

THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Arunachal Pradesh & Mizoram)

Main Written Examination for Direct Recruitment to Grade-I of Nagaland and Arunachal Pradesh Judicial Service (2014)

Total Marks: 100 (One Hundred)

Time: 3 (Three) hours.

The candidates are expected to refer to the relevant decisions of the Apex Court and the High Courts while writing answers.

PAPER – II

Group-A

(3x10=30)

1. Answer all questions in one sentence-

- a) When does motive play an important role in criminal case?
- b) When is bad character relevant in a criminal case?
- c) Who can file an inter pleader suit?
- d) What are the main considerations for staying the execution of a money decree?
- e) When can a conviction be based on the sole testimony of a witness?
- f) Which type of identification of an accused supplies a substantive piece of evidence? Identification parade or dock identification or both?
- g) What standard of proof is required when an accused intends to prove the defence that his case falls under general exception?
- h) In which case Supreme Court interpreted Section 89 CPC by observing that it is not necessary for the court, before referring the parties to the ADR process to formulate or reformulate the terms of a possible settlements?
- i) Give essential ingredients of offence punishable u/s. 306 I.P.C.

- j) In the case of *Jurnel Sing*, Supreme Court has given directions on the mode of determination of age of a victim. What is that?

Group-B

2. Distinguish between

(3x8=24)

- a) Court and Tribunal
- b) Inquiry and Investigation
- c) Mortgage by conditional sale & Sale with a condition to repurchase
- d) Sale and exchange
- e) Res judicata and res subjudice
- f) Fundamental duties and fundamental rights
- g) Former statement and previous statement
- h) Presumption of fact and presumption of law

Group-C

3. Answer in 'Yes' or 'No' with appropriate reference

(4x6=24)

- a. An accused is obliged to prove his defense version beyond reasonable doubt?
- b. 'A' has been ordered to be tried at the stage of last prosecution witness u/s 319 Cr.P.C. Now the court wishes to hold independent trial of newly added accused 'A'. Whether it is permissible? Give reason.
- c. During the proceeding of execution of a decree, if a question arises as to whether any person is or not the representative of a party, such question shall be determined by the court which passed the decree.
- d. The lease of immovable property from year to year is to be registered compulsorily.
- e. After having received the charge sheet the Magistrate finds that a person whose name is mentioned in F.I.R. has not been named in charge sheet. Upon independent application of mind to material on record the Magistrate wishes to take cognizance against that person. Can he do so before recording evidence and

if so under what provision?

- f. Whether a second FIR for de-novo investigation of the same incident is permissible?

Group- D

4. Answer briefly-[Any 11(eleven) questions]

(2x11=22)

- i. Give various modes of proving the identity of hand writing purported to be of accused?
- ii. Who can file a representative suit?
- iii. While interpreting O 17 R 1(2) of C.P.C. the supreme Court in case of Shree Vardhman Rice and General Mills vs Amar Singh Chawalwala (2009) 10 SCC 257 has given some guidelines regarding disposal of intellectual property cases. What are the guide lines?
- iv. In which case a statement of a witness recorded U/S 164 Cr. P. C. can be treated as Examination in Chief ?
- v. A witness dies after recording examination-in-chief and before cross-examination commences. What will the court do in such a situation?
- vi. When can pre-summoning of witness for recording evidence may be dispensed with under Section 200 Cr. P.C.?
- vii. Under section 144, Code of criminal procedure 1973, when can an Executive Magistrate may act ex-parte, if immediate prevention or speedy remedy is desirable?
- viii. Whether the statement of a witness recorded u/s. 161 Cr. P.C. can be used for the purpose of deciding the issue of disposal of property involved in a criminal case? If yes, in what manner?
- ix. The Court finds that some of the documents filed by plaintiff are not admissible. What is required to be done by the Court regarding these documents?

- x.** Being an advocate of unsuccessful party in trial court, you have to file an appeal, but the limitation of appeal has expired. What is required to be done by you and the party?
- xi.** In "State of Haryana vs. Mukesh Kumar, AIR 2012 S.C. 559" what has been observed by the Supreme Court regarding adverse possession?
- xii.** When can an offence be considered as cognizable by the Sessions Court? Can the Magistrate probe into the matter and discharge the accused?
