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SCREENING TEST FOR THE POST OF

A.D.A.—2015

Time : 3 Hours

Maximum Marks : 100

Note :— Answer in all five questions, selecting at least two questions from each Part. All questions carry equal marks.

Part I

Criminal Law

1. (a) X caused severe injury on Y's leg with sharp instrument used for cutting. The wound so infected led to the amputation of the leg of Mr. Y. Since that day Y's father Z nursed a grudge against X. On the fateful day, finding

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the opportune time Z along with his friend F encountered X. While F held X by his head and Z inflicted as many as 16 injuries on arms and legs of X by a weapon. Although none of the injuries individually was sufficient to cause death but the victim died in the ordinary course due to cumulative effect of all 16 injuries. Decide the liability of Z.

- (b) A, a driver of a double decker bus in Mumbai killed a pedestrian who suddenly crossed the road without taking note of the approaching vehicle. In spite of the fact that brake of bus was failed, the pedestrian dashed against the bus and died. Prosecution intends to prosecute the driver under Section 304-A of IPC, Can they do so ?

2. (a) A group of 11 persons caught hold of X who was carrying a sum of Rs. 50,000 after withdrawal from bank. Three of them inflicted severe injuries by a dangerous weapon. Two of them ran away with cash while X succumbed to his injuries in the hospital. Seven members of the group were identified, charge sheeted and prosecuted for the offence of murder under Section 302 read with Section 149 of the Indian Penal Code. Out of seven, three were acquitted by the trial court by giving them the benefit of doubt and remaining four has been convicted under Section 149 IPC. They want to challenge the order of the trial court before High Court, pleading that it is not proper. Can they succeed ? Explain.

- (b) X, the husband of Y provided her with Rs. 50,000 on the day of marriage anniversary. He narrated to the wife that he had taken it out of the bank's cash locker and will return the same within a couple of days. X is being prosecuted for theft and the prosecution intends to produce his wife Y as evidence in court of law, can she testify and is her evidence admissible ? Give reason.
3. (a) K, the former boyfriend of X was blackmailing her threatening to publish her nude photos that K has clicked when they were together. On one occasion X gave him Rs. 50,000 to obtain those photos. On another occasion she consented to have sexual intercourse with him to obtain the remaining photos. Can K be held liable for extortion and rape ?

(b) P, a leading surgeon was alleged to have committed rape on W, a young woman who had come to him for treatment. She made a report to this effect to the police. P apprehending his arrest moves an application for anticipatory bail under Section 438 of the Criminal Procedure Code 1973. Decide, will it make any difference if the application is moved to the court in the State of Uttar Pradesh.

4. (a) X, a woman married to T on 01-01-2000 and got divorced in May, 2000. In the month of June, 2000, she married another person Q, who had knowledge about her previous marriage. In

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the month of Nov., 2000, X gave birth to a baby. Q raises the issue of paternity of the baby. In the light of Indian Evidence Act, decide the success of Q in the case.

- (b) Is it necessary to have corroboration through an independent witness when the testimony made is in the form of dying declaration ?

Comment.

5. Explain the following :

- (a) Plea-bargaining
- (b) *Res-Gastae*
- (c) Criminal Conspiracy
- (d) Law of Remand under Section 167 of Cr. P.C.

Part II**Civil Law**

6. (a) Certain consignment of edible goods were sent by ship 'Peerless' from A in Chennai to B in Andaman Islands. The edibles were perishable and the port authorities refused to deliver up the goods to B except upon payment of an illegal charge for carriage. The consignee B pays the sum charged in order to obtain the goods. Can B later recover the charge which was illegal and excessive ?
- (b) Pritam pays Rs. 10,000 to Shyam, in consideration of Shyam's promising to marry Lovely, who is Pritam's daughter. Unfortunately, Lovely is dead at the time of making the promise. What is the fate of the contract and can Pritam recover Rs. 10,000 from Shyam ?

7. Ramesh, aged 20 years, was married to Rashmi, aged 17 years in 2006. In 2010, Ramesh changed his religion to Islam and gets married to Rahima as per Muslim Law. When Rashmi came to know about his marriage, she initiated prosecution proceedings against Ramesh for the offence of bigamy. Ramesh pleaded as :

- (i) his marriage to Rashmi was not valid under Prohibition of Child Marriage Act, 2006, and
- (ii) at the time of second marriage he was a Muslim which permits bigamy.

8. (a) "An application under Order 7, Rule 11 CPC ought to be decided on the allegations in the plaint and filing of written statement by contesting defendant is irrelevant and unnecessary." Discuss.

- (b) What considerations do the Civil Courts gradually keep in mind while permitting amendment of the pleading ?
9. (a) What kind of suits do courts have jurisdiction to try ? Explain with the help of principles of *res sub-judice* and *res judicata*. State relevant statutory provisions and case law.
- (b) "Power to grant injunction under Order 39 is extra ordinary in nature and it must be exercised in accordance with sound judicial principles." Explain the principles involved.

10. (a) What should a court do when plaintiff is present and the defendant is absent? What remedies are available to defendant in such cases? When can an *ex-parte* decree be passed and when it can be set aside?
- (b) Write short notes on any *two* of the following :
- (i) Notice under Section 80 of CPC
 - (ii) Foreign Judgement
 - (iii) Inter-Pleader Suits.