

KERALA HIGHER JUDICIAL SERVICE EXAMINATION 2011

Duration : 3 Hours
Marks : 100

PAPER – II Part – I

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

1. What is a document under the Evidence Act?
2. When is oral admission as to contents of a document relevant?
3. What is the nature of confession of a co-accused?
4. In the evidence of an expert when do facts otherwise irrelevant become relevant?
5. What are private documents?
6. Who is an accomplice?
7. How should a person being within India, abets the counterfeiting of coin out of India be punished?
8. On his way to market Gopi finds a purse with money. He does not know to whom it belongs. He does not make any enquiry as to its owner. He immediately sells it. What is the offence (if any) committed by him?
9. What is a forged electronic record?
10. What is a bank note under IPC?
11. What is the prohibition regarding arrack under the Abkari Act?
12. What does counterfeit mean under IPC?
13. What is the probative value of an admission by a party?
14. What is the presumption if a man refuses to answer a question which he is not compelled to answer?
15. What is the probative value of the entries in books of account?

Part – II

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

16. (a) What are the powers of an abkari officer to arrest without warrant an offender and to seize contraband liquor etc.?
- (b) What are the powers of certain abkari officers to search houses etc. without warrant?
17. (a) What is the presumption as to offences under the chapter 'Offences of Atrocities' in SC & ST (Prevention of Atrocities) Act?
- (b) The house of A is situated on the side of a highway. It is a building within public view. A, not being a member of the scheduled caste or tribe intentionally insults a member of a scheduled tribe at his kitchen with intent to humiliate her. Has A committed the offence u/s. 3 (x) of the S.C. & S.T. (Prevention of Atrocities) Act? Give reasons.
18. (a) What does cannabis mean under the N.D.P.S. Act?
- (b) A was a passenger on an aeroplane coming to Chennai from Srilanka. He had with him a box containing a narcotic drug without any authority. His intention was to hand it over to B to be taken to Sudan. What offence (if any) has A committed?
19. (a) Under the NDPS Act what is the presumption from possession of illicit articles?
- (b) A was found entering a bus carrying a bag. An authorised officer under the NDPS Act on suspicion asked him to open the bag. It contained a psychotropic substance. Was the failure to give the accused an opportunity to make a request to take him to a nearest gazetted officer or Magistrate illegal? Why?
20. (a) When is a fact said to be proved in a criminal case and in a civil case?
- (b) What is the significance of motive in a criminal case?
21. (a) 'Facts showing existence of state of mind, or of body or bodily feeling are relevant'. Explain this statement with illustrations.
- (b) In civil cases when are admissions not relevant?
22. (a) What are the different modes of proving a signature?
- (b) A civil court appointed a commissioner for local inspection without issuing notice to the opposite side. When the case was taken up for trial the commissioner had left for the U.S. to live there with her husband. How can the contents of the report be proved? Give reasons.

- 23.(a) What are the presumptions as to a certified copy of a document which is by law declared to be admissible as evidence of any particular fact?
- (b) What is the presumption as to documents which are 30 years old?
- (c) Is there a presumption if the document is a Will?
- 24.(a) What is the prohibition in IPC regarding disclosure of the identity of the victim of certain offences?
- (b) Is there any exception to it?
25. Distinguish between criminal misappropriation and criminal breach of trust?
26. (a) A was standing in his doorway. B pushes him down and gets entry into the room and thus commits house trespass. What is the offence committed by B?
- (b) A sells and conveys his car to B on 1-1-2010. Later, A with intent to defraud B, executed a conveyance in favour of C and put the date on 1-10-2009. What is the offence committed by A?
27. Distinguish between adultery and bigamy?
28. Distinguish between presumption as to abetment of suicide by a married woman and presumption as to dowry death?
29. (a) What is fabricating false evidence?
- (b) What are the different types of the offence of fabricating false evidence?
30. (a) 'A judge in India has wide discretion in awarding punishment in criminal cases'. Comment.
- (b) A special law does not provide for imposition of sentence of imprisonment on the failure of the accused to pay fine. Still a Magistrate awarded such sentence of imprisonment. Is it legal. Why?
31. (a) Distinguish between burden of proof and onus of proof.
- (b) What are presumptions and what is their legal effect?
32. Consent is a defence in criminal cases. Comment in the light of the provisions in IPC.
- 33.(a) What is the restriction in IPC regarding sentence of imprisonment for non payment of fine?
- (b) Write a note on termination of imprisonment on payment of fine.

34. Which are the acts against which there is no right of private defence?
35. What is the distinction between the offence of using criminal force to a woman with intent to outrage her modesty and the offence of making gestures intended to insult the modesty of a woman?

Part – III

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

36. 'Cross examination is an effective weapon to elicit truth'. Examine the correctness of this statement in the light of the provisions in the Evidence Act?
37. (a) 'Documents must be proved by primary evidence'. State the exceptions.
(b) What is meant by laying the foundation for reception of secondary evidence?
38. What are the matters as to which opinion evidence may be given?
39. (a) When are judgments of courts of justice relevant in evidence?
(b) What are the requirements to prove that trial of a suit is barred by a previous judgment?
40. State the differences between
(a) Common intention and common object.
(b) Common intention and same intention.
(c) Common intention and criminal conspiracy.
- 41.(a) What are the provisions in the Negotiable Instruments Act regarding the offence u/s. 138 of the Act committed by company?
(b) What are the presumptions in connection with the offence u/s. 138 N.I. Act?
(c) How can such presumptions be rebutted?
42. (a) Distinguish between admission and confession.
(b) 'No confession made to a police officer shall be proved as against a person accused of any offence.' Explain.
(c) Does the bar u/s. 162 Cr.P.C. affect Sec. 27 Evidence Act? Why?
43. What is the distinction between culpable homicide and murder?