

Uttarakhand Higher Judicial Service Examination, 2008 (II)

Paper no. 2

(Civil, Criminal and Constitutional Law)

Maximum Marks-100

Time – 2 Hours.

Note: Attempt all questions.
Marks for questions are indicated in the margin
and credit will be given where correct citations
are given.
Answers should be in English and legibly written.

1. What do you understand by the following: Explain in brief:
 - (i) Ultra Vires 1
 - (ii) Audi alteram partem 1
 - (iii) Actis personatis moritur cum persona 1
 - (iv) Double jeopardy 1
 - (v) Ejus nulla culpa est certi parere necesse sit 1
 - (vi) Lex Cogit ad impossibila 1
 - (vii) Memo sibi own judex vel sui jus decre debet 1
 - (viii) Res ipsa loquitur 1
 - (ix) Locus standi 1
 - (x) Nemo dat quod non habet 1

2. (a) 'A stranger to a contract cannot sue'. Is there any exception to the rule? Discuss with example and relevant case law on the point. 4
- (b) Is breach of promise to marry an actionable wrong? Can compensation be awarded to such wrong? 4
- (c) What acts are privileged under law of torts? 2

3. (a) What is a succession certificate? 3
- (b) Discuss between divorce and judicial separation under Hindu Marriage Act, 1956 4
- (c) Does the substitution or addition of a new plaintiff or defendant effect the period of limitation? 3

4. (a) What is forfeiture of lease? Discuss. 5
- (b) Explain the consequences of non- registration of a firm. Can an unregistered & dissolved partnership firm bring a suit for recovery of price of goods supplied to any party on the basis of contract made before dissolution of firm? 5

5. (a) Mention the test for responsibility in cases of unsoundness of mind. On whom does the onus lie to prove insanity? What points are to be proved for establishing insanity on the relevant time? 5
- (b) A projected himself a Scheduled Caste candidate and drew out advantage of reservation from UPSC and Govt. of India to which he was not legally entitled. By taking such advantage of being a Scheduled Caste candidate he appeared at the IAS examination and got appointment as a Scheduled Caste candidate in reserved category. What offence has A committed? 5
6. (a) Enumerate culpable homicide under the I.P.C. Discuss the difference between the offence of murder and culpable homicide not amounting to murder. 5
- (b) For what offence A is guilty when he fires at B believing him to be sleeping but in fact, B had already died of heart failure before A shot at him. 5
7. (a) What are different stages of crime? 3
- (b) What constitute an offence under Section 124-A, I.P.C. 2
- (c) "The doctrine of Vicarious Liability is generally not applicable to criminal law" Discuss. Are there any exceptions to this rule? 5
8. Discuss the liability of A in the following cases:
- (a) A takes property belonging to B out of B's possession, in good faith believing, at the time he takes it, the property belong to himself. But afterwards he came to know that the property did not belong to him. In spite of this he kept that property for his own use. 4
- (b) A and B are fighting. B's wife accompanied by a lady with her infant child intervenes. A attacks the lady but it strikes the infant, who is killed. 3
- (c) A with the intention to kill B, gives him poisoned biscuit, but B passes it to C, who eats and dies. 3
9. (a) Under what circumstances emergency can be declared by the President of India under Article 352 of the Constitution of India. Discuss. 5

(b) There is a need to confine the exercise of power under Article 356 (1) of the Constitution of India strictly to the situation mentioned therein which is a condition precedent to said exercise. Discuss. 5

10. (a) Discuss in detail the implied fundamental right under Article 21 of the Constitution of India. 5

(b) A was appointed as High Court Judge. B files Quo Warranto petition in the High Court against A on the ground that at the time of appointment A did not fulfill the condition prescribed under Article 217 (2) of the Constitution of India. Discuss. 5
