

HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

**Written Examination for appointment to the post of
Civil Judge (Junior division)**

**PAPER – I
(CIVIL LAWS)**

Date: 22-01-2022

TIME:- 3 Hours, from 10.00 a.m. to 1.00 p.m.

Maximum Marks:100

INSTRUCTIONS TO THE CANDIDATES:

1. Question paper consists of 10 questions. Answer all the questions. Each question carries total of 10 marks. If a question has sub-questions or parts, the marks carried by each sub-question or part are indicated.
2. Questions must be answered in English. If the answers are not legible, such answers will not be evaluated.
3. Write your hall ticket number only in the space provided in the first page of the main answer booklet. Do not write either your name or hall ticket number or any mark, anywhere in the main answer booklet / additional answer sheets.
4. Any attempt by the candidate to disclose his / her identity in any manner in the answer sheet will disqualify him / her.
5. No candidate will be permitted to leave the examination room/hall before 11.00 a.m.

1. "A" purchased a piece of land in 1980 measuring 4 acres. He is cultivating it through his manager. "A's" name is mutated in the official records like "1-B" etc. "A" had to leave to USA for his job and is staying in USA since 15 years. His neighbor "B" owns the adjacent land. Taking advantage of the regular absence of "A" and the periodic absence of the Manager, "B" periodically cuts the crop/fruits in A's land and sells the same also to third parties and receives payment also through Bank transfer.

"B" due to his old age sells the property to "X" through a registered sale deed. Included in this sale deed is A's property also. "X" tries to take possession of the entire property but is obstructed by the Manager of "A".

"X" files a suit for "recovery" of possession and claims title both through the sale deed executed in his favour and states that his vendor "B" has perfected his title over "A's" property (Ac.4-00 cents) also through adverse possession.

"A" files a counter claim for cancellation of the sale deed and for an injunction against 'X'.

Discuss with the relevant sections and case law, the correctness of the pleas raised by both parties.
(10 Marks)

- 2) (a) How is a suit to be filed with regard to a minor's property or rights? If it is not properly presented can it be returned? If not how can it be rejected?
- (b) Who is an indigent person as per CPC? How and when can such a person present a suit?
- (c) When can a Court reject an application to sue as an indigent person?
- (d) How can costs be recovered if a suit filed by an indigent person is decreed with costs?
(4 x 2 ½ = 10 Marks)
- 3) Who are the persons who can present a document for Registration as per the Registration Act, 1908? What is the manner / scope of enquiry by the Registrar when a document is presented for Registration? Can Registrar refuse to register a document?
(10 Marks)
- 4) (a) When and how can time spent in litigation be excluded for computing the period of limitation?
(4 Marks)
- (b) Can a fresh suit be instituted after excluding the above period? Is the Court's permission necessary for this?
(4 Marks)
- (c) Does this rule apply only to original suits / application or even to appeals / revisions also?
(2 Marks)
- 5) Write short notes on the following –
- a) Vis major
 - b) Plain language interpretation of a statute
 - c) Abatement of a suit
 - d) Agent and principal
 - e) Fraud under the Contract Act
- (5 x 2 = 10 Marks)**

- 6) (a) Explain what is "transfer of property". What can be transferred?
(b) Define briefly 'a vested interest' and a 'contingent interest'.

(2 x 5 = 10 Marks)

- 7) Write short notes on –
- Acceptance of a proposal
 - Free consent
 - Lawful consideration
 - Reciprocal promises

(4 x 2 ½ = 10 Marks)

- 8) Write a note on –
- Interim mandatory injunction
 - Personal bars to relief under the Specific Relief Act
 - Rectification of an instrument
 - When cancellation of an instrument can be ordered

(4 x 2 ½ = 10 Marks)

- 9) (a) When is a foreign judgment conclusive?
(b) What is the maximum period of detention in civil prison in execution of a decree?
(c) What are the grounds on which a review of a judgment can be sought?
(d) When and how can additional evidence or document be introduced in an Appellate Court?

(4 x 2 ½ = 10 Marks)

- 10) (a) What are the conditions for a valid Hindu marriage?
(b) What are the grounds for a divorce under the Hindu Marriage Act available to both the spouses?
(c) Define dominant and servient heritage and owners.
(d) Can easement be acquired by prescription? If yes, what is the period for private property and for government property?

(4 x 2 ½ = 10 Marks)

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**PAPER – II
(CRIMINAL LAWS)**

Date: 22-1-2022

TIME:- 3 Hours, from 02.00 p.m. to 05.00 p.m.

Maximum Marks:100

INSTRUCTIONS TO THE CANDIDATES:

- 1) Question paper consists of 10 questions. Answer all the questions. Each question carries total of 10 marks. If a question has sub-questions or parts, the marks carried by each sub-question or part are indicated.
- 2) Questions must be answered in English. If the answers are not legible, such answers will not be evaluated.
- 3) Write your hall ticket number only in the space provided in the first page of the main answer booklet. Do not write either your name or hall ticket number or any mark, anywhere in the main answer booklet / additional answer sheets.
- 4) Any attempt by the candidate to disclose his / her identity in any manner in the answer sheet will disqualify him / her.
- 5) No candidate will be permitted to leave the examination room/hall before 03.00 p.m.

1. (a) Is a person other than a Public Prosecutor / A.P.P. entitled to conduct a prosecution? If so when and how?
(b) Discuss with provisions of law if a Police Officer (who is a part of investigation of the offence) can conduct a prosecution.
(c) What is the procedure to be followed if a Corporation or a Society is an accused?
(d) What is the power of a Judge or Magistrate under Cr.P.C. for "local inspection"? Can an accused file an "objection" to the report? Will it be a part of the Court record?

(4 x 2 ½ = 10 Marks)

- 2) (a) Discuss briefly with case law / provisions of law, the recent trend of cases wherein in a long standing sexual relationship between two adults charges of a rape are being filed? Can a charge of rape be filed in such cases?
- (b) Discuss briefly with case law / provisions of law etc., the trend of adding criminality to a purely civil dispute? What are the remedies open to an accused who urges that a civil case is converted into a criminal case?

(2 x 5 = 10 Marks)

- 3) (a) What is the procedure to be followed in case an accused is a person of unsound mind?
- (b) What is the procedure to be followed by a Court if it feels an offence under Section 195 (1)(b) is committed?
- (c) When can a Court take cognizance of an offence of contempt for lawful authority; offences against public justice; offences relating to documents given in evidence.
- (d) What is the procedure for trial for giving false evidence?

(4 x 2 ½ = 10 Marks)

WRITE SHORT NOTES:

- 4) (a) Who is entitled to claim maintenance under Section 125 Cr.P.C. What are the factors the Court should consider for awarding the same?
- (b) Opinion of an expert (handwriting or ballistics) and its evidentiary value.

(2 x 5 = 10 Marks)

- 5) (a) What is the evidentiary value of a statement as to any law in a law book?
- (b) What is the evidentiary value of a statement or a fact by a person who is dead or cannot be found when it is made in the course of business?
- (c) When and for what facts is an opinion of a third person / third party relevant?
- (d) When can a search warrant be issued?

(4 x 2 ½ = 10 Marks)

- 6) Discuss the essential ingredients of an offence of "Cheating". Discuss with relevant case law the trend of registering a case of cheating etc., in cases of failure to marry?

(10 Marks)

- 7) (a) Discuss the mode of proof of a document purporting to be a proceeding of a Legislature or of a Municipal body in a State?
- (b) When can written arguments be filed in a Criminal trial? Can such a Court regulate or control oral submissions of a counsel or prosecutor?
- (c) Can a Writ Petition be filed if the police refuse to register a case when the report discloses the Commission of a cognizable offence? What is the proper rémédy?
- (d) Can an Executive Magistrate interfere in disputes relating to land / water etc.?

(4 x 2 ½ = 10 Marks)

- 8) (a) What are the procedural formalities to be followed (as per the Juvenile Justice Act) when a "Child" is apprehended by the police
- (b) What is the nature of enquiry by the Board in case of a heinous crime committed by a child? Can the Board "try" the child for the offence?
- (c) Indicate briefly the procedure for recording a dying declaration? What are the procedural safeguards to be followed for recording a dying declaration?
- (d) What are the steps / safeguards to be taken by a Magistrate / Judge receiving FIRs by person / messenger or by post?

(4 x 2 ½ = 10 Marks)

- 9) (a) Define a "domestic relationship" under the DVC Act, 2005?
- (b) What are the forms of "abuse" recognized under the DVC Act, 2005?
- (c) In which Court can a woman who is apprehending eviction from a shared household file a case for protection. Explain briefly.
- (d) What are monetary reliefs that can be granted under the Protection of Women from D.V.C Act, 2005.

(4 x 2 ½ = 10 Marks)

- 10) (a) Explain briefly the difference between culpable homicide and murder?
- (b) Discuss briefly about the offence, if any, with regard to negligent conduct with fire / combustible material / dangerous gas.

(2 x 5 = 10 Marks)

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**PAPER – III
(English Translation and Essay Writing)**

Date: 23-1-2022

TIME:- 3 Hours, from 10.00 a.m. to 01.00 p.m.

Maximum Marks:100

INSTRUCTIONS TO THE CANDIDATES:

- 1) English Translation is for 30 Marks. Essay writing is for 70 marks consisting of two questions of 35 Marks each.
- 2) Translation has to be made from English language to either Telugu or Hindi language only.
- 3) Essays must be written in English only.
- 4) If the answers are not legible, the answer script will not be evaluated.
- 5) Write hall ticket number only in the space provided in the first page of the main answer booklet. Do not write either your name or hall ticket number or any mark anywhere in the main answer booklet or additional answer sheets.
- 6) Any attempt by the candidate to disclose his / her identity in any manner in the answer sheet will disqualify him / her.
- 7) No candidate will be permitted to leave the examination room/hall before 11.00 a.m.

ENGLISH TRANSLATION:

(30 Marks)

“Every case has its own journey towards the truth and it is the Court’s role to undertake. Truth has to be found on the basis of evidence available before it. There is no room for subjectivity nor the nature of offence affects its performance.”

Factual Background

In the present case, it was alleged that both the accused carried three weapons, waylaid the deceased at a signal in a main road at about 5 p.m. and after the initial attack, dragged him to the pavement, and thereafter inflicted multiple injuries.

PW-1, who saw the occurrence from a fair distance, was known to the deceased. The deceased, who had his intestine coming out, told him the story implicating the accused.

The Deceased was taken to a hospital run by PW-25, a doctor very well known to PW-1. This hospital was about two kilometres from the place of occurrence, while another nursing home was in existence at about 50 meters.

PW-25 gave treatment to the deceased at about 5.05 p.m. He died of multiple injuries at about 5.45 p.m. About 40 days thereafter, at the request of the police, PW-25 gave another certificate indicating that there was a dying declaration.

Before the trial court, the prosecution examined as many as 28 witnesses. Most of the witnesses turned hostile.

On behalf of the defence, a doctor was examined to show that considering the nature of the injuries suffered, the death must have been instantaneous.

The Court of Sessions considered all the materials including the witnesses who turned hostile. After due scrutiny, benefit of doubt was extended in favour of the appellants.

The High Court, however, did not consider the entire evidence as discussed by the trial court. The judgment of the trial court was reversed and conviction was rendered sentencing the appellants for life.

Duty of appellate Courts

When the trial court renders its decision by acquitting the accused, presumption of innocence gathers strength before the Appellate Court. As a

consequence, the onus on the prosecution becomes more burdensome as there is a double presumption of innocence.

Certainly, the court of first instance has its own advantages in delivering its verdict, which is to see the witnesses in person while they depose. However, the Appellate Court is expected to involve itself in a deeper, studied scrutiny of not only the evidence before it, but is duty bound to satisfy itself whether the decision of the trial court is both possible and plausible view. When two views are possible, the one taken by the trial court in a case of acquittal is to be followed on the touchstone of liberty along with the advantage of having seen the witnesses. The Appellate Court shall remind itself of the role required to play, while dealing with a case of an acquittal.

The district judiciary is expected to be the foundational court, and therefore, should have the freedom of mind to decide a case on its own merit or else it might become a stereotyped one rendering conviction on a moral platform.

Ruling

The Superior Court noticed that,

- The trial court took enormous pains in considering the evidence of all the witnesses one by one and gave exhaustive reasoning for its ultimate conclusion.
- The dying declaration was put forth by the prosecution through the mouth of PWs 1, 2 and 25. When the evidence let in by them was found to not be trustworthy, there cannot be any dying declaration either in fact or in law.
- PW-25 had deposed that he did not remember whether the deceased told him that the accused attacked him and caused injuries. He later testified that he had given evidence about the dying declaration due to the persistence of the police.

- The alleged occurrence was said to have happened at about 5 p.m. on a busy road with heavy traffic and even the evidence of PW-1 and PW-2 suggests that there were about 1000 persons.
- The defence also examined a Government doctor, an expert in the field of surgery, who had clearly deposed that it would be impossible for the deceased to be conscious after suffering injuries such as intestines coming out.
- The Superior Court wondered how the various reasons given by the trial court were found unacceptable by the High Court especially when it did not consider the evidence of the other witnesses.

It was, hence, held that the High Court did not undertake the exercise as mandated under Section 378 read with Section 384 CrPC in reversing the reasoned decision rendered by the trial court. Consequently, the orders of conviction passed by the High Court was set aside.

ESSAY WRITING: (Maximum 1500 words)

- 1) What are the causes for the delay in disposal of civil / criminal cases in Junior Civil Judge / Magistrate Courts? What are the suggestions / improvements you would give to speed up the disposal of cases? **(35 Marks)**

- 2) What are the various laws that exist to punish perpetrators and protect women from violence / abuse in regular life, married life and in their jobs? Are they adequate to protect women from violence / harm etc.? What are your suggestions to speed up cases against women? **(35 Marks)**
