

JUDGMENT WRITING PAPER (CIVIL & CRIMINAL MATTER) FOR LIMITED
COMPETITIVE EXAMINATION FOR ENTRY TO CADRE OF DISTRICT JUDGE
(ENTRY LEVEL), 2013 ON 28.04.2013 (SUNDAY).

At least one judgment must be written in English. Each judgment carries 30 marks with pass marks 12 per judgment.

Total Marks-60.

Time-2 Hours.

1. Judgment relating to Civil Matter.

Ram filed a partition suit against Shyam and Sarika, they being his brother & sister. He claimed half share in ancestral properties as his sister Sarika had been already married and was living in her Sasural from before death of their father. Upon appearance of parties Sarika took the stand that properties being ancestral she had equal interest in the properties with the brothers. Upon contest, trial court granted preliminary decree declaring the share of Ram as $1/3^{rd}$. Against the preliminary decree, Ram filed appeal which was admitted and notices in appeal were issued under ordinary process. Immediately thereafter, he filed an application for injunction alleging that Sarika was indiscriminately selling the immovable properties. Appellate court issued notices by ordinary process to the respondents in the injunction matter as well. Upon office report that notices had been validly served both in respect of appeal and injunction upon Shyam and Sarika, the matter was taken up for injunction and court restrained the defendants/respondents from disposing the properties in dispute in any manner. Ram then filed an application in terms of Order-XXXIX Rule-2A Civil Procedure Code for taking action against Sarika, alleging that he, Ram had obtained the certified copy of injunction order and shown it to some of the intending purchasers who then took back their money and refused to purchase lands from Sarika. But, in spite of this, Sarika sold some disputed lands by registered sale deeds. Sarika was noticed again. She appeared and stated that she had not received notices of the appeal or the injunction matter. She was not informed by Ram nor he communicated the injunction order to her. She had no knowledge about the appellate court proceedings. Decide as the appellate court.

2. Judgment Relating To Criminal Matter.

A fardbeyan was lodged on 19.01.1990 with the Katihar Police Station alleging that when the informant had gone to Purnea for business in the night before, the accused boy, who was a college student, took his daughter to tuition classes but she did not return in the night. Both his daughter and the accused were missing. Police registered a case under Section-363,366&376 of the Indian Penal Code. Upon completion of investigation, charge-sheet was filed and after cognizance of the offences aforesaid was taken by the C.J.M., Katihar, the case was committed to the Court of Sessions where charges for offences under the aforesaid sections were framed. The mother of the victim girl was examined as P.W.1. She supported the fardbeyan. The father of the victim, informant was examined as P.W.2 and proved the fardbeyan, Ext.1. P.W.3 is a doctor to whom the victim was sent for medical examination. His report is Ext.2, which states that the age of the girl is 14 years and there has been sexual intercourse. The investigating officer is then examined who states that he recorded the statement of the victim girl on recovery with the accused from Kurshela and she had disclosed that she had gone out with the accused out of her own will. She had travelled to Delhi with the accused, stay together in a Hotel for a week and then returned to Kurshela where she was staying with him in the house of the aunt of the accused from where she was recovered and he was arrested. Upon insistence of the court, as victim was charge-sheet witness she was next examined. She deposed in the court that she was taken away by the accused on the pretext of marriage but before marriage could take place they were apprehended at Kurshela. In his statement under Section-313 Cr.P.C., the accused boy stated that he was innocent and the girl had willingly gone with him and had agreed to marry and had consented to sexual intercourse. Defence argued that there being no enticement and the victim girl having agreed to go with the accused and consented to sexual intercourse, he could not be punished for any offence. Decide as the Sessions Judge.

JUDGMENT WRITING PAPER (CIVIL & CRIMINAL MATTER) FOR LIMITED COMPETITIVE EXAMINATION FOR ENTRY TO CADRE OF DISTRICT JUDGE (ENTRY LEVEL), 2014 on 13.12.2014 (Saturday).

At least one judgment must be written in English. Each judgment carries 30 marks with pass marks 12 per judgment.

Total Marks-60.

Time-2 hours

1. Judgment relating to Civil Matter.

One Amir Ahmad, who was the owner of a shop which consisted of a room measuring 24'x10' situated in Mohalla Naya Bazar in the town of Siwan. The shop was given on tenancy to the father of one Faiyaz Ahmad, who became the tenant after the death of his father, on a rent of Rs.700 per month. Amir Ahmad claimed that his son was sitting idle and he wanted to start his own business for which he required the shop as a personal requirement. On these grounds, Amir Ahmad filed a suit being Eviction Suit No.8 of 2006 before Civil Judge, Junior Division-I, Siwan.

In the suit, upon notice Faiyaz Ahmad appeared and filed a written statement denying the relationship of landlord and tenant as well as personal necessity of the plaintiff and claimed the property as his own property.

In the suit plaintiff examined himself as PW 1. He proved a mortgage deed Ext.1 where he had mortgaged the properties to one Samsul Hoda with a stipulation that he would collect the rent payable to the plaintiff from the father of the Faiyaz Ahmad till such time the mortgage was redeemed and thereafter the rent would be paid to the plaintiff by the father of Faiyaz Ahmad. He deposed that his son was idle and he intended to set up his son in business and as such required the shop for his personal use. PW 2 and PW 3 who were neighbours of PW 1 were examined and they disclosed that plaintiff's son was sitting idle and he needed the shop to set up business. Plaintiff also exhibited Ext.1 and 1/a as the copy of the rent receipt granted to the father of Faiyaz Ahmad for Rs.700 with endorsement of father of Faiyaz Ahmad which was dated three and half years after the mortgage deed.

On behalf of defendant DW 1 & 2 were examined to deny the plaintiff's claim of personal necessity. They were mere acquaintance of the defendant and Advocate's Clerk. Defendant as DW 3 exhibited as Ext.A a deed of assignment of mortgage by Samsul Hoda to Faiyaz Ahmad assigning the right to receive payment of rent on

consideration of mortgage being paid by Faiyaz Ahmad to Samsul Hoda. This deed of assignment was dated after the death of father of Faiyaz Ahmad.

On behalf of plaintiff, it was argued that he had mortgaged the property to Samsul Hoda, which showed his title and assigned the right to receive rent from the tenant who at that time was father of Faiyaz Ahmad to Samsul Hoda towards redemption of mortgage. In due course of time, mortgage being redeemed, father of Faiyaz Ahmad then paid rent to Amir Ahmad and payment thereof was duly acknowledged which documents established tenancy. It was further argued that the personal necessity stood duly proved.

On behalf of defendant, it was argued that the mortgage on not being fully redeemed was assigned to the defendant and the defendant thus continued in possession not as a tenant but as a mortgagor in their own right and as the mortgage was not redeemed he could not be evicted. It was further argued that bona fide personal necessity was not established and stood denied. Defendant did not examine any other witness.

Deliver judgment in the suit.

2. Judgment relating to Criminal Matter.

The police officer-in-charge of Madhepura Muffasil P.S. recorded an F.I.R. (Ext.1) on the fardbeyan (Ext.2) of Bhola Manjhi (PW 2) at 2:30 pm on 22.11.1983. On basis whereof investigation was taken up by the officer-in-charge immediately. After investigation, charge-sheet was submitted against Ragho Sahani, his son Ramu Sahani and his wife Sita Sahani, the three accused, for an offence under Section-436/34 IPC.

In the fardbeyan Bhola Manjhi, the informant alleged that at about 2:30 am on 22.11.1983 while he, his wife (PW 3) and Bahanoi (PW 4) were sleeping in their hutment they felt sudden intense heat. On waking up they found that the hut was on fire. They ran out and saw the three accused persons fleeing from the spot. It was, thus, alleged that the accused persons had set his hut on fire because three days back goat of the accused persons had been let loose and had eaten his vegetables for which wife of informant had seized the goat and kept it for two days and upon threat given by the accused persons the goat was released. It was alleged that the accused persons to teach a lesson to the informant had thus set the hut on fire.

Upon charge-sheet being filed, the case was committed to the Court of Sessions and was taken up for trial by the Additional Sessions Judge, Madhepura in Sessions Trial No.59 of 1986.

In course of trial prosecution examined witnesses in support of the charge. PW 1 was formal witness, who proved the first information report and the seizure memo of pieces of burnt hut and the fardbeyan. PW 2, informant was examined. In his examination-in-chief, he narrated the statement as recorded in the fardbeyan and indentified the accused persons in the dock. In his cross-examination he admitted that the hut of the accused persons was adjacent east of his hut. Wife of the informant supported the informant's case and the Bahanoi also supported the case of informant but in his cross-examination admitted that he had come only a day before to visit and had stayed back in the night and was told of the incident of goat by the informant after the fire. Investigating Officer was not examined. PW 5 and PW 6 were neighbours of the informant having their hut immediately west of informant's hut and deposed that on seeing the fire and commotion they also ran out of their hut and saw the accused persons running. PW 7 and 8 were also villagers who deposed that on hearing the commotion and seeing the fire they also rushed out of their huts and saw the accused persons fleeing but in their cross-examination they admitted that they had seen number of persons running helter-skelter. PW 9, 10 & 11 deposed that they had seen the hut of the informant burnt but in their cross-examination they admitted that in the morning they were told by the informant and his wife that the accused persons had set fire to the hut of the informant because of dispute in relation to the goat.

Defence did not examine any witness nor they produce any document. They pleaded innocence and false implication.

Prosecution argued that witnesses had seen the accused persons fleeing away just after informant's hut was put on fire and they had good motive for the same. The defence argued that there was no eye witness to the occurrence and the informant, his wife and Bahanoi were interested witnesses, having cause to falsely implicate the accused persons to get them punished and teach them lesson for letting their goat free to eat informant's vegetables. They were fleeing as most people were because of fire on a cold winter night with strong westernly breeze

Deliver judgment.

JUDGMENT WRITING PAPER (CIVIL & CRIMINAL MATTER) FOR LIMITED
COMPETITIVE EXAMINATION FOR ENTRY TO CADRE OF DISTRICT JUDGE
(ENTRY LEVEL), 2016 HELD ON 10.09.2016 (SATURDAY)

At least one judgment must be written in English. Each judgment carries 30 marks with pass marks of 12 in each of the judgment(s).

Total Marks-60

Time 2 hours

1. Judgment relating to Civil Matter.

One Amir Ahmad was the owner of a shop which consisted of a room measuring 24'x10' situated in Mohalla Naya Bazar in the town of Siwan. The shop was given on tenancy to the father of one Faiyaz Ahmad, who became the tenant after the death of his father, on a rent of Rs.700 per month. Amir Ahmad claimed that his son was sitting idle and he wanted to start his own business for which he required the shop as a personal requirement. On these grounds, Amir Ahmad filed a suit being Eviction Suit No.8 of 2006 before Civil Judge, Junior Division-I, Siwan.

In the suit, upon notice, Faiyaz Ahmad appeared and filed a written statement denying the relationship of landlord and tenant as well as personal necessity of the plaintiff and claimed the property as his own property.

In the suit plaintiff examined himself as PW 1. He proved a mortgage deed Ext.1 whereby he had mortgaged the properties to one Samsul Hoda with a stipulation that he would collect the rent payable to the plaintiff from the father of the Faiyaz Ahmad till such time the mortgage was redeemed and thereafter the rent would be paid to the plaintiff by the father of Faiyaz Ahmad. He deposed that his son was idle and he intended to set up his son in business and as such required the shop for his personal use. PW 2 and PW 3 who were neighbours of PW 1 were examined and they disclosed that plaintiff's son was sitting idle and he needed the shop to set up business. Plaintiff also exhibited Ext.1 and Ext.1/a as the copy of the rent receipt granted to the father of Faiyaz Ahmad for Rs.700 with endorsement of father of Faiyaz Ahmad which was dated three and half years after the mortgage deed.

On behalf of defendant DW 1 & 2 were examined to deny the plaintiff's claim of personal necessity. They were mere acquaintance of the defendant and Advocate's Clerk. Defendant as DW 3 exhibited as Ext. A a deed of assignment of mortgage by Samsul Hoda to Faiyaz Ahmad assigning the right to receive payment of rent on consideration of mortgage being paid by Faiyaz Ahmad to Samsul Hoda. This deed of assignment was dated after the death of father of Faiyuz Ahmad.

On behalf of plaintiff, it was argued that he had mortgaged the property to Samsul Hoda, which showed his title and assigned the right to receive rent from the tenant who at that time was father of Faiyaz Ahmad to Samsul Hoda towards redemption of mortgage. In due course of time, mortgage being redeemed, father of Faiyaz Ahmad then paid rent to Amir Ahmad and payment thereof was duly acknowledged which documents established tenancy. It was further argued that the personal necessity stood duly proved.

On behalf of defendant, it was argued that the mortgage on not being fully redeemed was assigned to the defendant and the defendant thus continued in possession not as a tenant but as a mortgagor in their own right and as the mortgage was not redeemed he could not be evicted. It was further argued that bona fide personal necessity was not established and stood denied. Defendant did not examine any other witness.

Deliver judgment in the suit.

2. Judgment relating to Criminal Matter.

Mr. Ram Briksha Prasad was a Sub Registrar of Danapur Sub Registry Office. His official duties included, among other things receiving application forms for certified copies of registered documents and issuance of such copies. Ramesh Kumar was in need of certified copies of three sale deeds. When he approached the Sub Registrar Ashok Kumar, he was told to submit the necessary applications on a stamp paper and to pay an amount of Rs.250/- for each certified copy. Ramesh Kumar submitted a written complaint to Superintendent of Police, Vigilance Investigation Bureau, Patna, alleging therein demand of bribe amount of Rs.750/- by the Sub Registrar Mr. Ram Briksha Prasad for supply for certified copies of three sale deeds. Accordingly, on his complaint a trap was arranged to catch Mr. Ram Briksha Prasad red handed. On 19.10.2014 after completing all the legal formalities, in the presence of independent witnesses Mohan Kumar and Om Prakash and other vigilance officials, the complainant Ramesh Kumar went to the office of Sub Registrar and presented the application forms for copies of sale deeds before Mr. Ram Briksha Prasad which he required and then he paid Rs.750/- to him. As soon as Mr. Rama Briksha Prasad put the amount in his shirt pocket, the complainant transmitted a signal to the waiting Vigilance Bureau Squad headed by the Deputy Superintendent of Police Mr. Alok Nath and they rushed to the office and caught him red handed.

In presence of independent witnesses, the Deputy Superintendent of Police, Alok Nath, after disclosing his identity challenged Ram Briksha Prasad that he had accepted a sum of Rs.750/- as illegal gratification from complainant Ramesh Kumar. The search taken in presence of independent witnesses led to the recovery of Rs.750/- in the form fifteen G.C. Notes in the denomination of Rs.50/- each and on comparison, the numbers of the G.C. notes tallied with those numbers mentioned in the pre-trap memorandum. The washes of the shirt pocket of Ram Briksha Prasad, the left hand fingers and the right hand fingers were taken in the colourless solution of sodium carbonate and solution turned into pink colour which were preserved in separate bottles and sealed. All the washes were sent to forensic science laboratory for chemical analysis and expert opinion shows positive result.

On completion of investigation, charge sheet was submitted and cognizance was taken of his offences punishable under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act. The charges were also framed under the said provisions. The defence denied the charges and trial commenced. The witnesses examined during the trial, such as the complainant, the seizure list witnesses, the Investigating Officer of the case and officials of the Vigilance Bureau squad including the Deputy Superintendent of Police supported the prosecution case.

The plea of the accused Ram Briksha Prasad was that he received the amount as advance money which he was required to collect as per the rules in force. He further submitted that before he could make entry in the books, he was caught by Vigilance Bureau officials on the premise that he received illegal gratification from the complainant Ramesh Kumar. His further submission was that the prosecution had failed to prove that the money received by him was gratification.

Decide the case.

Judgment Writing Paper (Civil & Criminal matter) of 9th Limited Competitive Examination for entry to the cadre of District Judge (Entry Level) 2017-18 on 15th December, 2018 (Saturday).

At least one judgment must be written in English. Each judgment carries 30 marks with pass marks of 12 in each of the judgment(s).

Total Marks – 60

Time : 2 hours

1. Decide Civil Matter

In Title Suit No. 00 of 2004 Mohan is the plaintiff. In relation to the suit property described in Schedule A of the plaint, he asserted that the said property had fallen in the share of Radhamani. Radhamani, through a registered sale deed executed on 17.07.1987 had transferred the suit property in favour of Karo Devi, who, in turn, through two registered sale deeds both executed on 08.03.1990 transferred it in his (plaintiff's) name and in the name of plaintiff's wife Meera Devi. Mohan had earlier filed an eviction suit with a plea that Radhamani (defendant no.1), was allowed to stay in the suit premises as tenant after the plaintiff had purchased the suit property and because the plaintiff required the suit premises for his personal necessity, the defendant no.1 was required to be evicted. The eviction suit was dismissed since Mohan, the plaintiff could not establish the relationship of landlord and tenant. An appeal preferred against the judgment in eviction suit was also dismissed. Mohan thereafter filed the said suit for declaration of his title and possession over the suit property. The defendant in his written statement took a plea that the said sale deed dated 17.07.1987 was got executed by him when he was in the state of intoxication and was not in a position to understand as to what was he doing. He also pleaded that the moment he realised about execution of the said sale deed, he executed a cancellation deed dated 08.03.1990 cancelling registered sale deed dated 17.07.1987. Based on these pleadings, the court of learned Sub-Judge-I, Mohanpur framed several issues including following :

- (i) Whether the suit is barred by law of limitation?
- (ii) Whether the plaintiff was entitled to get declaration of his title over the suit property and whether the plaintiff was entitled for decree of recovery of possession?
- (iii) Whether the suit is barred by principle of *res judicata*?

Learned Sub-Judge-I, Mohanpur decided the issues on the point of limitation and res judicata in favour of the plaintiff. The trial court, however, held that the sale deed dated 17.07.1987 was forged and fabricated, obtained when the defendant no.1 was in state of intoxication and, accordingly, dismissed the suit, by a judgment and decree dated 15.07.1987.

Mohan has filed a first appeal challenging the judgment and decree of the trial court on various grounds including the ground that the finding recorded by the trial court to the effect that the sale deed was fraudulently obtained cannot be sustained in the absence of any cogent evidence to support his plea that he was not able to understand as to what was he doing while executing the sale deed. It is also the plea of the appellant that the defendant did not choose to seek cancellation of sale deed through process of law by filing a suit and instead executed a cancellation deed on 08.03.1990 which has no sanctity in the eye of law. The defendant, on the other hand, supports the finding of the trial court.

Decide the first appeal as an appellate court.

2. Decide Criminal Matter

One Tuntun Singh, resident of Village Bandhua and owner of a vehicle (Jeep), asked his driver to bring Muni Singh from a village Kutni. The driver, Moti Singh went to village Kutni to bring Muni Singh in the Jeep of Tuntun Singh. Along with Muni Singh, his brother Sohan Singh and his friend Ratho Singh also accompanied him. They came and met Tuntun Singh in Village Bandhua. On their return, Moti Singh, who was driving the Jeep, noticed one Gypsy, belonging to Mathura Ram, stationed near a cremation ground, which was adjacent to the road. Moti Singh stopped his vehicle. Immediately, thereafter, Mathura Ram, Santosh Singh and Mohan Singh, armed with guns and rifles, came out of the bushes nearby and fired a shot hitting the tyre of the jeep. Taken aback by the occurrence, Muni Singh and other occupants jumped out of the vehicle. Mathura Ram fired a shot at Muni Singh, while Santosh Singh fired a shot that hit Ratho Singh, who received injuries. Mohan Singh fired a shot at Moti Singh, who, however, escaped the shot and the bullet hit the vehicle. Muni Singh was overpowered by the attacking party by firing shots at him. Another shot was fired at Moti Singh, which hit him in

his left arm. The attacking party took away Muni Singh (who had died by that time) in their vehicle.

With this allegation, the First Information Report was registered with Sohna Police Station as Sohna P.S. Case No. 63 of 2010. The police, after completion of the investigation, submitted charge-sheet, based on which the charges were framed against all the accused persons under Section 302 read with Section 149, Section 307 read with Section 149, 148 and 201 of the Indian Penal Code.

Prosecution examined among other witnesses, Moti Singh, the driver of Tuntun Singh as PW-3 and brother of Muni Singh, Sohan Singh as PW-5. Both of them deposed as eye-witnesses, supporting the case of the prosecution, giving the entire description of the occurrence. The said PWs 3 and 5 stood the test of the cross-examination. Ratho Singh, who was also accompanying Muni Singh in the vehicle, was not examined.

The plea of the defence before the trial court is that since the dead body of Muni Singh was not recovered, the prosecution failed to establish their case beyond reasonable doubt. A plea was also taken, referring to one of the petitions filed on behalf of the defence in course of trial, that Muni Singh was in fact alive and a person of his name was produced in a court in Madhya Pradesh. Absence of verification by the Investigating Agency in respect of Muni Singh as to whether he was alive or dead casts a serious doubt, has been canvassed by the defence at the stage of argument.

Decide the case as a Sessions Judge.

**10th Limited Competitive Examination for promotion to the cadre
of District Judge (Entry Level) against 10% quota (2018-19).**

Date of Examination: 18th August, 2019 (Sunday)

Paper: Judgment Writing

Total Marks : 60

Pass Marks : 24

Time : 2 hours

At least one judgment must be written in English. Each judgment carries 30 marks.

1. Civil Judgment Writing

Plaintiffs file a suit for redemption of a mortgage dated 26.08.2002. The language of the said registered document dated 26.08.2002, which the plaintiffs claim to be a mortgage deed, reads as under :

“(i) A sum of Rs.6,70,000.00 principal with interest under a registered mortgage dated 05.09.2002 is justly due to the vendee by the executants who urgently require a sum of Rs. 4 lakh more to meet the legal expenses. At present, the executants find it difficult to arrange for money without selling the property, let out in the simple mortgage dated 05.09.2002. The executants, therefore, declare to have sold the vended property detailed hereunder on the conditions given below for consideration amount of Rs.10,70,000.00. The amount of Rs.6,70,000.00 stands set off against the consideration money in favour of the said vendee and received a sum of Rs. 4 lakhs from the said vendee. In this way, the entire consideration money has been released from the said vendee and the executants have put vendee in possession and occupation of the vended property detailed in

Schedule A below and made him an absolute proprietor in place of the executants.

(ii) If the executants shall repay the consideration money to the vendee within two years, the property vended under this deed of conditional sale shall come in exclusive possession and occupation of the executants and if they fail to pay the same, the vendee shall remain in possession and occupation thereof, generation after generation and he shall appropriate the produce thereof.

(iii) The executants neither have nor shall have any objection in respect of the vended property and the consideration money.

(iv) The executants declare that the vended property is free from all encumbrances and flawless in every way and if in future any kind of defect, whatsoever, be found on account of which the vendee is dispossessed of a portion or entire property vended under this deed of conditional sale, the executants will have to pay the loss or damage and, in such circumstance, the executants shall pay the entire consideration money together with loss, damage and interest @ Rs.5.00 per mensem per 100 rupees from the date of the execution of the deed till the date of realisation from the person of the executants and other properties. The executants shall not claim the produce of the vended property for the period of vendee's possession against the said vendee or his heirs or representatives.

(v) Therefore, we, the executants have executed this deed of conditional sale so that it may be of use in future."

Schedule A to the said document dated 26.08.2002 contains the description of the property in question. The plaintiffs have filed a suit for redemption claiming

the deed to be a mortgage by conditional sale. The defendant is resisting the claim of the plaintiffs on the plea that the document dated 26.08.2002 is sale out and out with a condition of repurchase.

Write your judgment.

2. Criminal Judgment Writing

Ajay had been mortally wounded when he staggered into a nearby provision shop. In response to questions put to him by public and police in the shop and in the ambulance on the way to the hospital, he named his friend Raghav as responsible for the injury.

Ajay died immediately after reaching the hospital

Raghav was subsequently charged with Ajay's murder.

There is evidence that Raghav had been drinking with the deceased shortly before Ajay was stabbed.

No eye-witness to the occurrence is brought to the witness box by the prosecution.

The driver of the ambulance on being examined by the court as a court-witness said that he did not hear the deceased saying anything in the ambulance.

Investigation of the case revealed that the deceased, Raghav and one Anita attended a coaching centre where they had become friends but the deceased was more close to Anita. Anita has not deposed anything.

Decide the case of Raghav.

**11th Limited Competitive Examination for promotion to the
cadre of District Judge (Entry Level) against 10% quota**

Date of Examination : 10th October, 2020 (Saturday)

Paper : Judgment Writing

Total Marks : 60

Pass Marks : 24

Time : 2 hours

At least one judgment must be written in English. Each judgment carries 30 marks.

1. Civil Judgment Writing

The plaintiff's father, Krishna Yadav was the elder son of one Govinda Yadav. The second son Vasudeva Yadav was the father of defendants 1 to 5 and husband of the 6th defendant. The plaintiff A schedule property was acquired by Govinda Yadav under Ext.-A-1 on 6-6-1894. After his death, the plaintiff B schedule property was acquired by Krishna Yadav under Ex. A-2, dated 30.10.1916. Krishna Yadav died in 1922, leaving the plaintiff, his son. Vasudeva Yadav died in 1949 leaving defendants 1 to 5 and the widow, the 6th defendant. During the pendency of the suit, the 6th defendant died and thereupon, defendants 1 to 5 were recorded as legal representatives and besides the seventh defendant, the daughter was brought on record. The suit was laid for partition of the plaintiff A and B schedule properties and for allotment of the plaintiff's half share, with past and future mesne profits. The plaintiff alleged that the suit properties were the joint family properties and that he was entitled to a half share therein.

The suit was resisted on the ground that the plaintiff's father was given his share and sent out of the family by Govinda Yadav and that the

plaintiff was not entitled to any share. It was also contended that, in any event, the defendants had acquired title by adverse possession for over the statutory period.

The trial court found that there was no joint family so as to entitle the plaintiff to claim a half share in the A schedule property which was purchased in the name of his grandfather Govinda Yadav. Inasmuch as the plaintiff B schedule property was acquired in the name of the plaintiff's father, the trial court found that the plaintiff was entitled to that property alone and, accordingly, dismissed the suit as regards the plaintiff A schedule property and the movables in the B schedule in which the plaintiff claimed a share, and decreed the suit declaring the plaintiff's title to the B schedule property and for possession of the same.

Aggrieved by this decree the first defendant has filed the appeal. Aggrieved by the dismissal of the suit in so far as the plaintiff A schedule property is concerned, the plaintiff has filed the memorandum of cross-objections.

Decide.

2. Criminal Judgment Writing

On February 14, 2014 one Vijay Singh Chauhan was murdered at about 2.45 p.m. at the orchard of Mangal Singh in the town of Bettiah, West Champaran. The prosecution case was that Vijay Singh had love affair with the daughter of Shiv Narayan, namely, Radha, who was a student in the girls' school in the town. Such love affair was not liked by Shiv Narayan, his brother Prakash Pathak and other members of the family. On the date of occurrence Vijay Singh had been to the school of Radha and Radha left the school and went with Vijay Singh to different places. Thereafter, Vijay returned to the garage of Shiv

Narayan where one Sri Vijay Kumar, the brother-in-law of one Sri S.K.Singh had come to the garage of Shiv Narayan for the purpose of finding out the residence of S.K.Singh. Vijay Singh and his younger brother Ajay Singh were asked by Shiv Narayan to accompany Vijay Kumar for the purpose of showing him the house of S.K.Singh. When they reached near about the Khara Well turning from the three-way (tigda) of Prem Narayan Tiwari, accused Raju came from behind and putting his hand on the shoulder of the deceased Vijay Singh asked him to come to discuss some matter. The deceased Vijay Singh told Vijay Kumar to wait for some time and he along with his brother Ajay Singh went towards the Prem Narayan Tigda. At that place, the accused Shiv Narayan Pathak and the co-accused Prakash as also Vishnu appeared. Vijay Singh on seeing these people attempted to enter the house of Mangal Singh and went towards the back side. He tried to cross the barbed wire fencing at the back side of the orchard of Mangal Singh but his pant got stuck up in the barbed wire and he fell down. While he was trying to extricate himself from the barbed wire fencing, the accused persons reached the place by entering through the gate of the orchard and came upon Vijay Singh. Accused Vishnu shut the mouth of the deceased. The accused Raju caught hold of his hand and accused Shiv Narayan attacked him with a knife and accused Prakash also inflicted injury with gupti and caused serious injuries on the chest and abdomen of Vijay Singh and he fell down. Thereafter, the accused persons ran away leaving Vijay Singh at the spot and Shiv Narayan threw away the knife at the spot. It is the further case of the prosecution that when Ajay Singh found his brother being attacked by the said accused persons, he ran to save his life but he was kicked away by Prakash. At that time the uncle of Vijay Singh namely Chatter Singh was returning from the market. On hearing the cries Chatter Singh also went to the orchard of Mangal Singh and had witnessed the assault made on Vijay. Another witness Ram

Gopal was also going to Kapra from the main market and seeing the crowd by the roadside he also stopped and had seen the accused persons assaulting Vijay Singh. The prosecution also alleged that Muntizar Ali (PW 7), Bithal (PW 14), Laxmi Prasad (PW 16), Durga Prasad (PW17) and Uttam Singh (PW 18) were also passing through the road and standing by the roadside they had also seen the incident. After the incident, Uttam Singh father of the deceased Vijay Singh was informed and he reached the place of occurrence by riding a scooter. Vijay Singh was removed to the local hospital with the help of a tempo and though he was immediately attended by the doctor at the hospital he died within 10-15 minutes after reaching the hospital

The defence case is that the cause of the murder was the love affair of Vijay Singh with Radha. The members of the family of Radha were displeased and Radha herself apprehending trouble advised Vijay Singh to remain alert against possible attack on him particularly by Prakash, her uncle, who was highly displeased with him. Vijay Singh went to the school of Radha and both went to different places on scooter taxi and while they reached near the Prem Narayan Tigda, they met Raju Pathak, Radha's paternal uncle's son. Raju was accompanied by a friend. Seeing Raju Pathak, Radha and Vijay entered the orchard of Mangal Singh. Raju came in search of Vijay and they saw Vijay and Radha there. Seeing Raju Pathak, Vijay ran towards them with a knife and Radha left the place. The defence suggested that the incident did not take place in the manner as alleged by the prosecution, and in all probabilities, Vijay Singh was injured in the hands of Raju Pathak and/or his friend.

Decide.

amicable partition of the house and shops, but the defendant refused. The plaintiff then filed this suit for partition, claiming half his share in the property at MIG-27, Kankarbagh. The plaintiff has examined three witnesses and filed the mutation papers of the Municipality; the tax receipts and the cash memo of the Sweet Shop "Vyanjan". The witness PW-1 is Plaintiff's son, who has stated that he and his parents have been residing in a rented house at Bajrangpuri for the past 15 years. PW-2 is the plaintiff's wife who has stated that her husband had purchased land in Biscoman Nagar 6-7 years ago. PW-3 is the plaintiff himself. He has supported his plaint.

Defendant filed a Written Statement, denying the plaintiff's plea. He submitted that the plaintiff is his elder brother. They are only two brothers and used to reside with their parents in the house at Kankarbagh since it was purchased by their father in 1973. Later in 1976, his father purchased the land in their mother's name and started a small sweet shop by the name "Vyanjan". From his earnings of the shop, his father purchased the remaining part of the house in the joint name of Plaintiff and Defendant, and later on, he purchased another piece of land at Biscoman Nagar. The plaintiff never got along with his parents, and after his marriage, he and his wife started quarrelling regularly. In fact, the plaintiff's wife filed a false harassment case against him and his parents in 2007 in which his father was arrested. Thereafter, his father Bikram Vardhan gave the land at Biscoman Nagar and Rs 50,000 for constructing a house thereon to the Plaintiff and the Plaintiff and his wife started living separately in the rented house at Bajrangpuri. However, they never constructed the house and wasted away the money. The house at MIG-27, Kankarbagh, was given to the defendant, who was living with his parents and looking after them. The sweet shop "Vyanjan" continued to be owned by his mother, Kavita Vardhan and run by him and his father till his death in 2010. His mother Kavita Vardhan bequeathed the sweet shop to his only son Ankit, vide registered Will dated 5.11.2011. She passed away in 2014. After her death, Ankit expressed his desire to start a car showroom business on the land so they got the old structure demolished and constructed anew. The eviction suit against the tenant had been filed by his father and not by him and the plaintiff. He submitted that the suit is barred by limitation, and the partition had already been effected during their father's lifetime wherein the plaintiff was given the land at Biscoman Nagar and 50,000 Rs as his share. Two witnesses were examined by the defendant. DW-1 is he himself, and DW-2 is his son, who stated that he has never lived jointly with the plaintiff's family. He has stated that he and his grandmother were very

close to each other. The defendant has filed the licence of the sweet shop "Vyanjan" in his father's name; the registered Will executed by his mother; his mother's death certificate; the cc of the bail order of his father in the harassment case.

Decide.

2. JUDGMENT WRITING IN CRIMINAL MATTER

An F.I.R. was lodged on 14.05.2016 with Patna City Police Station by Savitri Devi alleging therein that the marriage of her daughter Niraja Singh was solemnized with Diwakar Singh on 15.05.2014. Diwakar used to torture Niraja for getting 5 lakh rupees from her parents to help him start a business. On 16.05.2016, she got telephonic information that her daughter had consumed poison. When she went to the home of Diwakar Singh, she saw that the dead body of Niraja Singh was lying in front of the house, and there were visible marks of torture upon her hands, face and neck. Police registered the F.I.R. under section 304B, 323, 498A of I.P.C. and 3/4 D.P. Act on the basis of the her *bayan*. After taking cognizance, the case was committed to the Court of Session, where charges for the said offences were framed. The mother of the victim/deceased was examined as PW-1 and she proved *fard bayan* which was marked Ext-1. She supported the case of the prosecution. In her cross-examination she stated that her daughter had married Diwakar pursuant to a love affair and was living happily at her in-law's house. There was no demand for dowry at the time of the marriage. Father of the deceased was examined as PW-2 and he also supported the prosecution case. PW-3 was the doctor who conducted the post mortem. In his statement he deposed that no injury was found on the body of the deceased at the time of post mortem. He proved the post mortem report which was marked as Ext-2. PW-4 is the doctor from Forensic Science Lab who confirmed death by poison on the basis of the Viscera Report and proved the report which was marked Ext-3. The I.O. was examined as PW-5. He deposed that the deceased died in the hospital and that the husband of the deceased had brought her to the hospital for medical assistance and that he, the I.O., had collected the death certificate from the hospital. The uncle of the deceased, who was examined as PW-6 stated that the deceased and her husband had married each other against the wishes of their family after a love affair. Accused in his statement u/s 313, CrPC said that his wife committed suicide by consuming

poison as she wanted to go with him to Pune where he was doing his job, but he insisted that she stay back to look after his old parents and thus she committed suicide due to depression. The defence witness DW1 stated that the deceased was under depression as she wanted to go with her husband to Pune. He states that he had also accompanied Niraja Singh to the hospital after she consumed poison.

The argument of the defence is that there is no direct evidence regarding the demand for dowry. There is no evidence regarding torture before Niraja Singh's death, so the presumption of 113B would not be attracted thus, the accused husband could not be punished for any offence.

Decide as a Sessions Judge.