

B. A. LLB. (Hons.) DEGREE SIXTH SEMESTER EXAMINATION, AUGUST 2017

CODE OF CRIMINAL PROCEDURE, JUVENILE JUSTICE AND PROBATION OF OFFENDERS

Time: 3 Hrs

Maximum Marks: 50

Answer All Questions All questions carry TEN Marks

(5 x 10 = 50)

1. (A). "Procedural criminal law has been designed to look after the process of administration and enforcement of the substantive criminal law. Because, without an enforcement mechanism, the threat of punishment held out to the law breakers by the substantive criminal law would remain empty in practice." Discuss.

OR

Function: Magistrate, Appeal, Transfer

- (B). Examine in detail the organisation, duties, functions and powers of various functionaries under the Code of Criminal Procedure, 1973.

Court Police Counsel Prison

2. (A). As per Section 2 (h) of the Criminal Procedure Code, 1973 "Investigation" includes all the proceedings under "the Code of Criminal Procedure, 1973" for the collection of evidence conducted by a Police officer or by any person (other than a Magistrate) who is authorized by a Magistrate. Examine in detail various steps involved in the investigation into a cognizable offence.

OR

Section 41 to 46, 154, 156(3) → 157, 160, 161, 162, 163, 167, 17

- (B). A famous cine actor in the state of Kerala, accused of having conspired in 2012 to abduct an actress, the said abduction happening in 2017, was taken into custody for questioning and later arrested by the police, the arrest being recorded after two days of custody. He is produced before the Judicial Magistrate of First Class and remanded to judicial custody for 14 days, his application for bail being rejected by the Magistrate. The police claim that they have substantial incriminating evidence against the accused, as reported by print and visual media. The actor moves the High Court claiming that his arrest is illegal and violation of judicial precedents. He also sues few media houses for defamation. Can the arrest and denial of bail by the Magistrate be justified? Discuss in detail the provisions in Code of Criminal Procedure, 1973 and judicial guidelines related to arrest and rights of an arrested person.

3. (A). A very controversial maintenance law suit which set a precedent deviating from the personal law. The petitioner challenged the Muslim personal law. The Supreme Court ruled in favour of the petitioner and granted her alimony. Most favoured it as a secular judgment but it also invoked a strong reaction from the Muslim community, which felt that the judgment was an encroachment on Muslim Sharia law and hence led to the formation of the All India Muslim Personal Law Board in 1973. The case also saw political attempt at dilution of the judicial precedent when the then Congress government at centre, with its absolute majority, passed the Muslim Women (Protection of Rights on Divorce) Act, 1986 restricting the right of Muslim divorcées to alimony from their former husbands for only 90 days after the divorce (the period of Iddath in Islamic Law). Identify the case and its relevance in connection with Section 125 of the Code of Criminal Procedure, 1973.

OR

- (B). Suresh Kumar was charged u/s 326 IPC by the Police, was arrested, produced before the Magistrate and remanded to judicial custody for 10 days. However he moved the Sessions Court for bail u/s 437 of Cr.PC successfully. The trial commences in the Magistrate Court. But in the meanwhile Suresh Kumar has settled abroad. How can the Trial court ensure his presence in the court during trial? The Examine in detail the provisions in the Code of Criminal Procedure, 1973 to compel appearance of persons and production of things in Courts.

(Turn over)

4. (A). In *ZahiraHabibullah Sheikh andors v. State of Gujarat and ors*[(2006) 3 SCC 374 at 395] the Supreme Court of India observed “each one has an inbuilt right to be dealt with fairly in a criminal trial. Denial of a fair trial is as much injustice to the accused as it is to the victim and to society. Fair trial obviously would mean a trial before an impartial judge, a fair prosecutor and an atmosphere of judicial calm. Fair trial means a trial in which bias or prejudice for or against the accused, the witness or the cause which is being tried, is eliminated.” How are the principles of fair trial incorporated into the Code of Criminal Procedure, 1973?

OR

(B). Examine the provisions in the Code of Criminal Procedure, 1973 relating to appeal, revision, reference and review to bring out the differences.

5. (A). Can the NCRB data given below justify enactment of the Juvenile Justice (Care & Protection of Children) Act, 2015? Can these statistics justify the ‘unconstitutionality’ in classification of juveniles based on the nature of offences they are charged with under the Act?

Juveniles between 16-18 years apprehended under IPC		
Crime	2003	2013
Burglary	1,160	2,117
Rape	293	1,388
Kidnapping/abduction	156	933
Robbery	165	880
Murder	328	845
Other offences	11,839	19,641
Total	13,941	25,804

Note: Other offences include cheating, rioting, etc. Sources: Juveniles in conflict with law, Crime in India 2013, National Crime Records Bureau.

OR

(B). What are the main features and objectives of the Probation of Offenders Act, 1958? Examine in detail the different modes of dealing with youthful and other offenders in lieu of sentence under the Act.
