

Haryana Judiciary - Mains 2013

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Civil Law (PAPER I)

Q1. - (a) The decisions of the foreign courts in the scheme of CPC are treated with respect but not as sacrosanct. Elaborate on the statement, supporting it with case law. 15 Marks - (b) The constitutional spirit of Public Interest Litigation is also present in the scheme of CPC, though in a restricted sense. Respond to the statement by referring to the relevant provisions and case law. 15 Marks - (c) 'A' files a suit against 'B' for breach of contract by 'B'. The suit is dismissed for default of appearance. Decide if the decision of the court dismissing the suit qualifies as a Decree? Give reasons for your answer. 10 Marks

Q2. - (a) 'A' files a suit against 'B' for evicting 'B' from a piece of land. 'B' puts up the contention that no notice was given to 'B' for eviction and that no notice was given to 'B' for eviction and that the land being 'X' land, he cannot be evicted. The court dismissed the suit on the basis of the fact that notice was not given to evict. The court also concludes that the subject land is not 'X' land. Subsequent to this, 'A' gives a notice to 'B' asking him to evict the land and on the failure of 'B' to comply, institutes a suit against him. In the suit, 'B' seeks to contend that the land being 'X' land, he cannot be evicted. Decide if the second suit by 'A' is barred by Res Judicata, dealing therein the contentions to be raised by 'B' in this suit that it is so barred? - (b) The rules in relation to rejection of a plaint are based as much on substantive grounds as on procedural reasons. Elaborate. - (c) (i) What are the conditions necessary for granting a claim of set-off? (ii) What is the difference between a necessary Party and a Proper and a Proper Party.

Q3. - (a) Aman's parents died in a road accident when he was 12. Since then Aman has been in the care and custody of Bhim, his uncle and his guardian as per the will of Aman's mother. Chaman, a friend of Aman's father and a partner in a reputed firm engaged in the business of storage of goods, decides to help out Aman by admitting him to the benefit of Chaman's partnership firm. He speaks to his partners and they decide by majority to approve the proposal by Chaman. Dev. Eddy and Farhan do not agree with this proposal and they note their dissent. Thus, starting from the age of 15, Aman has been admitted into the benefits of the partnership. Aman turned 18 on 03/02/2013. Three months after the said date, Aman is informed that he had been so admitted into the benefits of a partnership and that all benefits accrued over the years can be accessed by him through a Trust set of for this purpose. On 03/09/2013, Aman issues a notice confirming his intention to become a partner in the firm. He sends a notification in the Indian Express, a national daily which has the highest circulation in his locality. Mithun read the notification in Indian Express. Mithun knows Aman from childhood and has always been impressed by his smartness and his deep faith in religion. Aman is a devotee of Lord Shiva like Mithun and because of that he has a soft corner for Aman. Mithun approaches Aman to provide him with some business and requests him to store around 1 lakh worth of antique furniture till Mithun finds a suitable buyer. Subsequently it comes to light that as per the arrangement in the partnership firm, only persons who have been partners for more than 5 years can sign up a new client. Neither Mithun nor Aman had any idea about this restriction. Already upset with the introduction of Aman, Dev. Eddy and Farhan raise objections to the agreement between Aman and Mithun and also to the validity of Aman's status as a partner. Identify the relevant legal issues arising in the case and determine the controversy involved therein. - (b) Ajay and Binny are partners in running a fast food shop. The partnership agreement does not contain any clause as to its duration. It also does not contain any clause spelling out the conditions on which the partnership may be determined. Ajay institutes a suit on 10/05/2013 for dissolving the partnership firm. Binny objects to the suit saying that Ajay has not given any notice to him in relation to his intention of dissolving the firm. The contention of Ajay is that the institution of the suit is sufficient notice. Decide the matter as to the date on which the firm would be dissolved and also comment on whether the court has the power to set any other than 10/05/2013 as the date on which the firm would be dissolved. - (c) The right of stoppage in transit begins where the right of lien ends. Comment on this statement and write a critical note on the duration of transit.

Q4. - (a) Distinguish between the concept of 'condition' and Warranty' by referring to the various implied conditions and warranties under the provisions of the Sale of Goods Act. Assess the implications of Sections 62 of the Sale of Goods Act on the concept of Implied Conditions and Warranties. - (b) Decide as to the Court in which appeal shall lie in case of the following decrees:- (i) A decree in 1960 where the original suit is valued at Rs. 4,000/-? (ii) A decree in 2007 where the original suit is valued at Rs. 2,50,000? - (c) The idea of 'landlord' has been approached with pragmatism and not with the rigid rules of 'ownership'. Respond to the above statement. - (d) Pursuant to a dispute between 'A', the landlord and 'B', the tenant, 'B' approaches the Controller for fixing the fair rent for the rented building on 10/09/2011. After considering the case, the Controller fixed the fair rent of the said building to be Rs. 12,000/- on 08/10/2011. 'B' dies on 20/10/2011. 'C', B's son disputes the decision of the Controller on two grounds:- (i) The decision is as between 'A' and 'B'. Thus it is not binding on 'C'. (ii) Even if the decision is to take effect, the rent of Rs. 12,000/- is payable only from 08/10/2011.

Q5. - (a) Amit makes a statement in an article in a newspaper that both Balwant and Charanjit have been involved in syphoning off lakhs of rupees which were supposed to be for the development of a children's park. Balwant and Charanjit work as secretaries in the same department of the government with Charanjit being the junior of Balwant. Amit claims that the syphoning off happened as a result of a conspiracy to which only Balwant and Charanjit were parties who managed to hoodwink the entire department. Amit makes a further claim that he has sufficient trail of documents in his possession to prove the joint involvement of Balwant and Charanjit. Balwant and Charanjit institute separate proceedings against Amit suing him for compensation. The suit instituted by Balwant is adjudicated first wherein Amit is held liable for defamation as he could not produce sufficient evidence to prove that his allegations were true. Amit is ordered by the court to pay damages of Rs. 5 lakhs to Balwant. charanjit 's lawyer tries to bring this decision to the notice of the Court. Determine whether the said decision can be a relevant fact in the suit by Charanjit. - (b) Rakesh and Dinesh enter into an agreement wherein Rakesh agrees to sell to Dinesh a brand new Wagon-R car of LXI model which is red in colour. It turns out that Rakesh has two cars in his possession, a Wagon-R LXI of white colour and another Wagon-R VXi of red colour. Determine whether oral evidence may be given in order to determine the meaning of the clause. - (c) Krishan and Som enter into a contract for the sale of a house under construction. Som promises to Krishan that the house would be handed over to Krishan by 07/01/2013 at a price of Rs. 20,00,000/-. The agreement to sell is duly registered. Subsequently, Krishna enters into a contract with Ramesh wherein agrees to buy the same house from Krishan by paying 20% extra on the contract price between Krishna and Som have reached a verbal understanding that due to a slide in the market, Krishan will now pay Rs. 15,00,000/-. - (i) Decide if the subsequent verbal agreement between Krishan and Som can be proved in a suit between them. (ii) Decide if the subsequent verbal agreement between Krishan and Som can be proved in a suit between Ramesh and Krishan.

Civil Law (PAPER II)

Q1. - (a) Respond to the following fact-situations by applying relevant Statutes of Hindu law and citing case-law wherever required. - (i) Kanika married Sanjeet in 2001 and they were living with the latter's parents. In 2004, Sanjeet died in a car accident. After his death, Kanika was denied financial support and share in the ancestral property by her in-laws. Since Kanika's parents were not economically well off and had to support their son's education as well, Kanika did not want to burden them with her problems. What are the rights available to Kanika in Hindu law for her maintenance? (ii) Ananchal and Basant, both Hindus, got married to each other in 2002. In 2005, Basant got converted to Islam and married a Christian lady named Veronica without dissolving his first marriage. Draw up a line of argument for Aachal if she wishes to sue Basant. - (b) Respond to the following fact-situations by applying relevant provisions of the Hindu Marriage Act, 1955 and citing case-law wherever required:- - (i) Prakhar and Aaradhya have been living together at Gurgaon for 6 years now. In January this, they had a violent fight. Aaradhya was hit hard by Prakhar as a result of which, she sustained injuries. After they broke up, Aradhya sued Prakhar for maintenance, among other things. Discuss the parameters that need to be satisfied for claiming maintenance in this regard and decide whether Aradhya is entitled to maintenance in this domain? (ii) Krishna and Kajal married each other in 2010. Kajal was 16 years old when she got married and Krishna was 25. Despite repeated attempts by Krishna to consummate the marriage with his wife, the couple failed to do so because of Kajal's strong resistance and willingness. After three years of marriage, Krishna sought termination of the marriage. Marriage records revealed that Kajal was a perfectly normal woman biologically and that her resistance to intercourse is only psychological. What are the remedies available under the Hindu Marriage Act, 1955 if Krishna wants to terminate his marriage with Kajal? (iii) Sujoy Chatterjee and Momita Banerjee got married in 2000. At the time of marriage, Momita was not aware of the fact that Sujoy was suffering from Schizophrenia and that his illness was acute. When she got to know of it within two months of her marriage, she was disappointed. However, she decided to continue with the marriage hoping for things to get better in future. Five years later, she approached the court claiming divorce on the ground of Fraud. Against this background, discuss the concept of Fraud and decide whether Momita is entitled to relief on this ground? What other options are available to Momita under the Hindu Marriage Act, 1955 if she wishes to terminate her marriage with Sujoy.

Q2. - (a) Trace the history from the Shah Bano judgement which led to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986 and critically analyse the provisions of this legislation. Discuss the issues in relation to the constitutionality of this Act as raised before the Supreme Court in Danial Latifi and Another v. Union of India, AIR 2001 SC 3958. - (b) In Abdul Kadir v. Salima (1886) 8 All 149, Justice Mahmood stated, "Marriage among Muslims is not a sacrament but purely a civil contract." On the other hand, another noted scholar of Muslim Law, Abdul Rahim states that marriage among Muslims is both an Ibadat (devotional act) as well as muamlat (dealings among men). In the light of these statements, discuss the exact nature of Nikah, pointing out its essential features and referring to case-law wherever required. - (c) Analyse the concept of Will in Islam and explain clearly the requirements of a valid Wasiyat and the means by which a Wasiyat can be revoked. Highlight the exceptions to the one-third rule of testamentary disposition of property among Muslims. Also, reveal the difference between the Shias and Sunnis with respect to the Law of Wills.

Q3. - (a) (i) Amartya and Jayaa have a daughter aged 12 years. They want adopt a girl child from a foster-home. Is it permissible under the existing legal provisions ? Give reasons for your answer citing relevant case-law. (ii) Akhil and Niharika were married for 18 years and got divorced recently. They have an eight years old child, Anjan. Akhil claims custody of the child stating that Niharika is only a teacher in a primary school whereas he is a rich businessman and therefore, he can sponsor the best quality of education for Anjan. Niharika on the other hand, claims that she will do everything possible to raise Anjan in the best possible manner. Discuss the requirements for custody and decide whether Akhil or Niharika should be entitled to the custody of Anjan? - (b) Mahendra Nanda was a rich man owning a lot property. He is the owner of over 100 acres of land at Karnal, a huge mansion in the heart of Delhi and bank deposits worth several crores of rupees in India and abroad. He had two sons Sahil Nana and Kapil Nanda and two daughters, Rekha and Ritu. Several years back, when Sahil and Rekha were returning from work, their car crashed and both of them died on the spot. Sahil had two sons, Keshav and Kamal and a daughter, Vaibhavi. Of them, Kamal was the eldest one who had died of heart disease few years after marriage even before Sahil lost his life in the car crash. Kamal is now survived by his widow, Aarti and two children-a son (Anant) and a daughter (Prerna). Keshav and Vaibhavi are unmarried. Sahil's widow is also alive. On the other hand, Rekha is survived by a son (Rishabh) a daughter (Riddhi). Kapil and Ritu are alive and unmarried. Mahendra Nanda died intestate few months back and is survived by the people as can be inferred from above in addition to his widow and mother. Keeping the aforementioned configuration in mind, determine the shares of each of the surviving members in Mahendra Nanda's property as per the Hindu Succession Act, 1956.

Q4. - (a) 'A' is the agent of 'P', who resides in Chandigarh and 'B' handles one branch of 'P's business in Mumbai. 'P' has a business of collecting antique items to interested buyers. For the same, 'A' is required to hold periodical auctions of valuable antique items in Mumbai. One such auction was held on 02.03.2008. Around 15 items were sold for a collective price of Rs. 25 lakhs. The said amount was less than the normal recovery which is to be expected in auction. 'P' enquires regarding the same from 'A' over the telephone but does not receive any satisfactory answer. Due to his hectic schedule, 'P' is unable to visit Mumbai for the next years. He visits Mumbai on 20.03.2010. Upon reaching there, he makes extensive enquiry about the said transaction and finds out that 'A' had failed to give adequate notice to the public of the auction. The notice was given just 1 day before the auction and that too in a newspaper with limited circulation. Thus, goods which would have fetched around Rs.75 lakh were sold for only Rs.25 lakhs for lack of competitive bidding. On his way back on 21.03.2010 he meets with an accident. He slips into a coma. He comes out of the coma on 10.06.2012. On 25.05.2013 he files a suit against 'A' for claiming damages for his losses. 'A' contends that the suit is barred by limitation as the limitation expires in 2011. 'P' contends that the period between 21.03.2010 and 10.06.2012 should be excluded in the computation of the limitation period. Adjudicate upon these contentions. - (b) 'X' wanted to institute a suit against 'Y' for the breach of contract by 'Y' in relation to a contract of sale of goods. The goods were delivered to 'Y' on 12.11.2011 in Yamuna Nagar. Since the date of delivery, 'Y' is yet to pay for the goods despite repeated reminders. The lawyers admits that 'X' has a good case and advises him to file a case in the Yamuna Nagar. 'X' is not inclined to file the suit in Yamuna Nagar as 'Y' resides there and would be able to secure good legal representation. 'X' wants to file the suit in the Faridabad where 'X' has some relatives where it will not be very inconvenient for 'X' to attend to the case. Thus 'X' files the suit in Faridabad on 06.06.2013. He is very diligent in attending the court and pursuing his case. He is personally present on each hearing. On 08.10.2014, the court in Faridabad dismisses the suit on the ground that it has no jurisdiction to try the said suit. 'X' institutes a suit against 'Y' in Yamuna Nagar on 20.11.2014. Discuss the rules of computation of limitation of limitation period applicable and decide the case?

Q5. - (a) Write short notes on any two of the following:- (i) Doctrine of Factum Valet (ii) Chadar Andazi (iii) Anand Karaj ceremony - (b) 'A' bequeaths property worth Rs.2 Crores to his friend 'B'. A's family members allege that the bequest is invalid for want of registration. Decide the case. - (c) There is a contract to be signed between 'A', 'B', 'C' and 'D' on one hand and 'E' on the other hand. As per the arrangement the contract has to be first signed by 'A' and 'E' on 02.03.2013. Then 'B', 'C' and 'D' object to this by contending that the document can be registered only after 02.09.2013. Decide on whether the document can be registered on 01.06.2013?

Criminal Law

Q1. - (a) The utility of a retracted confession hinges primarily on the judiciousness of the court. Respond with reasons to the statement by referring to the judicial approach towards retracted confessions. - (b) The judicial policy in relation to appreciating circumstantial evidence is but an exercise in logical precautions. Respond to the statement. - (c) Sarita works in a call centre where she has to work in odd hours. She reaches the office around 10.00p.m. every night and gets back home around 6.00 a.m. in the morning. Her office has arranged for transport service so that she and other employees like her can be safely picked up and dropped back. On 01.03.2012, she received a call at around 3.30 a.m. from her home that her mother is seriously ill. Through the transport service would have taken her back around 5.30 a.m., Sarita decided to leave at once and borrowed a two wheeler from a friend for the same purpose. On her way back on roads which were mostly lonely, She was confronted by a gang of drunk hooligans who beat her up severely and ravished her in their car and then threw her off on the road. Her colleagues spotted her when they were getting back from office in the company car around 5.50 a.m. They were horrified at the scene of a bleeding Sarita lying helplessly on the road. They picked her up and took to the hospital. Some of her colleagues suggested that Sarita must first go to the police but Sarita did not want register a complaint fearing a protracted legal proceedings which would put her to public humiliation. She mentioned the identity of one of the perpetrators as Rajesh who works in the office opposite to the call centre. In the hospital, Sarita breathed her last around 6.00 p.m. the same evening. Enraged at the whole event, couple of her friends informed the police of the incident pursuant to which Rajesh was apprehended and sent for trial. - (i) Under which provision of the Indian Evidence Act, the statements made by Sarita to her colleagues in the car may be relevant? (ii) Under which provision of the Indian Evidence Act, the statements made by Sarita to her colleagues in the car will not be relevant?

Q2. - (a) 'Regulating the nature of interaction between the accused and the police authorities is at the crux of a developed criminal justice system.' Elaborate on the statement by referring to the guidelines laid down in the case of Joginder Kumar v. State of U.P., AIR1994 SC 1349. - (b) "The area covered by Article 20(3) of the constitution and Section 161(2) of the Criminal Procedure Code is substantially the same. So much so, terminological expansion apart, Section 161(2) is a parliamentary gloss on the constitutional clause." Respond to the statement made by the Supreme Court of India in Nandini Satpathy v. Dani (P.L.) and Another, AIR 1978 SC 1025 and comment on the limits on the power of the police to interrogate and on the meaning of the term 'accused'. - (c) Unlike the scheme in Plea Bargaining, the procedure for withdrawal from prosecution does not afford the 'victim' a participatory position. Critically analyse the statement.

Q3. - (a) Read the following fact-situations and answer the questions below after dissecting the element of 'crime', if any:-

(i) Cesare D' souza went to a pub on 2.2.2011 to celebrate his birthday. In course of the celebrations, his friends urged him to have a couple of drinks, which he declined. One of his friends, Remo who was heavily drunk, moved to the edge of the terrace where the party was taking place and told Cesare that if he did not drink, he would jump off the terrace. Cesare immediately took a glass of vodka in his hands and gulped it down. Remo joined the party once again and passed out in ten minutes. But Cesare drank throughout the night. By midnight, he was so drunk that he could barely drive. His friends dropped him at his residence which he shared with his judicially separated wife. Maria. That night, Cesare forced himself on Maria and had intercourse with her. Has Cesare committed any offence? Answer with sufficient reasons and cite case-law to support your analysis.

(ii) Dr. Ericsson was a neuro-surgeon in India. Manoj, his patient was suffering from acute neurological disorders which rendered him immobile. Sometime later, Manoj developed severe rashes and wounds on his body due to constant confinement to the bed. Ericsson was deeply distressed by the pain of Manoj and told himself that putting an end to the life of his patient would be better than watching him struggle through so much pain. Thinking this, he removed the life support system around Manoj and stopped injecting the regular medicines to his body. Within five days, Manoj died. Is Dr. Ericsson guilty of any crime under the IPC?

Q4. - (a) Garima Rathore was married to Randhir Rathore for five years. At the time of marriage both the families were aware that Garima had a borderline personality disorder, which was not insanity of any degree, but rendered her personality extremely sensitive. She was being treated for the same although except her ultra-sensitive nature, she was perfectly normal. One evening Garima was chatting with her friends over the phone when her mother-in-law shouted very loudly in a harsh voice and ordered her to report at the kitchen immediately. That night, her mother-in-law also told Garima that she was no match to her son, Randhir. Garima was very upset and when she told the same to Randhir, he told her that she should not spend a lot of time chatting over the phone. The next day, Randhir's mother told Garima to go back to her house as she found her unbearable. She spoke ill of her parents and even told Garima that her parents have gifted their ancestral home in Jaipur to Randhir. Unable to tolerate this, Garima went to her room and consumed some poison. Currently, she is battling for her life in the ICU of a reputed hospital. Are Randhir and his mother guilty of any offence under the IPC? Substantiate your answer with adequate reason(s).

(b) One fine morning, three friends, Ranjan, Dheer and Anand sat down to discuss their future. They were all unemployed and thinking of different ways to earn their livelihood. At this juncture, Dheer told in jest that they should rob a bank. Instantly, Ranjan and Anand agreed, thinking that he was serious. Although Dheer was a bit shocked, he realised with the help of his friends, he could make a lot of money. So, over the next one week, they planned to rob the nearby bank. They brought masks and arranged sacks and were about to order weapons. In the meantime, A neighbour got to know of their plan and informed the police of the same. The three friends were arrested. Have Ranjan, Dheer and Anand committed any offence? Support your answer with reasons.

Q5. - (a) In a certain industrial establishment rendering essential services. A worker met with an accident as a result of which he suffered partial disablement. The authorities declined to pay him full compensation for the loss suffered by him. The concerned trade union took up the cause of the worker and Raghavan. The trade union leader urged all workers to go on strike. While the strike was in progress. Few workers decided to pelt the concerned officers. Around 20 workers along with Raghavan were arrested for injuring an executive officer and damaging several cars during the pelting process. Raghavan insisted that although he was participating in the strike, he had nothing to do with the pelting. It was later on found that the strike itself was illegal as the general requirements of giving notice, etc. were not adhered to. Can the 20 arrested workers along with Raghavan be said to be guilty of Criminal Conspiracy? Substantiate your answer with sufficient reasons and case-laws. - (b) The Criminal Law (Amendment Act), 2013 has substantially changed the law in relation to sexual offences in India. Point out the amendments effected by the Act and show how the earlier provisions in relation to Rape were inadequate? - (c) Write short notes on any three of the following:- (i) Difference between Knowledge, Intention and Motive. (ii) Inchoate Offences. (iii) Difference between wrongful restraint and wrongful confinement. (iv) Non-compos mentis.