

KERALA HIGHER JUDICIAL SERVICE EXAMINATION 2011

(NCA Vacancies)

Duration : 3 Hours

Marks : 100

PAPER – II

Part – I

(Answer all the questions in one or two sentences. Each carries one mark)

1. What does conduct mean u/s. 8 Evidence Act?
2. In a prosecution for rape is it permissible for the defence counsel to question the prosecutrix as to her general immoral character. Give reasons.
3. What is the probative value of the entries in books of account regularly kept in the course of business?
4. Who is an expert?
5. How an attested document may be proved when the attesting witnesses deny their attesting it?
6. In a suit based on a promissory note, the defendant produces from his custody the promissory note executed by him. What is its legal consequence?
7. A summons was issued to a stranger to a suit to produce a document. He produced it, but did not attend the court for cross-examination. The court ordered issuance of arrest warrant against him. Is it legal? Give reasons.
8. Which is the appropriate government for the purpose of commutation of sentence under IPC?
9. When is abetment in India of commission of an act without and beyond India abetment of an offence?
10. What is the difference between rashness and negligence?
11. Is it legal for the court to award a sentence of imprisonment for a term less than the minimum period for the offence of rape u/s. 376 (1) IPC?
12. What are the ingredients of dishonestly receiving stolen property?
13. What is property mark?
14. What is the punishment prescribed for possession of commercial quantity of ganja?
15. Has the special court constituted under the S.C. & S.T (Prevention of Atrocities) Act jurisdiction to take cognizance of the offence under the Act without committal? Why?

Part – II

(Answer any 15 questions in not exceeding 120 words. Each carries three Marks)

16. (a) What is illicit traffic under the NDPS Act?
(b) What is a psychotropic substance under NDPS Act?
17. (a) When does intentional insult of a member of a scheduled caste become an offence u/s. 3 (xi) SC & ST (Prevention of Atrocities) Act?
(b) When does an assault of any woman belonging to a scheduled caste become an offence u/s. 3 (x) SC & ST (Prevention of Atrocities) Act?
18. (a) What are the powers of a police station officer to conduct search of a house without a warrant under the Abkari Act?
(b) Is a confession made to an abkari officer admissible in evidence? Give reasons.
19. (a) What is the procedure to be followed by an abkari officer who arrests an offender under the Abkari Act without a warrant?
(b) What is the provision regarding disposal of a person arrested by an abkari officer?
20. (a) What is the presumption as to a bank slip under the Negotiable Instruments Act?
(b) What is the presumption in favour of a holder u/s. 139 N.I. Act and how can it be rebutted?
21. (a) How does the Indian Penal Code apply to extraterritorial offences and what is the extended meaning of offence for this purpose?
(b) Who is a Judge and what is a Court of Justice under the Indian Penal Code?
22. What are the provisions in the Indian Penal Code regarding imposition of fine and imprisonment for non-payment of fine?
23. What are the acts against which there is no right of private defence?
24. What are the offences in relation to which disclosure of the identity of the victims is an offence? What are the exceptions to it, if any. Is the provision applicable to judgments of courts?

- 25.(a) What does cruelty mean for the purpose of Sec. 498 (A) IPC?
- (b) Distinguish between adultery and bigamy.
- 26.(a) A witness who has been summoned to give evidence in a criminal case files an affidavit and offers himself for cross-examination. Is it legal for the court to act upon the affidavit? Give reasons.
- (b) What is the significance of facts in issue and relevant facts under the Evidence Act?
- 27.(a) Explain the maxim falsus in uno falsus in omni bus.
- (b) A was charged with having committed theft of gold ornaments belonging to B. In the presence of A, C told that police was in search of the thief. Thereafter, A was found missing till his arrest. Out of these what are the facts which may be admissible in evidence? What are the provisions under which they are admissible?
- 28.(a) Pradeep was walking along a public road when he was bitten by a dog belonging Bhaskaran. In a suit filed by the former for damages from the latter, he wants to adduce evidence to prove that the dog had bitten 5 persons previously. Is it admissible? Why?
- (b) A was charged with having attempted to cause the death of B by administering poison. In his examination in chief B was asked about the symptoms of his illness. The defence objects to it. Is the objection sustainable? Why?
- 29.(a) Admission may be proved as against the person who makes them or his representative in interest. State the exceptions, if any?
- (b) When are admissions irrelevant in civil cases?
- 30.(a) When is an entry in a public record relevant?
- (b) Is a statement contained in a document which forms only a part of a connected series of letters admissible in evidence. Give reasons.
31. (a) Explain the uses of first information statement under the Evidence Act.
- (b) If the first informant gives a statement against the accused, which is in conflict with his statement in the first information, what is the procedure to be followed by the defence counsel?
32. (a) What is a certified copy of a public document?
- (b) What are the presumptions regarding a public document? When do these presumptions arise?
- 33.(a) What is the rule of exclusion of evidence of oral agreement?

- (b) A executed a sale deed in favour of B. Later, A filed a suit for declaration that the sale deed is void and he is the owner of the property.
- (i) Is A entitled to prove that the sale deed is not supported by consideration. Give reasons.
 - (ii) Is A entitled to prove that the consideration was less than the one shown in the deed? Give reasons.
34. (a) What is the restriction on disclosure of professional communications under the Evidence Act?
- (b) (i) Can the privilege relating to professional communications be deemed to have been waived if the party to a suit gives evidence?
 - (ii) When can the party be deemed to have consented to such disclosure?
35. (a) What are the questions lawful in cross-examination and what is the purpose of cross-examination?
- (b) (i) Is right of cross-examination necessary to make a statement given by a witness in court evidence in the case?
 - (ii) A defendant failed to file written statement in a suit. The court disallowed his prayer to cross-examine the plaintiff's witnesses. Examine the legality of the action of the court.

Part – III

(Answer any 5 questions in not exceeding 250 words. Each carries eight marks)

36. (a) Discuss the law governing statements of persons who cannot be called as witnesses.
- (b) What is the evidentiary value of a dying declaration?
 - (c) A doctor who conducted post-mortem examination on the body of the victim of a murder died before the trial of the case. Is the certificate issued by him relevant? How can its contents be proved?
37. (a) Discuss the law relating to the relevancy of confession. Mention case laws on the point.
- (b) Before the accused in a murder was arrested he had consulted a doctor and made a confession to him. Is it relevant? What is the provision applicable to it?
38. (a) Discuss the relevancy of opinion evidence.
- (b) Mention some instances in which opinion evidence becomes relevant in a sessions trial.

(c) What is the probative value of opinion evidence?

39.(a) Discuss the act of a person of unsound mind as a defence in a criminal case.

(b) In a sessions case the prosecution evidence revealed that the accused had a history of treatment for mental illness. But he did not adduce any evidence. Examine the merit in the argument that he is entitled to be acquitted.

40. (a) What is right of private defence of the body and what is its extent?

(b) On a day on which a political party was observing hartal, its supporters attempted to close down a factory using force. When the owners and the workers attempted to resist it, the mob set fire to the factory from all its sides. An owner who was inside the factory fired a shot killing one of the political workers on the spot. Discuss the claim of right of private defence by the owner.

41. (a) What is rape? What is the punishment prescribed for the offence?

(b) What is the difference between the phrases 'against her will' and 'without her consent' appearing in Sec. 375 IPC?

42. Discuss the law relating to house trespass.

43. (a) What is forgery?

(b) What is making a false document?

(c) What is falsification of accounts?
