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JUDICIARY EXAMS QUESTION PAPER

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Delhi Judicial Service

Mains Examination, 1989

Question Paper

CRIMINAL LAW, 1989

Q. 1. One *R* was married to *B* 5 years prior to the occurrence, yet she was issueless. *X* brother of *R* had also been residing with her sister and brother-in-law even before the impugned incident. There was evidence to the effect that since *R* had failed to beget any child, the relations in between the husband and the wife were very strained. The parents of *B* were also very much unhappy on the said score. Smt. *R* is reported to have told her brother *X* that her husband had tried to throttle her on 01.05.76 but had restrained to do so on second thought. During the intervening night of 1st and 2nd of May 1976 while *X* was reading outside the house of *B* in the bulb light at the house of *L*, he heard a noise coming from inside the house of his brother-in-law. *X* along with *L* got the door of the house of *B* opened and entered the house. They found Sm. *R* lying on the ground in a semi-conscious state. She informed the above said two persons that she had been administered 3 tablets by her husband on the pretext that it will help her in getting pregnant. The matter was subsided on the intervention of *X* and *L*. The door was again bolted from inside.

On the next morning, i.e. on 02.07.76 when the door of the house was opened and *X* entered the house he was startled to see his sister hanging from a peg in the roof with a rope, the one end of which had been tied to a nail fixed in the wall. *X* tried to lodge a report but he was not allowed to do so by *B* and his father on the pretext that the village watchman had already been instructed to do so in regard to the suicide committed by Smt. *R*.

Doctor who conducted the post-mortem found the face of the deceased bloated and bleeding from her nose. He further found the following ante mortem injuries:-

(1) The ligature mark in width over the Hyroid cartilage. The mark of knot on the right side 1½" x 1" with constusion of tissue underneath and fracture of thyroid cartilage.

(2) Abraded contusion 5" x 3½" on the front right side of the chest with fracture of second and third ribs and laceration of the right lung.

(3) Abraded constusion 6" x 4" on the front of the left side of the chest with fracture of second, thjrd and fourth ribs anteriorly in the middle elerical line with laceration of the left lung underneath.

(4) Abraded contusion 2" x 1" on the back of the left hand over the fourth knuckle.

CIVIL LAW-I, 1989

Q. 1. (a) 'A' let out the premises in suit to *B* period of three years by virtue of permission granted under section 21 of Delhi Rent Control Act, 1958. After expiry of said period 'A' filed another application without mentioning the factum of having already created a limited tenancy in his favour. *B* appeared before the Rent Controller and made a statement on oath that he was willing to take premises on lease for limited period of two years. Permission was granted by controller.

At the end of two years 'A' files an execution application seeking delivery of possession of leased premises. 'B' opposed the application on the ground that order of Rent Controller granting permission is illegal and void since same was obtained by a concealment of material facts. Decide the objection.

OR

Q. 1. (a) The respondent was inducted as a tenant under a registered deed of lease dated April 23, 1948 for a period of three years. After the expiry of the said period in 1951, the respondent continued in possession by holding over. The premises consisted of four rooms. In 1986, the respondent created three separate sub-tenancies in favour of three persons in respect of three rooms.

The landlord seeks eviction of the respondent under section 14(1) of the Delhi Rent Control Act, 1958 on the ground that the respondent has sub-let a part of the premises without obtaining his consent in writing. The respondent relies upon clause 6 of the lease deed which reads: "That the lease shall use the demised premises as office and shall be entitled to sub-let the portion which may not be used by him". Decide the plea raised by the respondent. 25

Q. 1. (b) *A* let out certain premises to *B* on September 1 1982 on a monthly rent of Rs. 500/-, the rent being stipulated as payable in advance. Rent had been paid till March, 1989. *B* received a notice on May 7, 1989 calling upon him to pay the arrears of rent w.e.f. April 1, 1989. On May 13, 1989 *B* sent a draft for Rs. 500/- to *A* who retained the draft and intimated *B* on June 7, 1989 that the tender was not valid. On June 11, 1989 *B* sent another draft for Rs. 500/-. *A* did not encash or return these drafts.

On August 2, 1989 *A* filed an application for eviction of *B* from the suit premises on the ground that *B* has neither paid nor tendered whole of the arrears of the rent legally recoverable from him within two months of the date on which a notice of deemed for the arrears of rent has been served on him. *B* admittedly earlier having enjoyed the benefit of section 4(2) of the Delhi Rent Control Act, 1958. Will *A* succeed?

OR

Q. 1. (b) *A* let out suit premises to *B* for residential purpose in April 1978 on monthly rent of Rs. 340/-. On or about August 25, 1988 *B*'s was allotted a government flat due to her deployment as teacher in Government School. In August 1989 '*A*' sue for eviction of *B* under section 14(1)(h) of Delhi Rent Control Act, 1958 on the ground that *B* has acquired vacant possession of a residence. Decide giving reasons. Would it make any differences if *B*'s wife has purchased the residential flat with her own savings? 25

Q. 2. (a) At the time of marriage between two Hindus, which took place on January 11, 1986 the husband '*H*' and the wife '*W*' were gainfully employed in Delhi. After the marriage certain misunderstanding appeared to have broken out between them, whereupon '*H*' got himself transferred to Jaipur and '*W*' remained in Delhi. 1989 '*H*' files a petition against '*W*' for restitution of conjugal rights. The defence of '*W*' is: (i) that '*H*' himself got transferred and even now he can come back to Delhi and (ii) that in view of the ill treatment on her by '*H*' and his bad habits she does not want to leave her job. Discuss whether the restitution be granted.

OR

Q. 2. (a) *M*, the wife of *G* (both Hindus) in a petition for divorce alleged that she had been receiving insulting treatment from her parents-in-law which amounted to legal cruelty. The court found that as a matter of fact the allegation was true but *G* was not in any way involved in it. Will *M* succeed? 25

Q. 2 (b) *A*, a sunni, has a son *S* and a grandson *G* by *S*. *S*, negligently cause the death of *A*. Can *S* succeed to the estate of *A*? Would it make any difference if the parties were governed by the Shia Law?

OR

Q. 2. (b) *A*, a sunni, bequeaths one-third of his estate to *B*, one-fourth to *C* and one-fifth to *D*, *A*'s heirs refuse their consent to the bequest. How will this refusal affect the rights accruing to *B*, *C* and *D* from the bequest? Would it makes any difference if the family had been governed by the Shia Law? 25

Q. 3. (a) *X*, a creditor carrying on business at Delhi, wrote to *Y*, one of its customers who resided at Chandigarh, saying "the favour of a cheque for the due amount within a week shall oblige". The customer upon such request sent a cheque by post. Cheque was stolen in the transit and was paid by the bank to the thief. *X* having not received the payment, sued *Y* for recovery of amount. Decide the case by a reasoned order.

OR

Q. 3. (a) The Defendant, a female, agreed to pay Rs. 5000 to plaintiff in consideration of latter having the former trained in art of singing and dancing at his own cost. It was found that the plaintiff's sister and not plaintiff himself had rendered those services. In a suit for recovery

of the agreed amount, defendant denied her liability to pay any amount to plaintiff under the said agreement. How would you decide the controversy.

Q. 3 (b) *H* occupied a plot of land owned by *N* and built a structure on it. He remained in occupation of these premises for a period of five years when on April 2, 1988 he was forcibly dispossessed by *N*. On September 20, 1998 *H* filed a suit for possession. *N* resisted the suit on the ground that he was the real owner and *H* was a trespasser. Decide the case. Would it make any difference if the suit had been filed on October 20, 1988?

OR

Q. 3 (b) *A* is the husband of *W*. *A* files a suit for declaration that a two years old boy allegedly born to the defendant wife *W* was not his son. An objection is taken that the suit was premature as no maintenance and rights in *A*'s estate were being claimed against him and that the interest of the minor should not be prejudiced by deciding a question which will arise in future. Can a declaration be granted to *A*? 25

Q. 4. (a) *X* and *Y* are partners in a trading firm. *X* borrows Rs. 9000/- from *P* and executes a promote in the name of the firm. *X* spends the money in purchasing a plot of land in his own name for his personal purpose. Can *P* hold *Y* also liable for the debt? Give reason.

OR

Q. 4. (a) *A* and *B* were partners, the latter being the managing partner. The partnership was dissolved and its winding up devolved on *B*. Part of the assets consisted of bales of cotton. *A* requested *B* to sell these bales immediately. *B* delayed in selling them with the result that they were ultimately sold at much lower price than they would have fetched if sold when *A* desired. *A* contended that the loss sustained by the postponement of the sale ought to be borne by *B* alone. Decide.

Q. 4. (b) *A* sells to *B* 5th March, 'all the hay standing on my land in a particular enclosure: the hay to be cut and carried by *B* after two weeks and the price of Rs. 500/- to be paid on 15th April. The hay was destroyed by fire before it was cut. *A* sues *B* for the price after the due date. Decide.

OR

Q. 4 (b) *A*, a dealer at Chandigarh, places an order with *B*, a trader at Delhi, for the supply of certain goods on the terms; "F.O.R. Delhi. Payment against documents". *B* delivers the specified goods to the Railways at Delhi for transmission to *A*, the consignee, and sends the railway receipt to his Bank at Chandigarh for handing over the same to *A* against payment. Intimation is also sent separately to *A*. The goods are destroyed by fire before these are loaded in the wagons at Delhi. *A* dishonours the documents. *B* sues *A* for the price of the goods. Will *B* succeed? Give reasons. 25

CIVIL LAW-II, 1989

Q. 1. (s) A filed a suit for the recovery of rent against B, on the ground that B was his tenant and has not paid rent for the past 2 years. In the written statement filed, B admitted that he was the tenant of A, but he pleaded that he has paid the rent without a receipt having been issued.

During the trial B an application seeking permission to amend the written statement and instead pleaded that he was not a tenant of A. Decide and give reasons. 25

Q. 1. (b) A sues B for recovery of Rs. 1000/- and interest and the suit is decreed. In the judgement nothing is said about interest claimed. The decree is drawn in accordance with the judgement. An application under Sections 151 and 152 of the Code of Civil Procedure is filed to amend the decree and for adding an order for payment of interest. How would you decide? 25

Q. 2. (a) A filed a suit in the Court of Civil Judge, Amravati, alleging that she had purchased the house and made improvements in the house. Being in need of money she entered into an agreement with B for a loan of Rs. 20,000/-. It was decided that simultaneously she should execute nominal documents of sale and rent note. These documents, i.e. sale deed and rent note, were never intended to be acted upon and she had to pay interest of Rs. 18% per annum on the loan. It was stated that B was attempting to enforce the document as a sale deed. Declaration was prayed that she continued to be the owner of the house.

In the defence B maintained that the sale deed represented the true transaction and the ownership of the house has passed to him. During the trial A wanted to produce oral evidence that the sale deed was a sham document and never intended to be acted upon. Objection was raised by B that A cannot be permitted to produce oral evidence contrary to the contents of the sale deed. Decide the said objection. Give reasons. 35

Q. 2. (b) A filed a suit against B and C on the basis of a promissory note. B in his written statement admitted the claim of A. When A appeared as a witness, B wanted permission to cross-examine A. Decide and give reasons. 15

Q. 3. (a) Admittedly there was wide-spread strike by non-gazetted officers of the State between 5th September to 13th October, 1980. Various offices including those of the Deputy Commissioner as well as majority of Courts were not functioning properly, because of strike. Though the strike was called off on 13th October, 1980, it took some time before the employees came back to serve and normalcy returned.

State filed an appeal on 15th October, 1980. Period of limitation had expired on 12th October, 1980. An application was filed for condonation of delay on the ground that there was a general strike and the work in the offices was disrupted. How would you decide? 25

Q. 3. (b) *A* filed a suit for possession at Ambala against *B*. The subordinate Judge at Ambala dismissed the suit. *A* filed an appeal against the judgment and the decree of the subordinate judge, Ambala, before the District Judge of the adjoining district and not at Ambala. The appeal was dismissed on the ground that the said Court had no

jurisdiction to hear the appeal. Thereafter *A* filed an appeal before the District Judge, Ambala. It was barred by time. *A* prayed for condonation of delay, relying on section 14 of the Limitation Act, 1963. Decide and give reasons. 25

Q. 4. (a) *A* resides at Shima, *B* at Calcutta and *C* at Delhi. *A*, *B* and *C* being together at Varanasi, *B* and *C* make a joint promissory notpayable and deliver it to *A*.

A files a suit for recovery at Varanasi, *B* and *C* object to the Jurisdiction of Court at Varanasi to try the suit asserting that defendants *B* and *C* do not reside at Varanasi. How would you decide the objection? 20

Q. 4. (b) The only question for determination is as to if the lease required registration under section 17 of the Indian Registration Act or not.

A had granted lease to *B* on the following terms: "Today, 1st January 1980, I have given shop on rent to *B* at a rental of Rs. 340/- per month, rent shall not be raised nor lowered, nor shall I eject him. But in case of his refusal to pay the rent, I shall have the right to turn him out". Decide and give reasons. 30

Q. 5. *B* was in occupation of a house belonging to *A*. In March 1981, *A* filed a suit for possession alleging that *B* was a trespasser in the house. The suit was contended by *B*, who pleaded that he had become the owner of the house, by adverse possession. The suit was fixed for hearing on 15th July, 1981, on which date *A* was unable to attend the Court, but *B* appeared in Court. The suit was dismissed in default. On 10th December 1981, *B* died leaving behind a widow *C*. In January, 1982 *A* brought a suit against *C* alleging that she is in illegal possession of the house and praying that a decree for possession be passed against her. Advise *C* if the suit is barred. Give reasons. 50

LANGUAGE, 1989

Q. 1. Translate into Hindi (Devnagri Script)

My uniform experience has convinced me that there is no other God than Truth. And if every page of these chapters does not proclaim to the reader that the only means for the realisation of Truth is Ahimsa, I shall deem all my labour in writing these chapters to have been in vain. And, even though my efforts in this behalf may prove fruitless. Let the readers know that the vehicle, not the great principle, is a fault. After all, however sincere my striving after Ahimsa may have been, they have still been imperfect and inadequate. The little fleeting glimpses, therefore, that I have been able to have of Truth can hardly convey an idea of the indescribable lustre of Truth, a million times more intense than that of the sun, we daily see with our eyes. In fact what I have caught is only the faintest glimmer of that mighty effulgence. But this much I can say with assurance as a result of all my experiments, that a perfect vision of Truth can only follow a complete realisation of Ahimsa.

To see the universal and all-pervading spirit of Truth face to face one must be able to love the meanest of creation as oneself. And a man who aspires after that cannot afford to keep out of any field of life. That is why my devotion to Truth has drawn me into the field of politics and I can say without the slightest hesitation, and yet in all humility, that those who say that religion has nothing to do with politics do not know what religion means.

Identification with everything that lives is impossible. Without self-purification, the observance of the law of Ahimsa must remain an empty dream; God can never be realised by one who is not pure of heart, self-purification, therefore must mean purification in all the walks of life. And purification being highly infectious, purification of oneself necessarily leads to the purification of one's surroundings.

But the path of self-purification is hard and steep. To attain to perfect purity one has to become absolutely passion free in thought, speech and action, to rise above the opposing currents of love and hatred, attachment and repulsion. I know that I have not in me as yet that triple purity, inspite of constant ceaseless striving for it. That is why the world's praise fails to move me, indeed it very often stings me. To conquer the subtle passions seems to me to be harder far than the physical conquest of the world by the force of arms. Ever since my return to India I have had experiences of the dormant passions lying hidden within me. The knowledge of them has made me feel humiliated though not defeated. The experiences and experiments have sustained me and give me great joy. But I know that I have still before me a difficult path to traverse. I must reduce myself to zero. So long as a man does not of his own free will put himself last among his fellow creatures, there is no salvation for him. Ahimsa is the farthest limit of humility.

Q. 2. Translate into English:

वन किसी भी देश के पर्यावरण का एक प्रमुख अंग है। यह मानव की महत्वपूर्ण प्राकृतिक सम्पदा है, जिस पर न केवल हमारा पर्यावरण निर्भर है, बल्कि इसे उद्योगों के लिए कच्चा माल व अनेक साधन भी उपलब्ध होते हैं। इसके बावजूद भी कभी अज्ञानतावश, तो कभी जान-बूझकर, मानव द्वारा वनों की कटाई अधिक मात्रा में की जाती रही है। जनसंख्या वृद्धि के साथ-साथ वनों का काटकर कृषि के लिये भूमि उपलब्ध की जाती रही है। सदियों से मकान बनाने के लिये, पुलों तथा नारों के निर्माण के लिये, इमारती सामान के लिये, पशु-पालन के लिये, विश्व भर में वन काटे जा रहे हैं। मनुष्य ने केवल वही भूमि वनों के लिए छोड़ी है, जो कृषि या अन्य उपयोगों में नहीं आ सकती। प्रारम्भ में जहाँ पृथ्वी के 70 प्रतिशत भू-भाग अर्थात् 12 अरब 80 करोड़ हेक्टर क्षेत्र में वन थे वहीं आज केवल 16 प्रतिशत भू-भाग यानी 2 अरब हेक्टर क्षेत्र ही वनों से आच्छादित है।

इस प्रकार हमारे वनों पर गत शताब्दी में जिस बेरहमी से हमला हुआ है और उसका जितना विनाश किया गया है। उतना शायद ही किसी दूसरे अंग का किया गया हो। वन विभाग द्वारा प्रसारित अधिकृत आंकड़ों के अनुसार सन् 1951 और 1972 के बीच नये खेतों, सड़कों और उद्योगों के कारण देश को 34 लाख हेक्टेयर वन क्षेत्र खोना पड़ा है यानि वन विनाश की वार्षिक दर डेढ़ लाख हेक्टेयर रही है। लेकिन कुछ लोगों का कहना है कि इस समय हर साल लगभग 10 लाख हेक्टेयर वन काटे जा रहे हैं। राष्ट्रीय पर्यावरण आयोजन समिति की एक रिपोर्ट में स्वीकार किया गया है कि देश का लगभग 12 प्रतिशत भू-भाग ही पर्याप्त हरियाली से आच्छादित है। इस तरह विगत दशकों में अनवरत वन विनाश के कारण न केवल वर्षा की मात्रा, भूमिगत जल के स्तर एवं जल स्रोतों में कमी आई है, अपितु दूसरे चलते बाढ़, सूखा, भू-स्खलन एवं भू-क्षरण में भी क्रमशः वृद्धि होती जा रही है।

'सन् 1865 ई० में फारेस्ट एक्ट' लागू किया गया था। इसके पश्चात् सन् 1879 ई० में वन अधिनियम के तहत वनों के तीन वर्ग निर्धारित किये गये—(1) आरक्षित वन-ये वन सरकार के पूर्णतया अधीन माने गये (2) संरक्षित वन-इसमें स्थानीय निवासियों के अधिकार को महत्व प्रदान किया गया (3) ग्राम्य वन- इसमें सबको वनोत्पाद के उपभोग की पूर्ण स्वतन्त्रता दी गई। इस तरह हर प्रक्रिया के अन्तर्गत वनों को मनमाने रूप से काटा जाने लगा। सन् 1927 ई० में चार संशोधन करके 'भारतीय वन अधिनियम' लागू किया गया, जिसके अन्तर्गत सरकार को आरक्षित एवं अन्य वनों से लकड़ी एवं वन उत्पादन लेने पर शुल्क वसूलने की व्यवस्था थी। स्वतन्त्रता के पश्चात् सन् 1952 ई० में 'राष्ट्रीय वन नीति' घोषित की गई। सरकार की वन नीति के चलते ही 1950 से 1981 के मध्य कृषि फसलों के अन्तर्गत क्षेत्र 1187.5 लाख हेक्टेयर से बढ़ाकर 1429.4 लाख हेक्टेयर की यह वृद्धि ग्रामीण अंचल में स्थित वृच्छादित भूमि को वृक्ष विहीन करके प्राप्त की गई और वर्तमान स्थिति यह है कि भू-उपग्रहों से खींचे गये चित्रों के अनुसार हमारे देश में लगभग 350 लाख हेक्टेयर अर्थात् कुल राष्ट्रीय क्षेत्रफल का लगभग 11 प्रतिशत भाग ही वनाच्छादित रह गया है। यह लगभग उतना ही है, जितना वर्ष 1950-51 में आरक्षित वन क्षेत्र, राज्य सरकारों के वन विभागों के नियंत्रण में था।

ESSAY AND GENERAL KNOWLEDGE, 1989

PART I

Q. 1. Write an essay on any one of the following:

- (a) Student and Politics
- (b) Education is all that is left when all that is taught is forgotten
- (c) Desirability to delete the provisions relating to the cutting of "Gordian Knot".
- (d) Life is action, not contemplation.

PART II

Q. 2. What do you know about the following:

- (a) Yasser Arafat
- (b) Robert Mugabe
- (c) Hargobind Khurana
- (d) Visvanath Raj Gopal
- (e) Dr. Nagendra Singh
- (f) Janez Drnovsek
- (g) Girish Karnad
- (h) Salim Ali
- (i) Kalaus Barbie
- (j) Steffi Graf

Q. 3. Write short notes on:

- (a) 64th amendment of the Constitution and its effect on rural development
- (b) Crime against women
- (c) Lok Adalats a substitute for ordinary courts
- (d) Law of Benami transactions
- (e) Compensation for victims of crime

Q. 4. Who wrote the following:

- (a) The Guide
- (b) Hindu View of Life
- (c) Vicar of Wakefield
- (d) Apple Cart
- (e) Ganadevta

Q. 5. (i) What is meant by:

- (a) White revolution
- (b) MODVAT

Q. 5. (ii) Where is:

- (a) Aswan Dam
- (b) Fleet Street
- (c) Auroville

Q. 5. (iii) Who is:

- (a) Supreme Commander
- (b) Chairman, Rajya Sabha
- (c) Attorney General for India
- (d) Chairman, University Grants Commission
- (e) Chief Minister of Sikkim