

UTTARAKHAND HIGHER JUDICIAL SERVICE DIRECT RECRUITMENT
EXAMINATION – 2017

PAPER NO. - 3

Maximum Marks: 100

Time: 2 Hours

Note:

- (i) All questions are compulsory.
- (ii) Marks allotted to each question are indicated against the same. Credit will be given, if correct citations, wherever necessary, are mentioned.

Part – A (Indian Evidence Act, 1872) – 30 Marks

1. What is meant by leading question? Under which circumstances can a leading question be asked in Examination-in-Chief? What is the jurisprudential reason for imposing restrictions on leading questions? Discuss. 10 Marks
2. What are the rules governing Burden of Proof? What is the nature of burden of proof on an accused under Section 105 of Indian Evidence Act? 10 Marks
3. "Ordinarily the Judgment of a Court binds only the parties to it". Discuss. 5 Marks
4. Examine the powers of a Court under Section 165 of Indian Evidence Act. 5 Marks

Part – B (Civil Procedure Code, 1908) – 30 Marks

5. Who has the right to begin at the hearing of the suit? Discuss the important amendments incorporated in Order 18 of the Code of Civil Procedure, 1908 in this regard? 10 Marks
6. What is meant by 'Pleadings'? Briefly state the object and fundamental rules governing pleadings. 10 Marks
7. Resjudicata is sometimes treated as part of the doctrine of estoppel but the two are essentially different. Explain and point out the difference between the two. 5 Marks
8. Plaintiff could not reach the Court on the date fixed and his suit was dismissed in default. Advise the plaintiff as to what steps he should take. 5 Marks

Part – C (Criminal Procedure Code, 1973) – 30 Marks

9. Write short notes on any four of the following: (4x5= 20 Marks)

- (i) Victim Compensation Scheme.
- (ii) Tender of pardon to accomplice.
- (iii) Disposal of property at conclusion of Trial.
- (iv) Irregularities which vitiate proceedings.
- (v) Release of an accused on Probation of good conduct or after admonition.

10. (a) An investigating officer sought the custody of an accused for investigation. The Magistrate refused to grant remand to police custody on the ground that such custody was not sought within 15 days from the date of first production before the Magistrate. Comment. 5 Marks

(b) A and B have been arrested for the offence of murder of C punishable under Section 302 r/w Section 34 IPC and were remanded to custody from time to time for a total period of 90 days, out of which 03 days were in police custody and 87 days in judicial custody. As the investigation could not be completed within the stipulated period of 90 days, on the 91st day, a plea for the release of A and B on bail is made. The Court issues notice to the State through Public Prosecutor and fixes the matter for consideration and hearing for the next day. On the next day police files report under Section 173 Cr.P.C. with a footnote that the reports of chemical examiner and serologist in regard to certain material exhibits are awaited and shall be filed soon after their receipt. Public Prosecutor opposes the plea of A and B for statutory bail under Section 167 Cr.P.C. Decide the plea of A and B. Would it make any difference, if there was no footnote in the report. 5 Marks

Part – D (Legal Drafting) – 10 Marks

11. (a) Draft a Charge relating to offence punishable under Section 304-B of Indian Penal Code, 1860. 5 Marks

(b) Frame issues in a suit filed by the Plaintiff against the Defendant for Specific Performane of a Contract, where, Defendant denies having any contract with the plaintiff and also raised plea of limitation and territorial jurisdiction of the Court. You are at liberty to imagine the facts yourself. 5 Marks

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