HIGH COURT OF BOMBAY
MAIN WRITTEN EXAMINATION-2024 FOR THE POST OF DISTRICT JUDGE

PAPER I- CIVIL LAW

Date: 18th January, 2025 Total Marks: 100

Time: 11.00 a.m. to 2.00 p.m.

INSTRUCTIONS

1. All Questions are compulsory.
2. Figures to the right indicate marks.
3. Answers to optional questions, in excess of prescribed number, will not be assessed.

1. Write a judgment of Appellate Court by using your own imagination on the following facts after mentioning bare necessary facts and presuming that necessary witnesses were examined and relevant documents have been produced. Do not mention any names other than those given in the question and if necessary to mention names of witnesses, refer them as PW-1.... or DW-1...., as the case may be, without mentioning any name. Judgment need not be with the cause title and may begin with a title Judgment'. Do not mention your name or any other name or put signature as author of the judgment.

[30]

01. Defendant no.1 executed a registered agreement for sale dated 7th December 1981 by which he agreed to sell the suit land to Plaintiff No.1 and 2 for Rs. 20,300/-. Defendant no.1 received Rs. 17,000/- at the time of execution of the agreement and agreed to execute the sale deed within three years from the date of execution of agreement, by accepting balance consideration. Possession was agreed to be given on the execution of sale deed. Despite notices and repeated requests Defendant no.1, did not execute the sale deed and hence the Plaintiffs filed suit for specific performance on 17th December, 1983.
02. On 6th September 1983, the Defendant no.1, sold 1.60 acres out of the suit property to the Defendant nos. 2 and 3, by a registered sale deed. By another sale deed dated 12th December 1983, the Defendant no.1, sold the remaining part of the suit property to the Defendant nos, 2 and 3. The plaint was amended to incorporate subsequent transactions which were alleged to be collusive, with a prayer for specific performance against all the defendants.
03. The defendants, filed separate written statements. Defendant no.1 contended that the suit agreement was fictitious. Legal heirs of Defendant no.1 pleaded that Plaintiff no.2 is their cousin brother and Plaintiff no.1 is a friend of Plaintiff no.2. A fictitious agreement without any consideration was prepared by Plaintiff no.2 for putting pressure and deterring deceased Defendant No.1, from alienating the property. The agreement was not acted upon. The consideration shown in the agreement was much less than the market value. In the written statement filed by the Defendant nos. 2 and 3, it was pleaded that the suit agreement is a forged document which was never to be acted upon. Plaintiff no.1, was not an agriculturist and hence agreement could not have been executed in his favour. It is pointed out that the Plaintiff no.2 and the Defendant no.1 were relatives. The Plaintiffs never paid any money to the Defendant no.1. They were bonafide purchasers.
04. Both parties led oral and documentary evidence. Plaintiff no.1 examined himself and reiterated the suit contentions and denied the case set up by the defendants. Plaintiff no.2, did not support the Plaintiff no.1 and deposed that, the agreement was merely to deter defendant no.1 from alienating the suit property, as he was addicted to vices and the agreement was never to be acted upon. The Plaintiff no.2 proceeded to state that he had not filed the suit, and the signature shown to him on the plaint and vakalatnama were of someone else.

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05. The trial Court, decreed the suit. Defendant No. 2 to 4, have filed an appeal contending that (a) the trial Court wrongly refused to consider the submission that the agreement was sham and not to be acted upon by relying on section 91 and 92 of the Evidence Act, 1872. (b) Plaintiffs did not seek setting aside of the sale deeds in favour of the Appellants and were thus not entitled to seek a decree for specific performance in the absence of such declaration. (c) as Plaintiff no.1 is admittedly not an 'agriculturist' within the meaning of the applicable Tenancy Law, sale deed cannot be executed in his favour. Agreement for sale is also compulsorily registrable for the area within which the suit property is situated. The relevant provision of the Tenancy Law states that an agricultural holding cannot be transferred by way of sale to a non-agriculturist without the permission of the Collector.)

2. Write a detailed note of about 400 words on any one of the following:-

[20]

A. Secularism is not antagonistic to religion but reflects State's neutrality towards religion.
B. Federalism and Co-operative Federalism from Constitutional perspective.
C. "The procedure adopted for amending the Constitution is unique; it is not rigid yet difficult." Elaborate.
D. Judicial review under the Constitution of India.

3. Answer any two of the following in detail.

[20]

A. Pre-institution mediation and settlement as per the Commercial Courts Act, 2015 in the light of the judicial pronouncements.
B. Res judicata as per the Code of Civil Procedure, 1908.
C. Provisions as to appointment of 'arbitrator' as per the Arbitration and Conciliation Act, 1996.
D. Specific performance of a part of contract, as per the Specific Relief Act, 1963.

4. Distinguish between any two of the following legal definitions/concepts.

[20]

A . 'Action for breach of Trade Mark' and 'Passing off action'.
B. 'Charge' and 'Mortgage'.
C. 'Partnership' and 'Limited Liability Partnership'
D. 'Strict liability' and 'vicarious liability'.

5. Write short notes on any two of the following.

[10]

A. 'Auction sale' as per the Sale of Goods Act, 1930.
B. Consequences of marriage under the Special Marriage Act, 1954.
C. Anti-suit injunction.
D. Ejusdem generis

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HIGH COURT OF BOMBAY
MAIN WRITTEN EXAMINATION-2024 FOR THE POST OF DISTRICT JUDGE

PAPER II- CRIMINAL LAW

Date: 19th January, 2025 Total Marks: 100

Time: 2.00 p.m. to 5.00 p.m.

INSTRUCTIONS

1. All Questions are compulsory.
2. Figures to the right indicate marks.
3. Answers to optional questions, in excess of prescribed number, will not be assessed.

1. Write a judgment as a trial judge on the following facts after mentioning bare necessary facts and presuming that necessary and relevant documents have been produced. Do not mention any names other than those given in the question and if necessary to mention names of witnesses, refer them as PW-1.... or DW-1...., as the case may be, without mentioning any name. Do not mention your name or any other name or put signature as author of the judgment. Judgment need not be in the form prescribed in the Criminal Manual and may begin with the simple heading Judgment.

[30]

Facts:

01. The victim girl (PW6), aged about 8 years is alleged to be deaf and dumb and mentally retarded. On 13.11.2019 at about 11:00 a.m; PW2, mother of the victim, went to the field and dropped the victim at the house of the victim's aunt (PW4). Accused was running a Pan Stall near the house of PW.4. Accused is a relative of PW4. Victim alone went to the shop of accused for purchasing chocolate. As the victim did not return home after lapse of time, PW4 went in search of victim. PW4 saw the victim lying on the cot while her frock removed and her legging was striped off up to her knees and the accused while lying on her person was kissing her breast and abdomen. On seeing PW4, accused was scared. PW4 got the victim down from the cot, dressed her and brought her home. PW2, returned home from the field at about 2:30 pm. PW4 narrated the incident to her. Husband of PW2 and his brother returned home at about 6:00 pm. PW4 and PW2 narrated the incident to them. PW4, her husband and her relatives went to the house of accused and questioned him as to why he did so, whereupon he raised quarrel with them. Immediately thereafter, they went to police station where PW2, lodged report against accused at about 9.00 p.m. Upon usual investigation, Accused was charge-sheeted and put on trial for having committed an offence punishable u/s 376 (2)(j) and 376(AB), r/w 511 of the Indian Penal Code, and u/s 6 r/w 18 of the Protection of Children from Sexual Offences Act, 2012.
02. Prosecution examined the Spot and seizure panch Mr. Ashish (PW1), victim's mother (PW2), Mr. Roshan, Jr. Clerk (PW3) from the office of Birth and Death Dept, Municipal Council, victim's aunt (PW4), Mr. Baban (PW5) an interpretor and sign language expert, the victim (PW6), the Medical Officer (PW7) and the Investigating Officer (PW8). Prosecution also relied on documentary evidence including disability certificate of the victim disclosing 100% hearing impairment.
03. PW.4 though admitted that she had no lavatory at her house, she denied that she and her family members were using the lavatory which was on the plot, where accused was running his shop. She denied that she wanted to purchase the said plot from its owner. PW4 admitted that her house is situated besides the shop of accused and that the house of PW2 was situated on the other side of the road nearby the house of the accused.
04. The victim was unable to depose and even did not understand sign language. PW5 deposed and certified to that extent. According to PW7, labia majora and clitoris, as well as vagina of victim were normal. Perineal tear was absent and there was no bleeding. PW7 deposed that according to the

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history, sexual assault occurred upon victim with no history of sexual intercourse and accordingly, she had issued the medical report.

05. PW7 admitted that there were no violence or injury marks on the person of the victim and that there was no certification of mental retardation and yet she has mentioned the victim to be mentally retarded in her report. No semen was detected on he clothes of the victim or the accused.

06. PW8 admitted that the lavatory and house of PW4 were not shown in sketch map of the spot panchanama, though the lavatory is on the plot where the pan shop is situated and house of PW4 is besides the pan shop.

07. Accused totally denied the allegations. In his statement u/s 313 of the Code of Criminal Procedure, 1973 he stated that he was Chairperson of the Village Dispute Resolution Committee for about ten years and was about 65 years old at the relevant time. He and victim's family were affiliated to rival political parties. There was a lavatory in the plot where his shop is situated. About 15 to 20 days prior to the alleged incident, he had restrained PW4 and her family members from using the lavatory and since then they were on cross terms with him. PW4 was interested in purchasing the said plot. He was implicated at the instance of rival political party. It is his further defence that customers and his family members frequented his shop for whole day. Interior of his shop was visible from the road as well as from the house of PW.4. On the day of incident, DW1 Satish and DW2 Devidas were sitting in front of his shop from 12:00 noon to 2:00 pm.

08. DW1 and DW2 deposed that they were at the shop of the accused in the afternoon and that there were disputes between the accused, PW4 and her family members over use of said lavatory.

2. Write a detailed note of about 400 words on any one of the following: **[20]**

A M'Naghten's Rules and the penal provisions in the Indian context.
B Milestones in the interpretative journey from 'right to life' to 'right to die with dignity'.
C 'Abetment to suicide' - dichotomy between legal and common sense.
D Exposition of 'right to bail' in recent judicial pronouncements balancing act between Constitutional guarantee and societal concern.

3. Answer any two of the following in detail **[20]**

A 'Every homicide is not a murder'. Explain.
B Connotation of the expression 'any place within public view' under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
C Whether presumptions u/s 29 and 30 of the Protection of Children from Sexual Offences Act, 2012, dilute the presumption of innocence? If yes, to what extent?
D Penal liability of Directors under the Negotiable Instruments Act, 1881.

4. Distinguish between any two of the following legal definitions/concepts. **[20]**

A 'Common intention' and 'Common object'
B 'Confession' and 'Extra Judicial Confession'
C 'Preparation to commit an offence and 'Impossible attempt to commit an offence'
D 'Criminal breach of trust' and 'Cheating'

5. Write short notes on any two of the following. **[10]**

A 'Relationship in the nature of marriage' under the Protection of Women from Domestic Violence Act, 2005.
B Criminal misconduct as per the Prevention of Corruption Act, 1988.
C Disposal of seized narcotic and psychotropic substances.

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D Res gestae

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