. After the expiry of the period of appeal he realizes that the grounds taken by him in the revision petition could be taken by him in appeal. What is his remedy in the Cr.P.C. 1973?

8. A Government servant uses his ill-gotten money to purchase LIC policies through an agent in cash and with the matured amount purchases property in the name of his wife and son and stocks in his own name. What offence is made out and against whom? What are the ingredients of the offence?

9. Describe the provisions of Protection of Children from Sexual Offences Act intended to secure a child friendly ambience for trial. How would you implement them?

(20 marks x 2 = 40 marks)

PART-III

10! An accused is tried for offence under Section 304B Indian Penal Code, 1860. The prosecution case is based on the testimony of the father of the victim who died on account of consumption of pesticide, within three years of marriage with the accused. The relevant part of the deposition is as under:

“After one year of marriage my daughter came to me and told me that her husband and his brother are demanding money for construction of a house and that they were quarrelling with her with such demand. I told her that at that time I did not have the money. However I gave her a she-buffalo for taking the same to her in-law's house and asked her to pull on with the parents in law. 7 months after that she again came to me and repeated the demand. I promised the accused that after the harvest of the crop I will give them the money. She again came about fifteen days prior to her death and demanded the money. She was maltreated by the accused. I was informed of her death by the brother and a member of the Panchayat.”

The defence raised the following pleas:

- Demand for money for construction of a house was not in connection with marriage and hence not dowry as stipulated in Section 2 of the Dowry Prohibition Act, 1961. Being a penal provision, the definition has to be strictly construed.
- There is nothing to show any connection between the demand for money and the death.
- No harassment "seen before her death" is proved and hence no offence under Section 104A of the Indian Penal Code, 1860 is proved.

Deal with all the above propositions and answer whether the case should end in conviction or acquittal.

Q. On 17.08.2010 around 12 pm accused Sujit Kumar entered into the house of the victim (informant) where she was alone and committed rape on her. The victim was a minor girl. The I^d. Additional District Judge being Special Court under POCSO Act, 2012 held an enquiry and found Sujit to be of 17 years 11 months and 7 days on the date of commission of the offence under Section 34 of the POCSO Act, 2012 and declared him a child in conflict with law. Further, the I^d. Court said –

"He appears to be more than 16 and below 18. Accordingly he is declared a Child in Conflict with Law (CCL). He be tried as an adult as per the provisions of the Juvenile Justice (Care & Protection of Children) Act, 2015. The jail Superintendent will send him to the Observation Home."

The bail application moved on behalf of Sujit Kumar was heard and rejected by the I^d. Additional Sessions Judge, designated Special Court under the POCSO Act, 2012.

(i) Can the Special Court under the POCSO Act after finding the accused above the age of 16 and below the age of 18, treat him like an adult and being a Sessions Judge himself proceed with the case like other sessions cases before him? Give reasons for your answer.

(ii) Under what circumstances a child between 16 and 18 in conflict with law can be treated like an adult under the Juvenile Justice (Care & Protection of Children) Act, 2015?

(iii) What is the scheme of rehabilitation of a child in conflict with law in the Juvenile Justice (Care & Protection of Children) Act, 2015?

12. The following facts emerge from the evidence of a case:

Adulution
Confinement
Kidnapping
for ransom

12 Witness PW1 saw deceased D being forcibly taken away in a Maruti van by A1. PW2 proves confinement of D on the first floor of an abandoned factory premises. PW5 wife of the deceased D proves a huge amount being demanded by A1. PW32 is the doctor who issued a death certificate for a fictitious person at the instance of PW33. PW3 proves that the person cremated under the cover of the death certificate issued by PW32 was none but D. A2 was seen by PW4 going from house to house to find a place to confine the victim and was otherwise a close associate of A1, available at back and call of A1. A3 is the servant of A1 who approached PW33 and secured his assistance in obtaining the death certificate.

(i) Is the offence of murder established? Give reasons for your decision.

(ii) What offence, if any, is committed and by which accused?

(iii) What is abetment and what is the penal provision of abetment?

13 Subba was employed as a lower division clerk in the State Insurance Corporation. The employees of the Corporation had formed a credit society known as Employees' Cooperative Thrift and Credit Society. Subba was the Honorary Secretary of the Employees' Thrift and Credit Society. The allegation against him is that he temporarily misappropriated a sum of Rs.2,000/- being the telephone dues of the said society by interpolating the records of that society to show that the amount was remitted to the Telephone Office on 10.02.2002 whereas the amount was actually remitted on 04.03.2002. Soon after this incident Subba superannuated. The investigating officer submitted the chargesheet under the Prevention of Corruption Act, 1988 without obtaining the sanction under Section 19 of the Prevention of Corruption Act, 1988.

Subba opposes framing of charge on the following pleas:

- The Prevention of Corruption Act, 1988 is not applicable to him.
- The act alleged against him is not an offence under the Prevention of Corruption Act, 1988.
- The prosecution is not maintainable as sanction under Section 19 of Prevention of Corruption Act, 1988 is wanting.

Elaborate

(i) If you are the Judge before whom the chargesheet is filed, will you frame charge? Answer with reasons dealing with the above pleas.

(ii) What is the purpose of the provisions of Section 19 of the Prevention of Corruption Act, 1988?

14. In a reformist movie the protagonist is a misguided youth, protesting against every symbol of authority and eventually turning out to be a failure in life. When he attempts to confess his crime of a murder at the end of the movie, he is prevented by his lawyer. In frustration he bursts out against lawyer saying that they help concealing the truth for the sake of money they make.

A complaint of defamation is filed against the actor who plays the role of the protagonist by a group of lawyers.

(i) Does the act complained of amount to defamation? Give reasons for your answer.

(ii) Is exhibition of the movie in theatres and on Doordarshan covered by the Information Technology Act, 2000? If so, why?

(iii) What is the nature and extent of liability of the intermediaries under the Information Technology Act, 2000?

15 (a) Unique Fashions Pvt. Ltd. is a company producing high value readymade garments in Delhi. The company purchases handloom cloth from one Mansoor Ali in Jhargram, West Bengal by placing orders online and receiving the supplies in big parcels through a transporter. Payments are made by cheques signed by the Managing Director - Urvashi Kapoor. One cheque for Rs.20,000/- is dishonoured and despite reminders the payment is not made. After due notices, Mansoor Ali filed complaints under Section 138 read with Section 141 of Negotiable Instruments Act. From the records of the Registrar of Companies, Mansoor Ali finds names of fifteen Directors including Urvashi Kapoor. Unique Fashions Pvt. Ltd. and all the fifteen Directors are arrayed as accused for the offences. After narration of facts leading to dishonour of cheques, Mansoor Ali avers in the complaint as under:

"The accused nos. 2 to 16 are Directors of accused no.1 and were in charge of and responsible to the company for the conduct of the business of the company." Mansoor Ali did not specify or describe how any one of the Directors were responsible for the conduct of the business of the company.

Should the Magistrate issue process against the company and all the fifteen Directors? Give reasons for your answer.

15(b) Assuming that process is served on all the Directors, three of them individually approach the High Court for quashing the complaint. Director D1 pleads that the averments in the complaint are insufficient to summon any Director. Director D2 pleads that though he is the Director of the company for the last seven years, he at the relevant time was not in charge of and responsible to the company for the conduct of its business. Director D3 pleads that although he was in charge of the affairs of the company when the cheque was issued, he has since resigned, a fact verifiable from records.

(i) Which of the Directors/Petitioners Before the High Court are entitled to an order of quashment of the complaint and why?

(ii) What are the penal provisions vis-à-vis the company and the Directors?

(30 marks x 4 = 120 marks)
