

## MEGHALAYA JUDICIAL SERVICE GRADE-I, 2013

## PAPER – II

Duration- 3 hours

Total Marks-100

**(All questions are compulsory and answers should be given in English)**

(Marks are indicated against each question)

**[Candidates shall refer to the relevant decisions of the Apex Court and the High Courts and mention the relevant provisions of law wherever necessary]****GROUP – A**

1. Define and distinguish between the following (Any four). 2x4= 8
  - (a) Abetment of an Offence and criminal Conspiracy,
  - (b) Wrongful restraint and Wrongful confinement,
  - (c) Kidnapping and Abduction,
  - (d) Common intention and Common object,
  - (e) Criminal misappropriation of property and Breach of trust,
  - (f) Criminal force and assault,
  - (g) Extortion and Intimidation.
  
2. Robert, a boy of 19 years allured Jenny, 15 years old on promising of marrying her. She elopes with him. He had sexual intercourse with her consent on 2<sup>nd</sup> day of elopement. 4
  - (I) What offence he has committed?
  - (II) What would be the offence if he refuses to marry Jenny?
  - (III) What would be the offence if he had sexual intercourse against her consent?
  - (IV) What would be the offence if Jenny is 20 years and she gave consent for sexual intercourse on promise of marrying, but later Robert refused to marry her?

3. Briefly discuss any two of the following as pleas in avoidance of a criminal charge: 3x2= 6
- (i) Good faith,
  - (ii) Act done by consent,
  - (iii) Involuntary intoxication,
  - (iv) Accident in doing a lawful Act.

#### GROUP – B

4. Explain and discuss the manner in which Statement under Section 161 Cr.P.C. can be used by the Prosecution, the defense and the Court. 5
5. A was arrested by a police party from his house and kept in a secluded building for three days without informing any person about the arrest or the place of his detention. For all three days A was not told about the reasons or grounds of his arrest nor permitted to contact any person. After three days' confinement A was released and informed that he was free to go anywhere.  
What are the illegalities involved in the above arrest process? 5
6. "Illegality vitiates trial whereas irregularity does not unless it results to prejudice." Explain. 5
7. What is meant by the words "Taking cognizance of an offence by Magistrate" within the meaning of Section 190 (1)(a) Cr.P.C. Can a Magistrate after taking cognizance send the case to the Police with the direction to file charge sheet? Answer with reasons. 5

#### GROUP – C

8. Discuss the "Doctrine of Part Performance" and "Equitable estoppels" and distinguish them. 5
9. A sold his house to B and on that date B executed a separate unregistered agreement that if he wishes to sell the house, he would sell it back to A for the same price and would sell to no one else unless A decline to purchase. Examine the validity of this restrain on alienation. 5

10. A mortgages his house X to B, C and D successively for Rs.80,000/-, Rs.40,000/- and Rs.20,000/-, A mortgages his house Y to D and C successively for Rs.30,000/- and Rs.15,000/- respectively. House X and Y are sold for Rs.1,00,000/- and Rs.30,000/- respectively. What are the respective Rights of B, C and D on the sale proceeds? 5

11. Does the doctrine of lis pendens apply to suit decided ex-parte? 5

#### GROUP – D

12. What is the distinction between necessary party and proper party in a suit? What is the effect of non-joinder of proper party in a suit? 5

13. A plaintiff who is entitled to sue for possession and damages files a suit for possession only. The suit is decreed. Can he file a suit for recovery of damages? Give reasons for your answer with relevant provision of law. 3

14. What is meant by "Res judicata"? What is the public policy behind the principle? Whether the provisions contained in the Code of Civil Procedure are exhaustive? Whether the principle of Res judicata applies to execution proceeding? When a judgment operates as Res judicata between co-defendants? Answer the different aspects under separate sub-headings. 5

15. What facts are essential in a notice under Section 80 of CPC? What would be the effect upon suit against the Central Government, State Government or their officers if notice is not given? 5

16. The Rule of evidence are in general the same in Civil and Criminal Proceedings. Give the exceptions if any. 5

17. It is necessary to call an attesting witness in proof of the execution of a document required by law to be attested? 3

18. Under what circumstances can a party cross examine his own witness? Explain with relevant Section of Indian Penal Code. 3

19. Distinguish between Presumption of Law and Presumption of Fact. 3

20. Attempt any two.

5x2= 10

(i) "Limitation bars the Remedy but it does not extinguish the Rights". Discuss.

(ii) "Time commences to run; the moment the Right to sue accrues" State the exception, if any to the rule, giving illustration.

(iii) A incurs a debt to a firm of which X, Y and Z are partners. X and Y are insane and Z is a minor, when does period of limitation run against them?

(iv) What is the effect of addition of a plaintiff or defendant in a pending suit upon the limitation for filing such suit?

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