

Date: 12/02/17

WRITTEN EXAMINATION FOR RECRUITMENT TO GRADE-III
OF TRIPURA JUDICIAL SERVICE

LAW PAPER II

Full marks - 100

Time - 3 hours

(I) GROUP-A

Choose the correct option ($\frac{1}{2}$ marks for each correct answer).

($\frac{1}{2}$ X 40 = 20 marks)

(1) How many types of punishments have been prescribed under the Indian Penal Code?

- (a) three
- (b) six
- (c) five
- (d) four.

(2) Section 73 of IPC provides for the maximum limit of solitary confinement to be

- (a) one year
- (b) two years
- (c) three months
- (d) six months.

(3) Nothing is said to be done or believed to be done in good faith which is done or believed without due care & attention—is the definition of goodfaith contained in

- (a) section 29 of IPC
- (b) section 29A of IPC
- (c) section 52 of IPC
- (d) section 52A of IPC.

(4) The doctrine '*volenti non fit injuria*' is contained in

- (a) section 87 of IPC
- (b) section 88 of IPC
- (c) section 89 of IPC
- (d) all the above.

(5) Under section 99, the right of private defence is

- (a) not available at all against public servants engaged in the discharge of their lawful duties

- A.P.
- (b) available under all circumstances against public servants engaged in the discharge of their lawful duties
 - (c) available against public servants only when their acts cause reasonable apprehension of death or grievous hurt
 - (d) available against public servants only when their acts cause reasonable apprehension of damage to property.

(6) The right of private defence

- (a) is not a right of defence but of retribution
- (b) is a right of defence but not a right of retribution
- (c) is a right of defence as well as a right of retribution
- (d) is neither a right of defence nor a right of retribution.

(7) The word 'takes' in section 361 of IPC signifies

- (a) taking by force
- (b) taking by fraud
- (c) physical taking
- (d) all the above.

(8) Section 511 IPC does not apply in case of

- (a) attempt of riot
- (b) attempt of murder
- (c) attempt of theft
- (d) attempt of affray.

(9) In a criminal trial

- (a) issue of motive is all significant in any case
- (b) motive is essentially to be established
- (c) issue of motive loses all relevance and is not of any significance, where the prosecution case is fully established by reliable ocular evidence coupled with medical evidence
- (d) issue of motive is quite relevant and significant even if the prosecution case is fully established by reliable ocular evidence coupled with medical evidence and in absence of motive the accused is liable to be acquitted.

(10) The exception of grave and sudden provocation in section 300, IPC

- (a) does not have any limitation
- (b) has three limitations which are questions of law
- (c) has three limitations which are questions of facts
- (d) has three limitations which are mixed questions of law and fact.

(11) Non-cognizable offence has been defined

- (a) under section 2(a) CrPC
- (b) under section 2(c) CrPC
- (c) under section 2(i) CrPC
- (d) under section 2(1) CrPC.

(12) The imprisonment in default of fine

- (a) shall be in addition to a substantive sentence maximum awardable under section 29 without any specific order
- (b) shall be in addition to a substantive sentence only when a specific order to that effect is passed
- (c) shall not be in addition to the substantive sentence awardable by the Magistrate
- (d) shall be in addition to the substantive sentence awardable but subject to the upper limit for substantive sentence prescribed under section 29.

(13) A warrant of arrest is a command

- (a) must be a written order
- (b) signed, sealed & issued by a Magistrate
- (c) addressed to a police officer
- (d) all of the above.

(14) Section 92 of CrPC lays down the procedure for

- (a) production of documents(s) in the custody of postal or telegraph authority
- (b) production of documents(s) in the custody of any person other than the accused
- (c) production of documents(s) in the custody of an accused person
- (d) all of the above.

(15) Delay in despatching the FIR to the Magistrate under section 157 of CrPC

- (a) shall always throw out the prosecution case in its entirety
- (b) shall never be a circumstance providing a legitimate basis for suspecting the FIR
- (c) may or may not be a circumstance providing a legitimate basis for suspecting the FIR depending on the facts and circumstance brought on record
- (d) either (b) or (c).

(16) Statement recorded during investigation under section 161 of CrPC can be used during trial

- (a) for corroborating the witness
- (b) for contradicting the witness
- (c) both (a) & (b) above
- (d) neither (a) nor (b)

(17) Section 164 of CrPC provides a special procedure for recording of

- (a) confessions
- (b) statements made during the course of investigation
- (c) confessions as well as statements made during the course of investigation
- (d) either (a) or (b).

(18) The provisions of section 195 of CrPC are

- (a) directory, being procedural
- (b) discretionary, depending on the facts and circumstances for the case
- (c) optional for the court
- (d) mandatory

(19) Section 210 of CrPC provides for

- (a) stay of police investigation
- (b) stay of proceedings in complaint case
- (c) both (a) & (b)
- (d) neither (a) nor (b).

(20) Which of the following is incorrect

- (a) two diametrically different versions can be put to a joint trial
- (b) two versions which one not mutually exclusive can be put to a joint trial
- (c) the joint trial of several persons partly by applying one clause and partly by applying another clause of section 223 is authorised
- (d) the various clauses of section 223, CrPC are not mutually exclusive.

(21) Declaration as to custom are admissible

- (a) under section 32(1) of Evidence Act
- (b) under section 32(2) of Evidence Act
- (c) under section 32(4) of Evidence Act
- (d) under section 32(7) of Evidence Act.

(22) Contents of a document may be proved under section 61 of Evidence Act

- (a) by primary evidence
- (b) by secondary evidence
- (c) either by primary or by secondary evidence
- (d) only by primary evidence & not by secondary evidence.

(23) Section 91 of Evidence Act

- (a) permits admission of oral evidence to prove the contents of a document where the writing is a fact in issue
- (b) prohibits admission of oral evidence to prove the contents of a document, where the writing is a fact in issue
- (c) prohibits admission of oral evidence to prove the contents of a document where the writing is not a fact in issue and is merely a collateral memorandum
- (d) both (b) & (c).

(24) Burden of proof under section 101 of Evidence Act

- (a) Never shifts
- (b) goes on shifting as the trial proceeds
- (c) may shift
- (d) both (b) & (c) are correct.

(25) Section 106 of Evidence Act is applicable

- (a) to such matters of defence which are supposed to be especially within the knowledge of the defendant
- (b) to such matters which are capable of being known to the persons other than the defendant
- (c) both (a) & (b)
- (d) neither (a) nor (b).

(26) The presumption of continuance of life is contained in

- (a) section 106 of Evidence Act
- (b) section 107 of Evidence Act
- (c) section 108 of Evidence Act
- (d) section 109 of Evidence Act

(27) In which of the following there is no estoppel

- (a) on a point of law
- (b) against a statute
- (c) attestation of a deed
- (d) all the above.

(28) "*Falsus in uno, falsus in omni-bus*" is

- (a) a rule of evidence
- (b) a rule of criminal law
- (c) a rule of evidence in criminal trial
- (d) not a rule of evidence in criminal trial.

(29) In which of the following cases Supreme Court held that "Test identification parade is only an aid to investigation. The practice is not born out of prudence"?

- (a) *Siddharth Vashist @ Manu Sharma v. State(NCT of Delhi)*, AIR 2010 SC 2352
- (b) *Shivaji v. Nagendra*, AIR 2010 SC 2261
- (c) *S. Jaiswal v. Alok*, AIR 2010(NOC) 805
- (d) *Sujata v. S.K. Behera*, AIR 2010(NOC) 812.

(30) It is a well-settled law that the rule of prudence requires that the evidence of an accomplice should ordinarily be corroborated by some other evidence. It was held by Supreme Court in

- (a) *Francis Stanly v. Intelligence Officer*, AIR 2007 SC 794
- (b) *Youaraj Rai v. Chander Bahadur Karki*, AIR 2007 SC 561
- (c) *Kamla Devi v. Khushal Kanwar*, AIR 2007 SC 663
- (d) *Bablu v. State of Rajasthan*, AIR 2006 SC 115.

(31) When two or more persons commit some tort against the same person they are

- (a) independent tort feasons
- (b) joint tort feasons
- (c) either independent tort feasons or joint tort feasons
- (d) neither (a) nor (b).

(32) A covenant not to sue one of the joint tort feasons, has the effect of

- (a) releasing all the tort feasons
- (b) releasing only that joint tort feasons and others one not released
- (c) not releasing even the joint tort feasons to whom the covenant relates
- (d) none of the above.

(33) The term *novus actus interveniens* means

- (a) directness of damages
- (b) remoteness of damages
- (c) direct & remote damages
- (d) foreseeable damages.

- (34) When the 'innuendo' is proved
- (a) The words which are not defamatory in ordinary sense may become defamatory
 - (b) the words which are defamatory in ordinary sense may become non-defamatory
 - (c) the words which are not defamatory in ordinary sense shall remain non defamatory
 - (d) the words which are defamatory in ordinary sense shall remain defamatory.
- (35) To constitute the tort of nuisance, the essentials are
- (a) unreasonable interference
 - (b) interference is with the use or enjoyment of land
 - (c) damage
 - (d) all the above.
- (36) The 'standard of care' required in tort of negligence is
- (a) of skill & care of an expert
 - (b) of skill & care of an intelligent & qualified person
 - (c) of foresight of a reasonable & prudent man
 - (d) all the above depending on the circumstances.
- (37) In *Donghue v. Stevenson*, the duty of manufacturer was stated to be
- (a) towards retailer only
 - (b) towards the buyer from retailer
 - (c) towards ultimate consumer
 - (d) none of the above.
- (38) The doctrine '*res-ipsa loquitur*' was applied by the Supreme Court in
- (a) *Alka v. Union of India*
 - (b) *Asa Ram v. Municipal Corporation of Delhi*
 - (c) *Municipal Corporation of Delhi v. Subhagwanti*
 - (d) *Jasbir Kaur v. State of Punjab.*
- (39) Which of the following are the exceptions to the strict liability rule
- (a) *volenti non fit injuria*
 - (b) *vis major*
 - (c) statutory authority
 - (d) all the above
- (40) Tort is a violation of a
- (a) right in *personam*
 - (b) right in *rem*
 - (c) neither right in *personam* nor right in *rem*
 - (d) both right in *personam* and right in *rem*.

(II) Answer any 2(two) questions from each of Group-B, Group-C, Group-D and Group-E(each question shall carry 10 marks).

(Total 8 questions—
8x10= 80 marks)

GROUP-B

1. What are the various parameters of 'rarest of rare' cases, for awarding death penalty? Support your answer with the principles laid down by the Apex Court in different case laws.
2. The Court shall be failing in its duty if it fails to award appropriate punishment for a crime committed not only against individual victim but also against the society to which criminal and victim belong. Discuss with reference to case laws.
3. Section 304B and Section 498A of the Indian Penal Code are not mutually exclusive. Elaborate your answer with decided cases.

GROUP-C

1. As regards jurisdiction of a Court, to inquire into and try a criminal case, the general rule is that every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed. Discuss exceptions to this general rule.
2. Discuss joinder of charges under the Code of Criminal Procedure. Can a person be convicted of an offence not specified in the charge? Discuss with reference to case laws.
3. How to deal with an accused, who is mentally retarded or disordered and unable to take legal stand available to him or her. Discuss with reference to the provisions of law.

GROUP-D

1. It cannot be laid down as an absolute rule of law that dying declaration cannot form the sole basis of conviction unless it is corroborated. Discuss in the light of decided cases.
2. What is the evidentiary value of an *extra-judicial confession* which is ultimately retracted? Discuss with reference to case laws, particularly, *Gura Singh v. State of Rajasthan, (2001) 2 SCC 205, Kishore Chand v. State of Himachal Pradesh, 1991 SCC(Cri) 172 and Maghar Singh v. State of Punjab, AIR 1975 SC 1320.*

3. What do you mean by opinion evidence? What is the evidentiary value of opinion of a hand-writing expert? Discuss with reference to case laws.

GROUP-E

1. Discuss the fundamental general principles of the law of torts.
2. Discuss the maxim, "*damnum sine injuria*" and "*injuria sine damno*".
3. "*Actio personalis moritur cum persona*"—Discuss the exception, if any to the maxim.
