

Note :

- (i) All questions are **compulsory**.
- (ii) Question No. 1 carries 20 marks. All other questions 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.
- (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 one's own), signature, address or any indication of one's identity anywhere inside the answer book, otherwise one will be penalized."
- (vi) Marks to each question are indicated by figure in the margin on the right hand.

1. Draft Appeal/Revision out of judgement of JMFC/Metropolitan Magistrate. Mention the court in which appeal is to be preferred and how it is in limitation.

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Facts of the case

The accused 'A' and 'B', and injured are residents of the same village. They are residing adjacent to each other. There was a civil suit regarding land between them on the day of the incident i.e. 25-11-09. The injured, his wife and one minor son were in the house. At about 8.30 P.M. while they were taking food, the accused 'A' and 'B', came in front of his house and started saying why he filed civil suit against them. Saying this they both entered the house of the

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injured. Accused 'A', was having an axe in his hand. They abused the injured and rushed on his person. The accused 'A', inflicted axe blow on the left leg of injured and accused 'B', threw chilly powder on the face of the injured. They both accused and abused the injured and his family members. While the incident was going on, two persons from the neighbourhood came on the spot on hearing the cry of the injured. Those two persons and wife of the injured rescued the injured from the accused. The accused while going gave threat to the injured and his wife. There was light at that time. The injured sustained incised bleeding injury, due to which his cloth (pant) was stained with blood. There was blood spot in the house of the injured. As it was night time and as the police station was 20 km away and as there was no vehicle facility, the injured went to the police station alongwith his wife by bus next day, at about 9.30 A.M. and lodged the report mentioning all the facts. On the basis of the FIR the case was registered for offence u/s 452, 324, 504, 506, 34 of IPC against the accused. The complainant was referred to Govt. hospital. The Doctor issued medical certificate mentioning one incised wound on the left leg. The injury was having blood clot. The I.O. prepared spot punchanama, seized blood stained cloth, recorded the statements of wife, son of the complainant and also those persons who rescued the quarrel. These statements were recorded immediately. As the accused were not found in the village, they were arrested two days after the incident. The accused 'A', made Memorandum Statement and produced the axe which was blood stained. The said axe was attached under punchanama from the field of accused concealed in the bush. After receiving C.A. report, medical certificate and on completion of the investigation, chargesheet was submitted in the court. The JMFC framed the charge against the accused for offence u/s 452, 324, 504, 506, r/w 34 of IPC. The accused denied the same. The defence of the

accused was of total denial and of false implication due to previous enmity and political rivalry in the village. The defence has not led evidence on their behalf.

Evidence of prosecution

The prosecution examined the injured complainant, his wife, his son, three punchas, two neighbours, the doctor and the I.O. Total 10 witnesses were examined. There is direct and circumstantial evidence. Two independent witnesses who were not interested admitted in cross that there were two political parties in the village and the accused were on inimical terms with them and complainant. The punch to the seizure of the axe turned hostile to the prosecution. The clothes, axe were identified by the witnesses. FIR, medical certificate, spot puncha are proved.

Points given by JMFC for acquittal

- (i) There is delay in filing the FIR. No satisfactory explanation from the prosecution.
- (ii) Some witnesses are related to the injured. Hence they are interested and not believable.
- (iii) No independent corroboration as the witnesses who rescued the quarrel admitted in cross, that there was a politically rival group and there was enmity on that count between the accused and them.
- (iv) There are contradictions and omission in the evidence of witnesses.
- (v) Medical evidence is not corroborating on the point of injury. As the Doctor deposed that there was one incised wound and one contusion.

Hence the court has given benefit of doubt to the accused.

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2. Write short notes on any **four** of the following :

- (a) Victim
- (b) Warrant case
- (c) Cognizance of offence by Magistrate
- (d) Sentences which Magistrate may pass
- (e) Withdrawal from prosecution

3. Write in detail :

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- (a) What are the various modes of service of summons ?
- (b) What are the places of trial in respect of various types of offences ?

4. Answer any **four** of the following :

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- (a) What are the provisions in respect of appeal against acquittal as amended ?
- (b) Describe revisional power of Sessions Court and of the High Court.
- (c) When is search warrant issued ?
- (d) When is accused discharged in a warrant case ?
- (e) When can police officer arrest without warrant ?

5. Write on any **four** of the following questions with illustrations :

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- (a) Discuss principle of res-gestae.
- (b) Which facts need not be proved ?
- (c) Burden of proving fact especially within the knowledge.
- (d) Presumption of dowry death.
- (e) Oral evidence must be direct. Discuss and illustrate.

6. Answer the following :

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- (a) What are leading questions ? When may they be asked and when must they not be asked ?
- (b) What is meant by Primary Evidence and when is Secondary Evidence given ?