

PAPER-5
LAW II - PROCEDURE AND EVIDENCE

Time allowed: 3 hrs.

Maximum Marks: 200

Note: Candidates should attempt question No. 1 and four more. At least one question must be attempted from each group. Marks carried by each question are indicated at its end.

1. (a) On July 18, 2005 Radhey Shyam Gupta had instituted a criminal complaint against Sanjay Agarwal, who was a businessman. Consequently, Sanjay Agarwal had to remain in jail and his business was affected. On December 12, 2005 trial court acquitted Sanjay Agarwal on the ground that the complaint against him was false and baseless. Sanjay Agarwal wants to file a suit for malicious prosecution against Radhey Shyam Gupta. In the light of the fact stated above draft a plaint for Sanjay Agarwal.
(b) Draft a written statement on behalf of Radhey Shyam Gupta in Response to the plaint in question (a).

OR

'A' with the intention of causing 'B' to be convicted of a criminal conspiracy writes a letter imitating "B's" handwriting, reporting to be addressed to an accomplice in such criminal conspiracy and puts the letter in a box likely to be searched. On the basis of the facts stated above frame a charge and write a judgment of conviction. (40 marks)

GROUP-A

2. (a) How is the power of a magistrate to order a police investigation under section 156(3) of the code of criminal procedure, 1973 different from the power to direct investigation conferred by section 202 (1) of the code of criminal procedure, 1973? (20 marks)
(b) Define first information report. (10 marks)
(c) At what stage an accused is examined in a criminal trial? what questions must be put to him? (10 marks)
3. (a) Under what circumstances can a wife claim maintenance from her husband? is a married woman entitled to claim maintenance from her father? (20 marks)
(b) What is the procedure of recording evidence in the absence of accused? Whether the evidence adduced in trial of co accused can be used against the absconding accused of same case? (10 marks)
(c) What do you understand by "Plea Bargaining"? State the procedure for initiating "Plea Bargain" in courts. (10 marks)

GROUP-B

4. (a) What do you understand by a retracted confession? (10 marks)
- (b) A and B are co-accused of the crime and kidnapping and killing a child. A denies his guilt but he confesses that he along with A has committed the crime. How far the statement made by B is relevant against A. (15 marks)
- (c) Examine the provision relating to relevancy and admissibility of dying declaration under Indian evidence Act, 1872. (15 marks)
5. (a) Who is a competent witness? Who is a hostile witness? How shall the court appreciate testimony of a hostile witness? (15 marks)
- (b) Explain the judges power to put questions or require production of documents from a party during trial of a case. (10marks)
- (c) How can a party impeach the credit of witness in following circumstances? (10 marks each)
- (1) Its own witness and
 - (2) A witness produced by the opposite party

GROUP-C

6. (a) Explain the essential elements of a decree and also examine the classes of decree with illustrations. (15 marks)
- (b) Distinguish between Res judicata and constructive Res judicata. Also explain the provisions of constructive Res judicata of civil procedure code, 1908. (15 marks)
- (c) Explain the concept of "Precept" under the code of civil procedure 1908. (10 marks)
7. (a) Under what circumstances a plaint can be rejected by court. (15 marks)
- (b) Discuss provisions relating to set-off under the code of civil procedure 1908? Distinguish between legal set-off and equitable set-off. (15 marks)
- (c) Write a short note on Ex parte decree. (10 marks)