

**Theory question paper for Limited Competitive Examination for entry to cadre of District Judge (Entry Level), 2013 on 28.04.2013 (Sunday). Answer all ten questions. Each question carries 10 marks. Pass marks 40. Total marks 100. Time 3 hours.**

1. What are the provisions for set off and remission or commutation of sentence under CrPC ? A person is charged of murder. He is convicted under Section 302 of Indian Penal Code and sentenced to life imprisonment on 01.04.1995. He spent five years as under trial prisoner. State Government's policy was that a life convict, who has suffered physical imprisonment for fourteen years and with remission twenty years, will be released. In the year, 2000 State modified the policy of remission removing the stipulation of twenty years. When will the life convict be released? Give reasons and case laws.
2. A lady files a petition in terms of Section 125, CrPC claiming maintenance from her husband before the Principal Judge, Family Court. The Court awards her monthly maintenance of Rs.5,000/-. Husband does not pay claiming inability to pay as the maintenance is excessive. What is the remedy to the wife and what is the jurisdiction and procedure in regard to enforcement and recovery of maintenance?
3. What are the similarities and dissimilarities, if any, as between Section 6 of the Specific Relief Act and Section 145 of CrPC ? Explain.
4. Two persons A and B started quarrelling over first right to draw water from a well for bathing. A strikes B on the head with the bucket. B faints and collapses. A, thinking B is dead, pushes him in the well and runs away. Post mortem of B conclusively shows death by drowning. For what offence, if any, will you convict A and what will be the sentence? Discuss giving reasons.
5. What are the similarities and distinctions between right to adopt a child as between a Male Hindu and a Female Hindu adult? Can a Hindu couple, adopt a Muslim child or a Hindu orphan child? Give reasons.
6. Explain what offence has been committed in the following cases:
  - (a) A police constable at mid night entered the premises of a person who was regarded by the police as a suspicious character and knocked at his door to ascertain if he was here. Thereupon, he came out and assaulted the constable and lifted a stick as if he were about to hit the constable.
  - (b) A puts a biscuit as a bait for dog in his pocket and shows the biscuit to the neighbour's dog. The dog begins to follow A.
  - (c) A is a newly married woman. B is a complete stranger to her and her husband's family, removes the veil of A exposing her face and looks at her.
  - (d) A sets fire to a heap of dried leaves in his own field. A gust of wind came and carried flames to an adjacent hut and burns it.
  - (e) A files a suit against B for declaring plaintiff's title to suit property. B files written statement stating that B is in possession of the property having purchased the same

from C who is A's brother. B pleads that the suit is not maintainable. Decide with reference to statutory provisions.

7 Distinguish res judicata from res sub judice.

A filed a suit to recover possession of land belonging to him from B who is an annual tenant and claiming damages for use and occupation of land for three years prior to the suit. In the written statement, B takes an objection that a proper notice to quit had not been given and, as such, no decree for possession can be given. A, while the said suit is pending, files another suit after notice terminating tenancy and claims recovery of possession with mesne profits from B. Both suits are in your Court. How would you proceed with the cases and decide them?

8 A files a suit against B for declaring plaintiff's title to suit property. B files written statement stating that B is in possession of the property having purchased the same from C who is A's brother. B pleads that the suit is not maintainable. Decide with reference to statutory provisions.

9 Examine the validity of the following transfers with reasons:-

a) A testator died leaving his property to his wife for life. He also gave power to his wife to arrange for their son and his issues in such manner as she thought fit. The wife died leaving a will, whereby she gave the property to her son for life, with remainder to such of his children living at her death as shall attain the age of 25 years. All the son's children attained 25 years of age before the wife died.

b) A transfers property to B in trust for C, and directs B to give possession of the property to C, when he attains the age of 25 years.

c) A makes a gift of land to B. Subsequently C sues A for possession of the land. While the suit is pending, B transfers the land to D. A dies. C obtains a decree of possession against B, as legal representative of A. C got the land attached in execution of the decree. D filed an objection that B was not a party to the suit at the time of transfer by B to D. Moreover A's gift was made before the suit. Decide.

10 What are the Rules, Procedures and distinctions in respect there to with regard to preservation and destruction of records of civil and criminal cases at the Civil Court level?

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  $1/3^{\text{rd}}$ . 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.