

2010

1022

Paper - I

CRIMINAL PROCEDURE CODE 1973, INDIAN EVIDENCE ACT 1872 etc.**Time : 3 hours****Maximum Marks : 100**

- Note :**
- (i) All questions are *compulsory*.
 - (ii) Question No. 1 carries 20 marks. All other question carry equal marks i.e. 16 marks each.
 - (iii) Your answers must be to the point and wherever possible quoting the specific provisions of law will be appreciated.
 - (iv) Do not reproduce any question. Write only question number against the answer.
 - (v) "Other than cited cases, candidate should not write roll number, any names (including their own), signature, address or any indication of their identity anywhere inside the answer book otherwise he will be penalised".

1. Draft an appeal against an Order and Judgement of acquittal, passed by JMFC, one month prior from today, certified copy of the Judgement and Order was received, 7 days prior from today. Report for certified copy was submitted, on the date of the Judgement. Specifically mention, in which court, the appeal against acquittal is preferred. Brief facts of the prosecution case, evidence lead by the prosecution and main reasons of acquittal, observed in the Judgement delivered by the JMFC are as follows :

(a) **Facts of the case :**

The accused 'A' as well as injured 'B' are from same village 'C'. The injured used to work in the garden land of the accused. Accused was serving at Mumbai and his wife was residing at the village. The accused came to the village after his retirement and was staying in the village. On the day of incidence i.e. on 27/10/2001, the accused had been to the village. On that day injured demanded his labour charges Rs. 2000/- due from the accused, on which an altercations took place between them, on that count, at about 7.30 A.M. Then after the accused, the injured, were proceeding towards garden field, at about 8.45 A.M. When they reached near a temple in the village, the accused assaulted the injured by means of axe, over his right leg, resulting into bleeding injury, which was bone deep, sustaining fracture. Father of the injured P.W. No. 1, came to the scene of offence, after hearing shouts of the injured. The father of the injured immediately shifted the injured to the Government Hospital at Taluka place, through private vehicle. The taluka place is 15 km from the village. Then P.W. No. 1 lodged F.I.R. to the Police Station, having jurisdiction, at 3.00 P.M. The injured was in-patient for 9 days. Copy of the F.I.R. was forwarded to the J.M.F.C. on the same day

P.T.O.

which was received by the J.M.F.C. on the next following day at 11.30 A.M. Investigation was entrusted to a Police Sub Inspector, attached to the Police Station, after registering a crime. The P.S.I. (I.O.) proceeded to the spot, prepared scene of offence punchanama, seized blood stained earth and natural earth from the spot, seized clothes of the injured, which were blood stained on the day of incidence. On the same day the accused was arrested. On the next day as per memorandum and discovery punchanama weapon used by the accused, the axe was seized on which blood stains were detected. P.S.I. (I.O.) also recorded statement of the witnesses including eye-witnesses on the next day of the incidence. The attached property was sent to C.A. for chemical analysis, along with blood samples of the injured and the accused which were collected by the M.O. C.A.'s certificates were collected and after due investigation, chargesheet was submitted in the J.M.F.C. court, for offence u/s 326 of the I.P.C.

The learned J.M.F.C. framed charge u/s 326 of the I.P.C. against the accused to which he pleaded not guilty and claimed to be tried. Defence of the accused was that, while the accused was residing at Mumbai, the injured was in habit of visiting his house and developed illicit intimacy with his wife and when the accused came to the village and on the day of incident, the accused saw the injured with the company of his wife. It is further defence of the accused, that, the injured on seeing the accused started running and in the act of the running, fell down, on sharp edged stone and sustained injury and the accused is falsely involved in the crime. The prosecution has examined 10 witnesses including 3 eye-witnesses. C.A.'s report and medical evidence was corroboratory. The accused did not advice evidence, in his defence. The learned trial court proceed to acquit the accused by accepting the defence of the accused, on the following grounds :

- (b) Grounds of the acquittal :
- (1) There is delay in lodging F.I.R. which is not satisfactorily explained by the prosecution.
 - (2) The eye witnesses are not believable.
 - (3) There are contradictions and discrepancies in the evidence of the witnesses.
 - (4) The M.O. admitted during cross examination, that, such injury could also be caused by fall, while running.
 - (5) Punched to the memorandum and discovery punchanama, turned hostile and do not support to the prosecution, though the I.O. proves the punchanamas. I.O.'s evidence disbelieved as he is interested witness, in gating conviction.
 - (6) Defence of the accused is probable, hence accepted.
 - (7) Though the medical evidence shows that, wide chopped wound, cutting all the blood vessels, tissue completely extending up to the bone, with severe bleeding, flexor deformity of right knee, with wasting of muscles below the right knee, leading to permanent disability of right lower limb, as there are two possibilities, injured, eye-witnesses are not believable.

2. Write short notes on *any four* of the following : 16
- (a) Complaint.
 - (b) Investigation.
 - (c) When Police Officer can arrest without warrant.
 - (d) Statement of witnesses during investigation.
 - (e) Withdrawal from prosecution.
3. Answer the following questions : 16
- (a) Discuss the provisions relating to the report of a investigating officer, on the completion of investigation. Elaborate summaries.
 - (b) Discuss, when may a Court Order, attachment of the property of person who has absconded and procedure should be followed for the same.
4. Answer *any four* of the following : 16
- (a) What do you mean by the "First Information Report" and state what is it's evidentiary value ?
 - (b) What are conditions requisite for initiation of proceedings, discuss.
 - (c) What do you understand by the confession ?
 - (d) Discuss reciprocal arrangements regarding processes.
 - (e) Discuss tender of pardon to accomplish.
5. Answer *any four* of the following questions by giving illustrations : 16
- (a) When facts not otherwise relevant become relevant ?
 - (b) Describe confession to police, while the person in custody or otherwise.
 - (c) When opinions of experts will be relevant ?
 - (d) What is meant by secondary evidence ?
 - (e) Discuss provisions, regarding cross examination of a witness, as to previous statements in writing.
6. Answer the following questions : 16
- (a) What is meant by "Dying declaration" ? Discuss it's evidentiary value. How the "Dying Declaration" is to be proved ?
 - (b) What are the public documents and how are the certified copies of the same and official documents may be proved ?