

Simulator Mocks

An illustration of a woman with short dark hair and glasses, wearing a green patterned sweater, pointing at a laptop screen. A man with short dark hair and glasses, wearing a yellow sweater, is also pointing at the screen. The laptop screen displays a 'Bihar J5 Simulator Mock 1 (Law)' interface. The 'EXAM DETAILS' section shows a clock icon with '2:00:00', a question icon with '136 QUESTIONS', a trophy icon with '55 SCORED', and a medal icon with '+1.00 MARKS' and 'CORRECT ANSWER'. Below this, there is a question about the 'Bihar J5 Simulator Mock 1 (Law)' and a list of four options. The man is pointing at the first option, 'Bihar J5 Simulator Mock 1 (Law)'. The woman is holding a white envelope with a blue logo.

DJS PRELIMS

Delhi Judicial Services

Mock 1

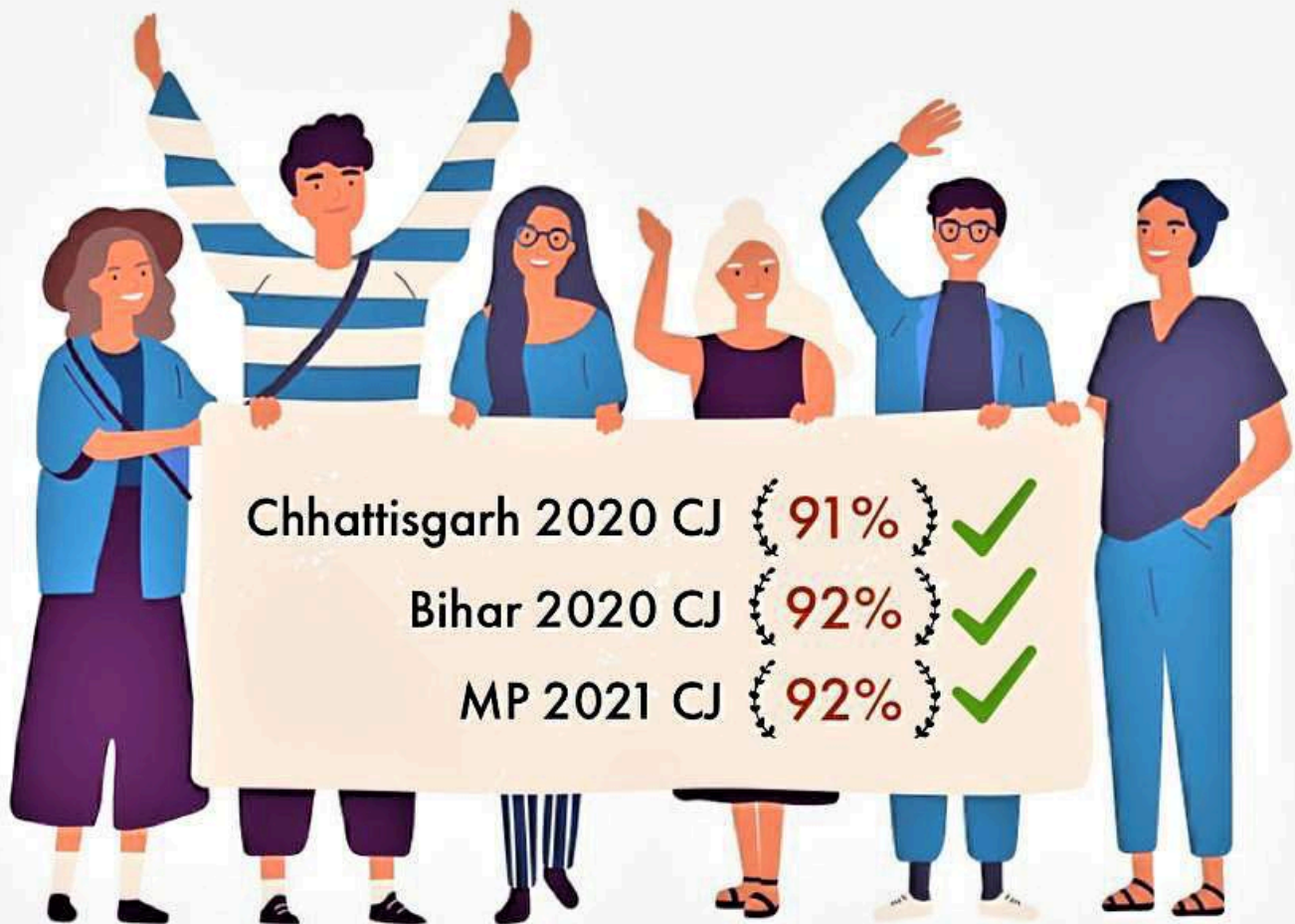


DJS Simulator Mock 1

(with detailed explanations)

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Q.1) Where the property is under attachment, and a decree is subsequently passed in the plaintiff's favour.

- a) It is not necessary to apply for fresh attachment.*
- b) It is necessary to apply for reattachment.*
- c) It is necessary to apply for reattachment under certain circumstances.*
- d) None of the above*

Ans: A

Order XXXVIII Rule 11: Property attached before judgment not to be re-attached in execution of decree:

- Where property is under attachment by virtue of the provisions of this order and a decree is subsequently passed in favour of the plaintiff,
- It shall not be necessary upon an application for execution of such decree to apply for a reattachment of the property.



Order XXXVIII Rule 11 and Order XXI Rule 57:

Kishore Singh Vs Udhyog Mandir

21 February, 1975

- There is nothing in Order 38, Rule 11, Civil P. C. to give colour to the view that for the purposes of Order 21, Rule 57, attached in execution" is a phrase that covers "attachment before judgment".
- The word "attachment" in the sentence "attachment shall cease" in Order 21, Rule 57 must mean the attachment in execution of the decree.
- Hence, the dismissal of the decree-holder's application for execution for default does not terminate the attachment before judgment.

Reference: Civil Procedure Code, Order 38

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Q.2) O. 26, R. 1 lays down that the court may issue a commission for the examination on interrogatories' or otherwise of any person:

- a) When such person does not reside within the local limits of court's jurisdiction**
- b) When such person is exempted under the code from attending the court.**
- c) When such person is suffering from sickness or infirmity**
- d) Both b and c**

Ans: D

Order XXVI Rule 1: Cases in which Court may issue commission to examine witness:

Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of



Any person resident within the local limits of its jurisdiction.



Exempted under the code from attending the court.

OR



Unable to attend court due to sickness or infirmity

People exempted from attending court:



Apprehends danger to life



Pardanashin woman



Detained in prison



Civil or Military officer of Govt.

Reference: Civil Procedure Code, Order 26 Rule 1

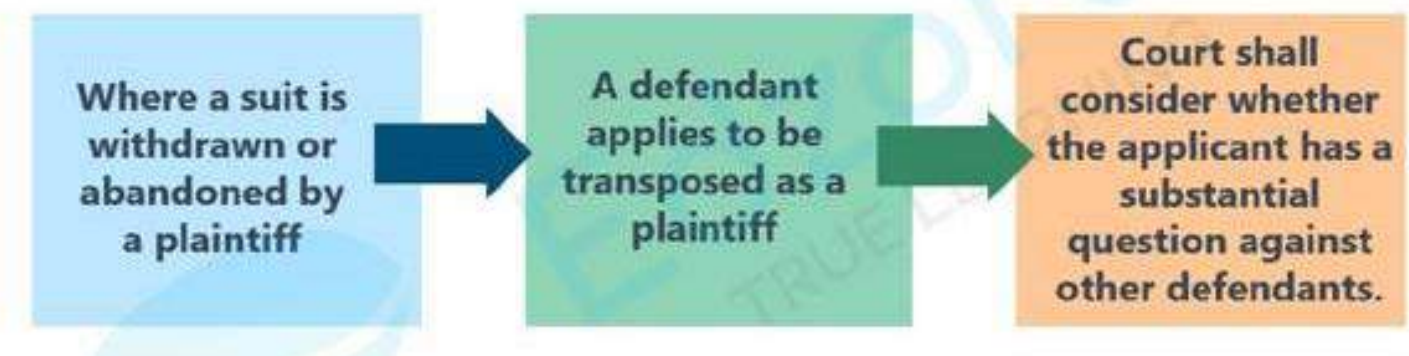
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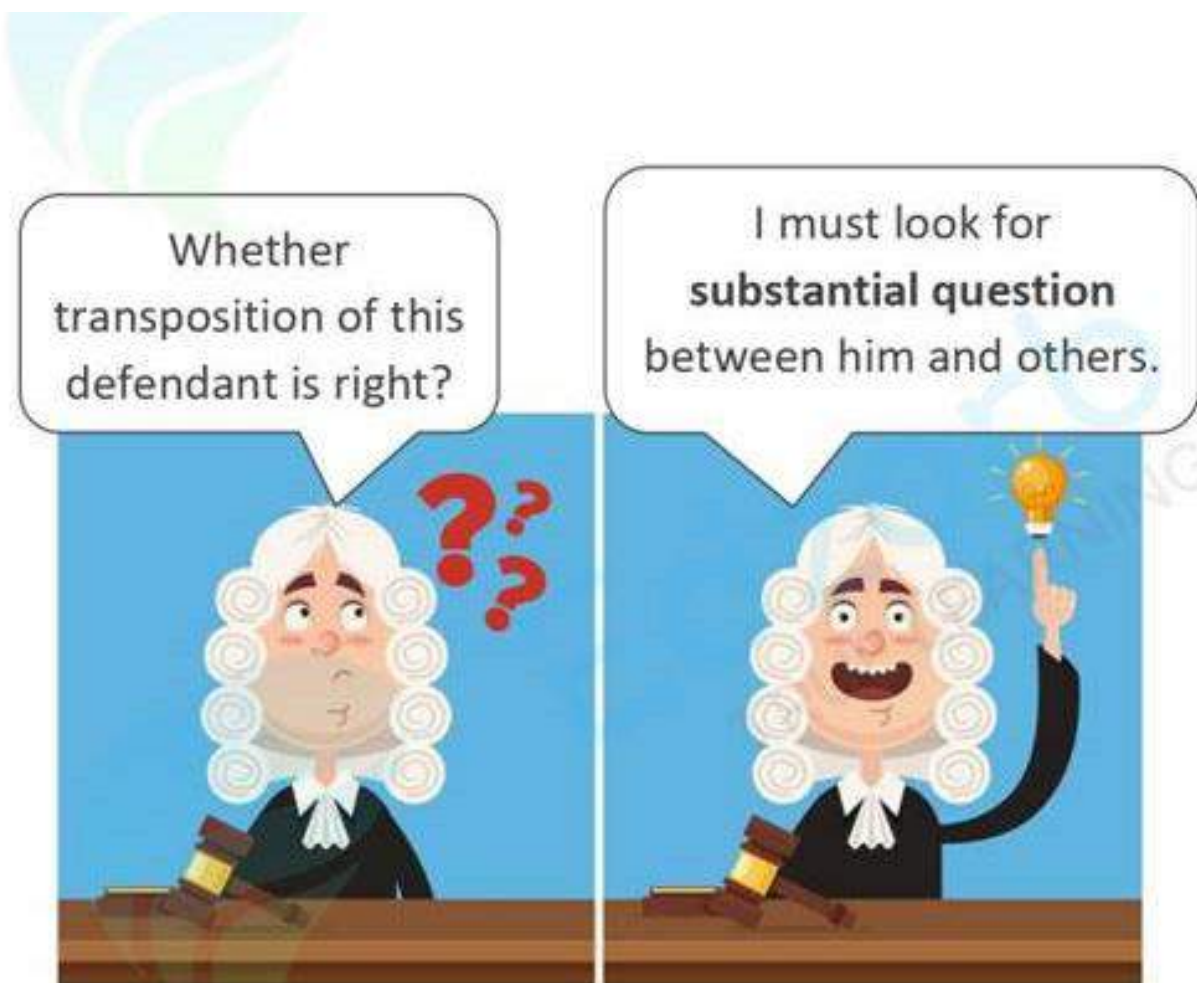
Q.3) If the plaintiff withdraws or abandons a suit and a defendant applies to be transposed as a plaintiff (under 0.1), the court must, when considering such an application, have due regard to the question whether the applicant has:

- a) A substantial question to be decided as against any of the other defendants.***
- b) A substantial claim to be decided as against any of the other defendants.***
- c) Both (a) and (b).***
- d) Only (a).***

Ans: A

Order XXIII Rule 1A:





**R Dhanasundari @ R Rajeshwari Vs A N Umakanth
2019 (196) AIC 13 SC**

The very nature of the provisions contained in Rule 1-A leaves nothing to doubt that the powers of the Court to grant such a prayer for transposition are very wide and could be exercised for effectual and comprehensive adjudication of all the matters in controversy in the suit.

Reference: Civil Procedure Code, Order 23 Rule 1

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Q.4) Under section 34 of the Code of Civil Procedure 1908, the court can award interest from the date of decree to the date of payment or such earlier date as the court thinks fit. Rate of such interest shall not exceed.....per annum.

- a) 9%*
- b) 10%*
- c) 6%*
- d) None of the above*

Ans: C

Section 34

Interest

- The court can award interest along with the payment of money.
- Such interest must be reasonable.
- Interests are paid on the principal sum adjudged.



**For Regular Transaction,
Interest can be**

<

6%

**For Commercial
Transaction, Interest can be**

>

6%

Central Bank Of India Vs Ravindra SLP (civil) 2421 of 1993

- The word used is “**may**” in **Section 34**.
- It confers a discretionary power on the Court to award or not to award interest
- Such interest, may commence from the date of the decree and may be made to stop running either with payment or with such earlier date as the Court thinks fit.’

Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 394

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Q.5) Which of the following is incorrectly matched

- a) Order 20A: Costs
- b) Order 19: Adjournments
- c) Order 16: Summoning of witnesses
- d) Order 24: Payment into court

Ans: B



Orders	Descriptions	Rules
1.	Parties to Suits	1-13
2.	Frame of Suits	1-7
3.	Recognised Agents and Pleadings	1-6
4.	Institution of Suits	1-2
5.	Issue and Service of Summons	1-30
6.	Pleadings Generally	1-18
7.	Plaint	1-18
8.	Written Statement, Set-off and Counter-Claim	1-10
9.	Appearance of Parties and Consequence of Non-Appearance	1-14
10.	Examination of Parties by the Court	1-4
11.	Discovery and Inspection	1-23
12.	Admissions	1-9

13.	Production, Impounding and Return of Documents	1-11
14.	Settlement of Issues And Determination of Suit on Issues of Law or on Issues Agreed Upon	1-7
15.	Disposal of the Suit at the First Hearing	1-4
16.	Summoning and Attendance of Witnesses	1-21A
16A	Attendance of Witnesses Confined or Detained in Prisons	1-7
17.	Adjournments	1-3
18.	Hearing of the Suit and Examination of Witnesses	1-19
19.	Affidavits	1-3
20.	Judgment and Decree	1-20
20A	Costs	1-2
21.	EXECUTION OF DECREES AND ORDERS	1-106
22.	Death, Marriage and Insolvency of Parties	1-12
23.	Withdrawal and Adjustment of Suits	1-4
24.	Payment Into Court	1-4

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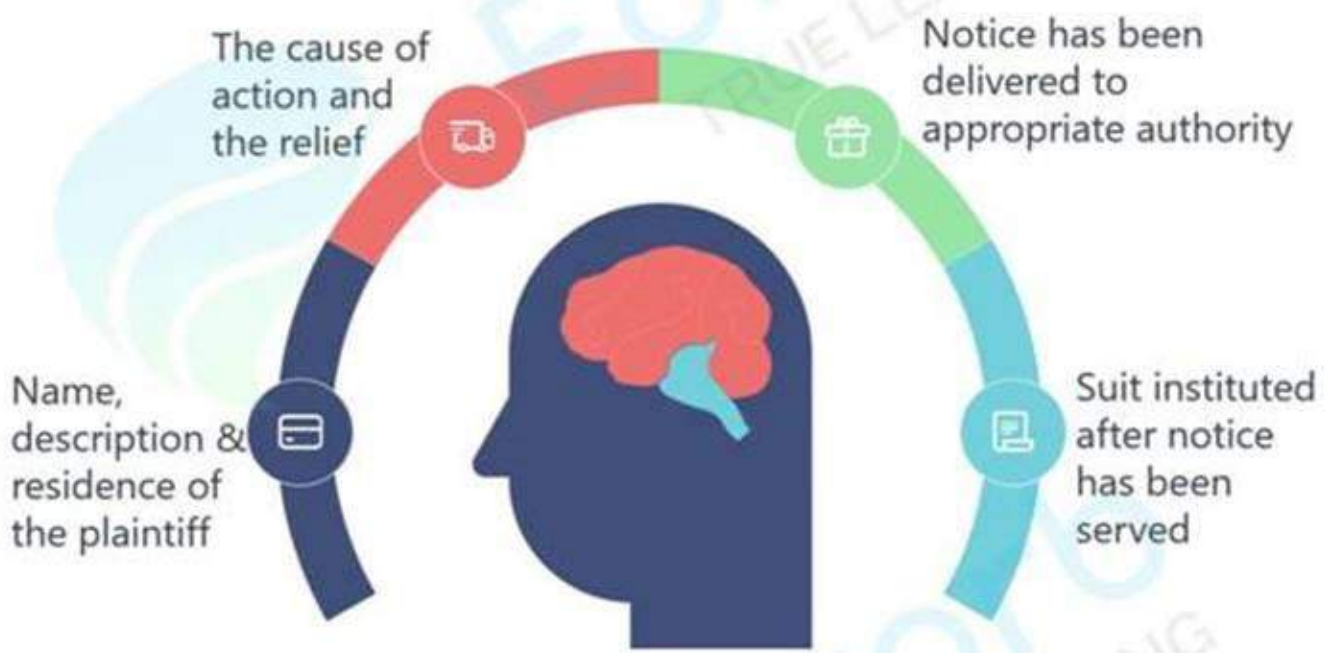
Q.6) The notice under Sec. 80 need not contain: -

- a) Name, description and place of residence of the plaintiff.**
- b) Relief claimed by the plaintiff.**
- c) Cause of action.**
- d) Quantum of damages**

Ans: D

Contents of notice under Section 80:

The **essential contents or requisites of a notice u/s. 80 CPC** are as under-



Amar Nath Dogra Vs Union of India

1963 AIR 424

If the first suit following the issue of a notice against the Government was withdrawn and a second suit filed, if the notice satisfied the requirements of law in respect of the second suit there was no necessity for a further notice before filing the subsequent suit.

Reference: Civil Procedure Code, Section 80

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Q.7) No execution shall be issued on any decree passed against the government or a public officer unless it remains unsatisfied for how many months from the date of decree:

- a) One month.*
- b) Two months.*
- c) Three months.*
- d) Four months.*

Ans: C

Section 82: Execution of decree:

- Execution shall not be issued of any decree which is passed against government unless,
- It remains **unsatisfied for the period of three months computed from the date of such decree.**



Decree passed
on 30.09.2020



Maam, now renew
my contract as
enforced by court

Sharma Ji! Come
tomorrow



Person visiting government
office on 30.01.2021

Sharma Ji! Court only
passed decree where is
execution order.
Hahaha.

Sir, my
contract.



Person visiting government
office on 28.02.2021

Now, Sharma Ji can file for execution as 3 months passed from the date of passing of decree.

Reference: Civil Procedure Code, Section 82

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Q.8) A decree can be transferred for execution to another court:

- a) If the judgment-debtor actually and voluntarily resides or carries on business or personally works for gain, within the local limits of jurisdiction of such other court.**
- b) If the judgment-debtor does not have property sufficient to satisfy the decree within the local limits of that court.**
- c) If the decree directs the sale or delivery of immovable property situated within the local limits of jurisdiction of the court which passed it.**
- d) Both a and b**

Ans: D

Section 39: Transfer of decree: The Court which passed a decree may, on the application, send it for execution to another:



The person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain



Judgment debtor has not property within the local limits of the jurisdiction of the Court which passed the decree





The property to be sold or delivered is outside the local limits of jurisdiction of court



For any other reason court considers the decree to be executed by another court.

Reference: Civil Procedure Code, Section 39

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Q.9) When a decree is sent to another court for execution, then:

- a) That court will have the same powers as if the decree had been passed by itself.**
- b) That court will have the powers of Sec. 39.**
- c) That court cannot order attachment of property.**
- d) (a) and (b) is correct, (c) is incorrect.**

Ans: D

Section 42: Powers of Court in executing transferred decree:



To execute the decree
against the legal
representative of the
deceased judgment-debtor

Attachment of
property





Decree



Transfer the decree to
another court for
execution

Mahadeo Prasad Singh & Anr Vs Ram Lochan & Ors
1981 SCR (1) 732

The executing court had the same powers in relation to execution as it would have had if the decree had been passed by itself.

Reference: Civil Procedure Code, Section 42

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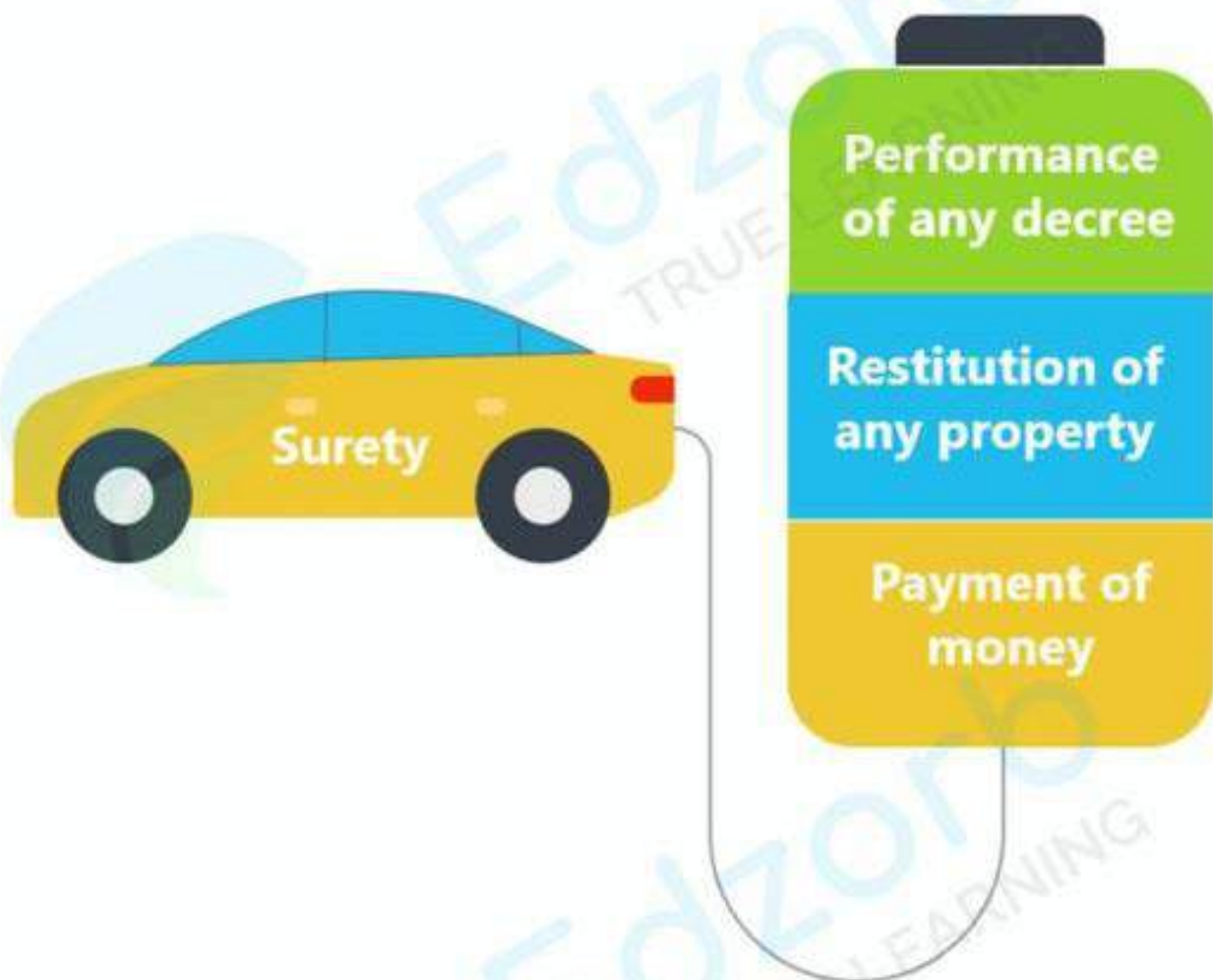


Q.10) A person who has furnished security or given a guarantee for the performance of a decree will be:

- a) Personally liable.**
- b) His property will be liable.**
- c) Both (a) or (b).**
- d) Only (b).**

Ans: C

Section 145: Enforcement of liability of surety: Where any person has furnished security or given a guarantee:



The decree or order may be executed in the manner herein provided for the execution of decrees, namely:

- He renders himself personally liable which includes:
 - Arrest and detention
 - Attachment and sale of his property.
- He has furnished any property as security, by sale of such property to the extent of the security.

Bank of India Vs Vijaya Transport and Ors.

27 April, 1988, AP High Court

If the defendant is found liable to pay anything to the plaintiff by way of restitution, it will be for the plaintiff to enforce that order against the sureties by proceedings under **Section 145, Civil Procedure Code.**

Reference: Civil Procedure Code, Section 145

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Q.11) Order 21 Rule 37 deals with:

- a) Discretionary power to permit judgment-debtor to show cause against detention in prison**
- b) Decree for delivery of immovable property when in occupancy of a tenant**
- c) Warrant for arrest to direct judgment-debtor to be brought up**
- d) Subsistence-allowance**

Ans: A

Order 21 Rule 37:

When a judgment-debtor appears before the Court in obedience to a notice issued under **rule 37**, or is brought before **the Court after being arrested in execution of a decree for the payment of money.**



I must take my revenge, he got me on my knees to get back my money. I will get him arrested.



Wait Mr. You can't play with law at your own will. I will issue him show cause notice before arrest warrants.

It is the duty of the court to issue show cause notice before issuing arrest warrants.

Kalidindi Ramaraju Vs Vijaya Bank

2002 Suppl. (2) ALD 300

Held: While dealing with application, **court must keep the following into consideration:**

- Passing cryptic orders not based on reasons have to be avoided
- Courts are expected to be cautious while making order of arrest in execution of decree since it involves personal liberty;
- Proper opportunity has to be given and necessary enquiry has to be made while making an order of arrest.

Reference: Civil Procedure Code, Order XXI Rule 37.

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Q.12) The courier service for the delivery of summons:

- a) Has to be approved by plaintiff**
- b) Has to be approved by court**
- c) Need not be approved**
- d) Either A or B**

Ans: B

Order V Rule 9:

- Where the defendant resides within the jurisdiction of the Court in which the suit is instituted,
- the summons shall be delivered or sent to the proper officer to be served by him or one of his subordinates or to such **courier services as are approved by the Court.**



Courier service for delivery of summons has to be approved by the court.

Reference: Civil Procedure Code, Order 5 Rule 9

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Q.13) If the defendant has not filed a pleading at all:

- a) The court can pronounce a judgment**
- b) The court cannot pronounce a judgment**
- c) The court can make any order as it thinks fit**
- d) Either A or C**

Ans: D

Order VIII Rule 10: Procedure when party fails to present written statement called for by Court:

- Where **defendant fails to present the written statement**,
 - The Court shall
 - Pronounce judgment against him or
 - make such order in relation to the suit as it thinks fit
- and on the pronouncement of such judgment, a decree shall be drawn up.

I gave you time and you didn't file written statement, now I will pass judgment against you.



Christian Broadcasting Network Inc. Vs CBN News (P) Ltd.

2018 SCC OnLine Del 11666

- If the defendant fails to pursue his case or does so in a lackadaisical manner by not filing written statement, the Court should invoke provisions of Order 8 Rule 10 CPC and decree such cases.
- In such cases, the instant is then a suitable case to pass a decree in favour of plaintiff and against the defendant.

Reference: Civil Procedure Code, Order 8 Rule 10

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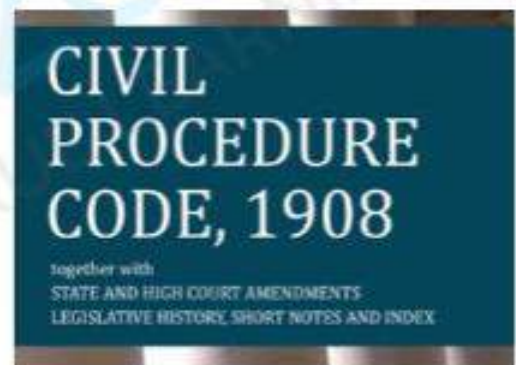
Q.14) In which of the following cases did the Supreme Court hold that the provisions of the Civil Procedure Code, 1908 (CPC) are not applicable to tribal areas?

- a) *Saroj Kumar v UOI*
- b) *Sunil Khergade v State*
- c) *Westarly Dkhar v Sehekaya Lyngdoh*
- d) *None of the above*

Ans: C

Section 9

- Civil Courts have to try all suits of a civil nature.
- However, there is no jurisdiction if **cognizance is either expressly or impliedly barred.**



- In certain tribal areas, letter of Civil Procedure Code do not apply.
- Only spirit of Civil Procedure Code applies.



This means:

Tribal areas are guided by their customary laws and usages.

Shri Westarly Dkhar Vs Shri Sehekaya Lyngdoh
C.A. 1232/2015

- United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953
- **Applicable for all matters not covered by recognized customary laws or usages of the District.**
- Procedures of the District Council Court shall be guided by the spirit but not bound by the letter of the Code of Civil Procedure, 1908.

Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 50

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Q.15) In which of the following recent Judgments, the Supreme Court Constitution Bench, ruled that ‘in the light of the well accepted principle that ‘rules of procedure is a handmaiden of justice’, the omission of the Court in formulating the ‘substantial question of law’ (while admitting the appeal) does not preclude the same from being heard as litigants should not be penalized for an omission of the court’?

- a) Arsad SK v Bani Prosanna Kundu*
- b) Kannan v VSPandurangam*
- c) Manicka Poosali v Anjalai Ammal*
- d) None of the above*

Ans: A

Section 100

Second appeal

An second appeal only if High Court is satisfied that the case involves a **substantial question of law**.

Sir Chunilal Mehta And Sons Vs The Century Spinning
1962 Air 1314,

A question of law would be a substantial question of law if it **directly or indirectly affects the rights of parties** and/or there is some doubt or difference of opinion on the issue.



?

What happens when substantial question is not formulated?

- Not a reason to dismiss second appeal.

Arsad Sk Vs Bani Prosanna Kundu
C.A.4805/2014

- Rules of procedure is a handmaiden of justice
- If appeal is admitted and substantial question of law is not formulated, it should not be a reason to render second appeal void.

Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 377

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Second Question Paper

3. Translate the following 10 Sentences into English: -

10

- a) उच्च न्यायालयों का अपील्य अधिकार क्षेत्र भी दीवानी और फौजदारी दोनों प्रकार के मुकदमों तक विस्तृत है।
- b) किसी संस्था या व्यक्ति या कंप्यूटर नेटवर्क में अनधिकृत व्यक्ति द्वारा बिना अनुमति लिये उसके कंप्यूटर के डाटा की कॉपी करना या उसे साझा करना डाटा चोरी अपराध के तहत माना जाता है।
- c) दरअसल कोर्ट की अवमानना की समूची व्यवस्था न सिर्फ जनतंत्र, बल्कि न्यायिक प्रणाली के भी प्राकृतिक नियमों को सस्पेंड किये जाने की मांग करती दिखती है।
- d) जिन दीवानी मुकदमों में कम-से-कम 5,000 रु. की मालियत का प्रश्न अंतर्ग्रस्त हो, उनकी अपील उच्च न्यायालय में की जा सकती है।

EPIC Mains Test Series Question & Evaluation

SAMPLE

- e) यद्यपि भारत एक संघ है, परन्तु अन्य संघों के विपरीत भारत में संविधान द्वारा एकतापूर्ण न्यायपालिका और एक ही मौलिक विषयों के समूह की व्यवस्था की गई है।
- f) पहले उच्च न्यायालयों को केवल बंदी-प्रत्यक्षीकरण के लेख जारी करने का अधिकार था, परन्तु अब उच्च न्यायालयों को बंदी-प्रत्यक्षीकरण, परमादेश, प्रतिषेध, अधिकार-पुच्छा, उत्प्रेषण इत्यादि लेख जारी करने का अधिकार दिया गया है।
- g) सर्वोच्च न्यायालय के मतानुसार उद्देशिका का प्रयोग संविधान निर्माताओं के मस्तिष्क में झांकने और उनके उद्देश्य को जानने में प्रयोग की जा सकती है।
- h) लेकिन कानून में प्रावधानित कारावासों और वास्तविक कारावासों में अत्यधिक अन्तर है।
- i) जमानत, किसी आरोपी को प्राप्त एक ऐसी कानूनी व्यवस्था है जिसके तहत अदालत में प्रतिभूति या गारंटी के रूप में पैसे या संपत्ति या कुछ संपार्श्विक बांड जमा कर रिहाई प्राप्त की जाती है।

- Incorrectly Marked** **Q.3** **4/10** **TOTAL MARKS OBTAINED: (10/100)**
- (a) The appellate jurisdiction of high courts also covers both civil and criminal cases. *extends upto*
- (b) Without seeking *the* permission of an *unauthorised* ~~person~~ of an institution or computer network, the act of making a copy of his computer's data or sharing it is an offence. *When an unauthorised person, without the permission of an institution or an individual or a computer network, makes copy of data of such computer.*
- (c) Actually the ~~proper~~ *entire (21.12.11)* system of contempt of court not only seeks to suspend democracy, *but* rather also envisages to suspend the principles of natural justice of judicial system.
- (d) Those civil cases in which the pecuniary dispute is related to a sum of at least Rs 5000/- *is involved (31.12.11)* can be appealed before the High Court.

(e) Although India is an union, but unlike other unions, an united judicial system and a group of fundamental subjects have been guaranteed by the Constitution of India. provided by (C2A2211)

(f) Initially, the High Courts only had the right to issue the writ of habeas corpus, but now they have been bestowed the right to issue the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. et cetera (C2A112) Make sure that every word is covered.

(g) According to Supreme Court, the preamble can be used to look into the minds of framers of the Constitution and to find out their intention and objective.

The sentence is silent on 'intention'

(h) But there is a lot of difference between the prisons laid down by the law and the statutory prisons.

~~of~~ real prisons. huge

(*) Bail is ~~such~~ a ~~restored~~ right for ~~any~~ ~~accused~~

(i) Bail, is ~~such~~ a legal ~~system~~ provision available to any accused, in pursuance of which he can be released by depositing any security, money in the form of guarantee, property or a collateral bond.

The question was about summary miting, and not translation.

Q.5

~~3~~ This ~~Diwali~~, while judicial decisions had talked about ~~restriction~~ read on crackers and also the government had also declared to put ~~a~~ please questions carefully answering before these ban on them; the public mocked all these factors and burnt crackers the whole night. This is the lowest step of decency and the man standing on this step, environment, his own health or the convenience or

Q.16) Sec. 32 provides that the court may compel the attendance of any person to whom a summons has been issued by:

I. Issuing an arrest-warrant

II. Attaching and selling his property.

III. Imposing a fine.

IV. Ordering him to furnish security for his appearance.

Codes:

- a) I & IV**
- b) II & IV**
- c) I, II, III & IV**
- d) III & IV**

Ans: C

Section 32: Court may **compel attendance of a person to whom summons has been issued by:**



Attach and sell



Arrest



Imposing fine



Furnishing security

Reference: Civil Procedure code, Section 32

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Q.17) The provision for the institution of suits is given in which of the following sections of Civil Procedure Code?

- a) Section 26**
- b) Section 30**
- c) Section 28**
- d) Section 25**

Ans: A

Section 26 of CPC provides for **Institution of suits** –

Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

Procedural Framework regarding institution of Suit -

- Preparing the plaint
- Choosing the proper place of suing
- Presentation of the plaint



Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 151, 155, 184
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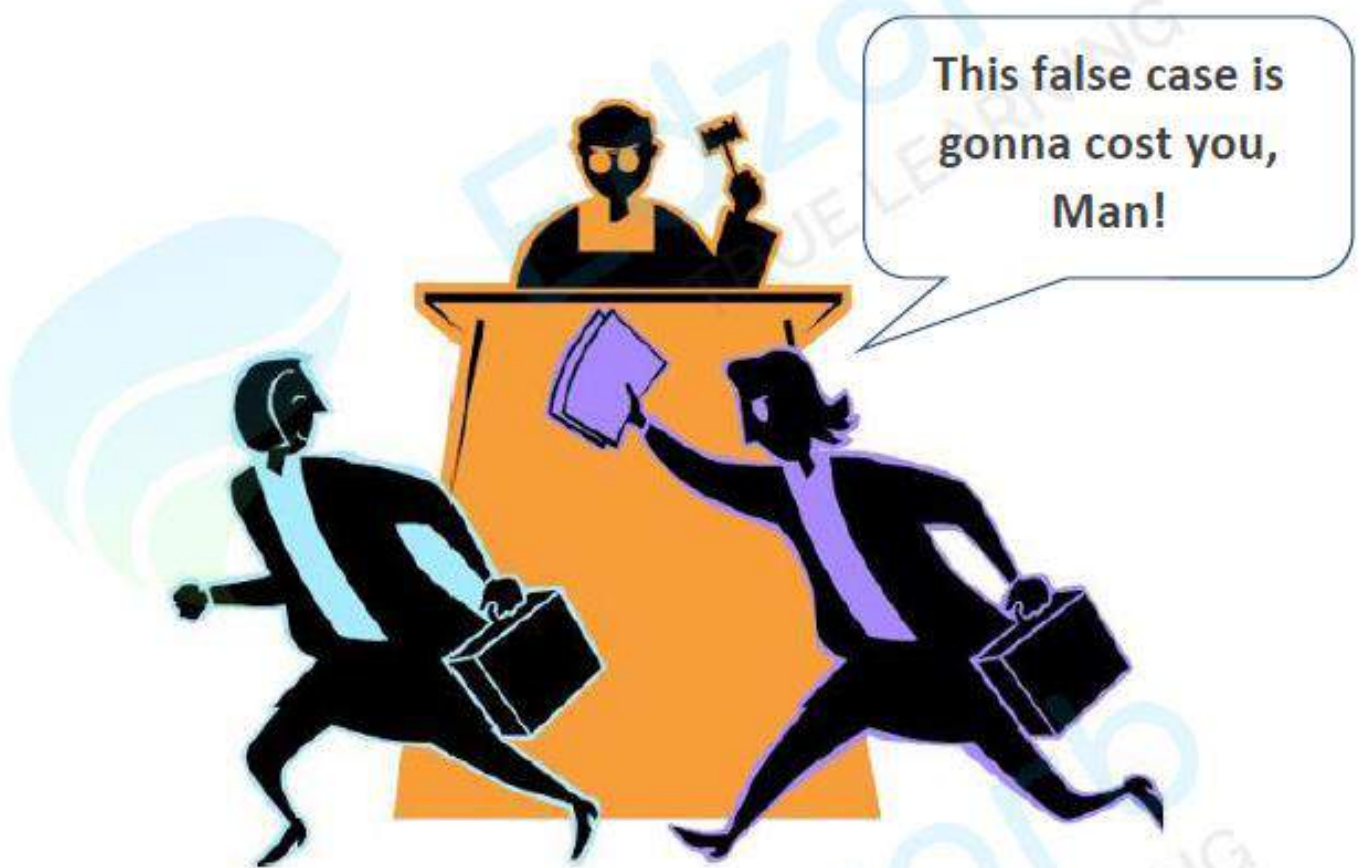


Q.18) Any amount which a Court will order to be paid as compensatory costs in respect of false or vexatious claims or defences, shall not exceed the amount of:

- a) Two thousand rupees or the amount within its pecuniary jurisdiction, whichever is less**
- b) Three thousand rupees or the amount within its pecuniary jurisdiction, whichever is less**
- c) Four thousand rupees or the amount within its pecuniary jurisdiction, whichever is less**
- d) Five thousand rupees or the amount within its pecuniary jurisdiction, whichever is less**

Ans: B

Section 35A of the CPC discusses **Compensatory costs in respect of false or vexatious claims or defences:**



Section 35 A (1) - If in any suit or other proceedings, including an execution proceedings,

- any party objects to the claim of defence
- the Court, after recording its reasons for holding such claim or defence to be false or vexatious,
- make an order for the payment to the object or by the party by whom such claim or defence has been put forward, of cost by way of compensation.

Conditions for Application of Section 35A -

- The claim or defence must be false or vexatious;
- Objections must have been taken by the other party that the claim or defence was false to the knowledge of the party raising it; and
- Such claim must have been disallowed or withdrawn in whole or in part.



Section 35 A (2) - No Court shall make any such order for the payment of an amount exceeding Rs.3000 or exceeding the limits of its pecuniary jurisdiction, whichever amount is less.



Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 414, 155
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Q.19) Which of the following cannot be arrested in execution of the decree for money

- a) Noone can be arrested**
- b) Any woman under the age of 21 years**
- c) Any woman**
- d) No exemption has been made**

Ans: C

Section 56 deals with **Prohibition of arrest or detention of women in execution of decree for money** which states that, the Court shall not order the arrest or detention in the civil prison of a woman in execution of a decree for the payment of money.



Cyril Britto Vs Union of India
AIR 2003 Kerala 259

The Case discusses the Constitutional Validity of Section 56

The Kerala HC rejected the contention that Section 56 of the Code was ultra vires the Constitution -

“It is undoubtedly true that discrimination on the basis of sex alone is not permissible.

However, in the present case, sex is not the sole basis. It is recognition of a reality. protection afforded by Section 56 is a special provision calculated to ensure that a woman judgment-debtor is not put to the ignominy of arrest and detention in civil prison in execution of a money decree. In our view, this limited protection is clearly referable to the provision contained in **Article 15(3)** of the Constitution”

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 646-47

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Q.20) Which one of the following does not find a place under the provisions of Section 94, C.P.C., relating to supplemental proceedings?

- a) Arrest before judgment**
- b) Attachment before judgment**
- c) Temporary injunction**
- d) Appointment of executor**

Ans: D

Section 94 of CPC provides for **Supplemental proceedings**:

In order to prevent the ends of justice from being defeated the Court may –

Issue a warrant to arrest the defendant and commit him to the civil prison if fails to give security for his appearance;

01

02

Direct the defendant to furnish security to produce any property belonging to him;



Grant **temporary injunction**, commit the person guilty to civil prison and order that his property be attached and sold;

03

04

Appoint a receiver of any property and enforce the performance of his duties by attaching and selling his property;

Make interlocutory orders.

05

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 320
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Q.21) As per the Civil Procedure Code as applicable to Delhi, a suit for specific performance of a contract of sale of immovable property can be filed:

- a) Only in the Court within whose jurisdiction the property is situated**
- b) Either in the Court where the immovable property is situated or also in the Court where the defendant resides**
- c) Besides the Courts mentioned in (b) above, also in the Court within those jurisdictions the Contract was entered into**
- d) Only in the High Court of Delhi**

Ans: A

Section 16 of CPC - **Suits to be instituted where subject matter situate –**

Subject to the pecuniary or other limitations prescribed by any law, suits for the following, shall be instituted in the Court within the local limits of whose jurisdiction the property is situated:



1.

- Recovery of immovable property with or without rent or profits;
- Partition of immovable property;





2.

- Foreclosure, sale or redemption in the case of a mortgage of or charge upon immovable property;
- Determination of any other right to or interest in immovable property;



3.

- Compensation for wrong to immovable property;
- Recovery of movable property actually under distraint or attachment.

Did you Know?

Remedy for **specific performance** is an equitable remedy and is in the discretion of the court, which discretion requires to be exercised according to settled principles of law and not arbitrarily.



Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 140, 146
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Q.22) A residing in Delhi publishes in Kolkata statements defamatory of B. B may sue A in

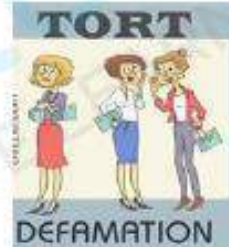
- a) Delhi only**
- b) Kolkata only**
- c) Either Delhi or Kolkata**
- d) anywhere in India with the leave of the court**

Ans: C

Section 19 of CPC provides for **Suits for compensation for wrongs to person or movables –**

Where a suit is for compensation for wrong done to the -

- **person or**
- **movable property,**



if the wrong was done within the local limits of the jurisdiction of one Court

The defendant resides, or carries on business or personally works for gain



within the local limits of the jurisdiction of another Court



the suit may be instituted at the option of the plaintiff in either of the said Courts.



Abhi, residing in Delhi, beats Biju in Calcutta. Biju may sue Abhi either in Calcutta or in Delhi.

Gokaldas Melaram Vs Baldevdas AIR 1961 Mys 188

- Mysore High Court decided a question of territorial jurisdiction in the matter of seeking reliefs for malicious prosecution by the fact that summons of such a case was served at a place on the plaintiff where the suit was brought.
- This answer was given upon the view that even in **Section 19** of the Code was determining the jurisdiction of the Court, the **suit for malicious prosecution had to be instituted where cause of action arose.**

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 140, 143

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Q.23) A resides at Shimla, B at Kolkata and C at Delhi. A, B and C being together at Varanasi, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C either at

- a) Varanasi or at Kolkata or at Delhi*
- b) Shimla or at Kolkata or at Delhi*
- c) Kolkata or at Varanasi or at Shimla*
- d) Delhi or at Varanasi or at Shimla*

Ans: A

Section 20 of CPC - **Other suits to be instituted where defendants reside or cause of action arises –**

Subject to the limitations, every suit shall be instituted in a Court within the local limits of whose jurisdiction –

The defendant(s), **actually and voluntarily** resides, or carries on business, or personally works for gain; or

Any of the defendant(s), either when the **leave of the Court** is given, or the **defendants who do not** reside, or carry on business, or personally work for gain, **acquiesce**; or

The cause of action, **wholly or in part**, arises.





- Nishant carries on trade in Calcutta. Amar carries on business in Delhi. Amar, by his agent in Calcutta, buys goods of Nishant.



- Nishant resides at Simla, Amar at Calcutta and David at Delhi.



- Nishant, Amar and David being together at Benares, Amar and David make a joint promissory note payable on demand and deliver it to Nishant.



- Nishant may sue Amar and David at **Benares**, where the **cause of action arose**. He may also sue them at **Calcutta**, where **Amar resides**, or at **Delhi**, where **David resides**; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court.



Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 140, 144, 146
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Q.24) The principle of Private International Law is incorporated in:

- a) Sections 13 and 44A of the Code of Civil Procedure***
- b) Sections 13 and 16 of the Code of Civil Procedure***
- c) Sections 13 and 18 of the Code of Civil Procedure***
- d) Sections 13 and 20 of the Code of Civil Procedure***

Ans: A

**Potluri Rajeswara Rao Vs Syndicate Bank
2000 (3) ALD 508**

An interesting question of enforcement of foreign judgment, jurisdiction, involving private international law read with **Sections 13, 44 and 44-A** of the CPC falls for consideration in this revision petition.

What is known as "**Private International Law**" is not a law governing relations between independent States;

- Thus, private International Law comes into operation whenever the Court is faced with the claim that contains foreign judgment and decree.
- The reciprocating agreement entered into between the two countries for the purpose of enforcing the decree and judgment of another country as if it has been passed and decreed in the country where it is sought to be enforced.
- The enforcement of such decree must also be in accordance with the law of the land where it is being made 'rule of law'.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 128

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Q.25) A files property case against B at Kolkata on 22.02.2019. A file a property case against B at Madras on 22.02.2020. The case at Madras is decided on 22.02.2021 while the case at Kolkatta is still pending. Which of the following is true?

- a) Decree is not maintainable as case at Kolkatta operates as Res Judicata*
- b) Decision of Madras will operate as Res Judicata*
- c) The case must be decided by Kolkatta court only*
- d) None of the above*

Ans: B

Section 11 of the CPC lays down the **Principle of res judicata**

No Court shall try any suit or issue where:



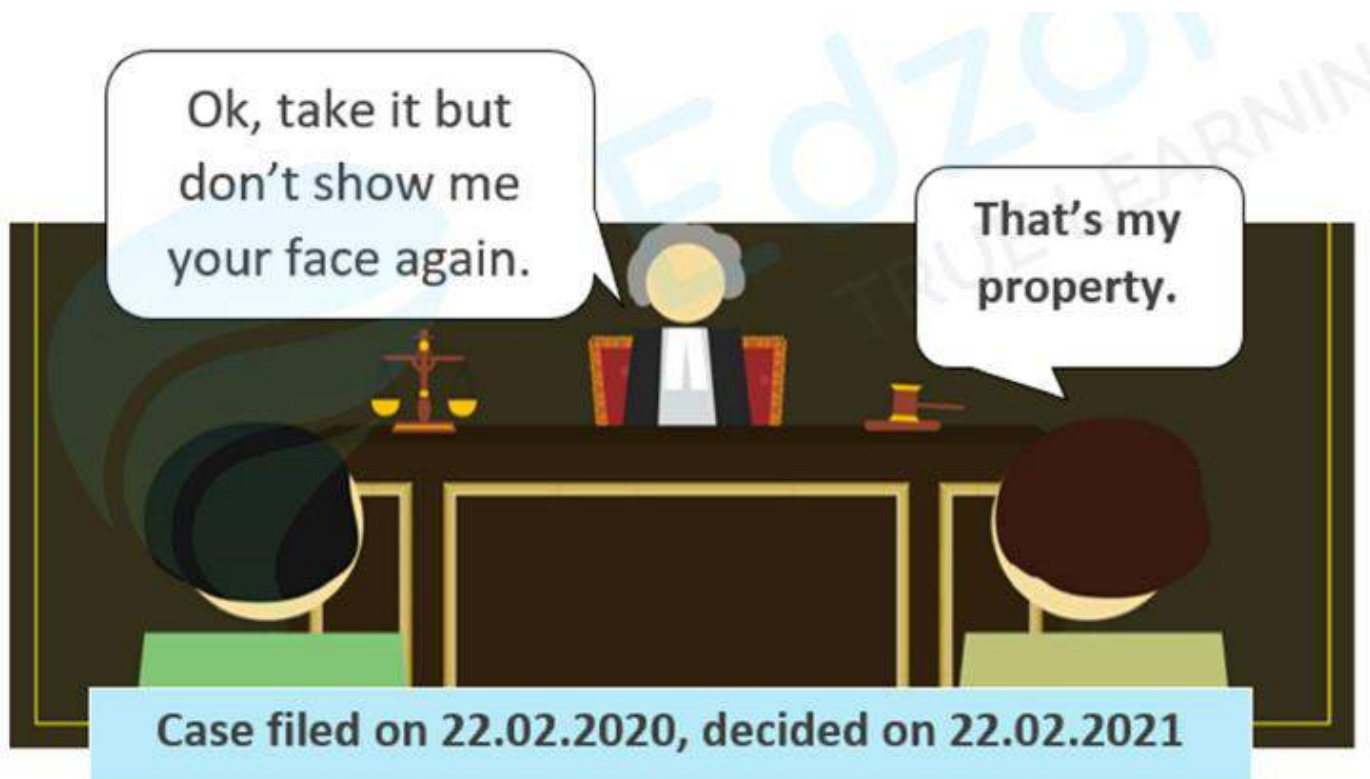
Principle of Res judicata:

- It means that no court will have the power to try any fresh suit or issues which has been already settled in the former suit between the same parties.
- This doctrine is based on the premises that if the matter is already decided by the competent court then no one has rights to reopen it with the subsequent suit.



Here, the principle of Res Judicata applies on the fresh suit as the case has already been decided between the parties by competent court.

Explanation I: The expression “**former suit**” shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.





The res judicata will apply on suit filed on 22.02.2019 as the suit filed on 22.02.2020 has been decided before.

Sheodan Singh Vs Daryao Kunwar

AIR 1966 SC 1332

- **Held: Section 11** provides that no court shall try any suit or issue in which the matter has been directly and substantially in issue in a **former suit** between the same parties and has been heard and finally decided.
- It is not the date on which the suit is filed that matters but the date on which the suit is decided; so that even if a suit was filed later, it will be a former suit within the meaning of Explanation I if it has been decided earlier.



Chandrabhai K. Bhoir Vs Krishna A. Bhoir

AIR 2009 SC 1674

The court which decided the former suit must be competent to grant relief claimed in the subsequent suit. The principle will not apply where order was passed without jurisdiction.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 78

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Q.26) Amul owes the partnership firm of Bina and Chirag Rs.1000. Bina dies, leaving Chirag surviving. Amul sues Chirag for a debt for Rs.1500 due in his separate character. Chirag may_____

- a) set off the debt.*
- b) Cannot set off debt*
- c) Depends*
- d) None of the above*

Ans: A

Provisions of Set off are specified in CPC under **Order VIII Rule 6**

Particulars of set-off to be given in written statement –

(1) Where in a suit for the recovery of money

The defendant claims to set-off against the plaintiff's demand any ascertained sum of money legally recoverable by him,

Not exceeding the pecuniary limits of the jurisdiction of the Court, and

Both parties fill the same character as they fill in the plaintiff's suit,

Essential Conditions for Set Off –

1. The suit must be of recovery of money.

Aman sues Bhuvan for 20,000/-. Bhuvan cannot set off the claim for damages for breach of contract for specific performance.

2. The sum of money must be ascertained.
3. The sum claimed must be legally recoverable.

For example, winnings in a wager cannot be claimed in a set off.

4. The sum claimed must be recoverable by all the plaintiffs/defendants against the defendant/plaintiff if there are more than one.
- s. In the defendant's claim for set off, both the parties must fill in the same character as they fill in the plaintiff's suit.

Amul owes the partnership firm of Bina and Chirag Rs. 1,000. Bina dies, leaving Chirag surviving.

Amul sues Chirag for a debt for Rs. 1,500 due in his separate character. Chirag may set-off the debt of Rs. 1,000.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 264

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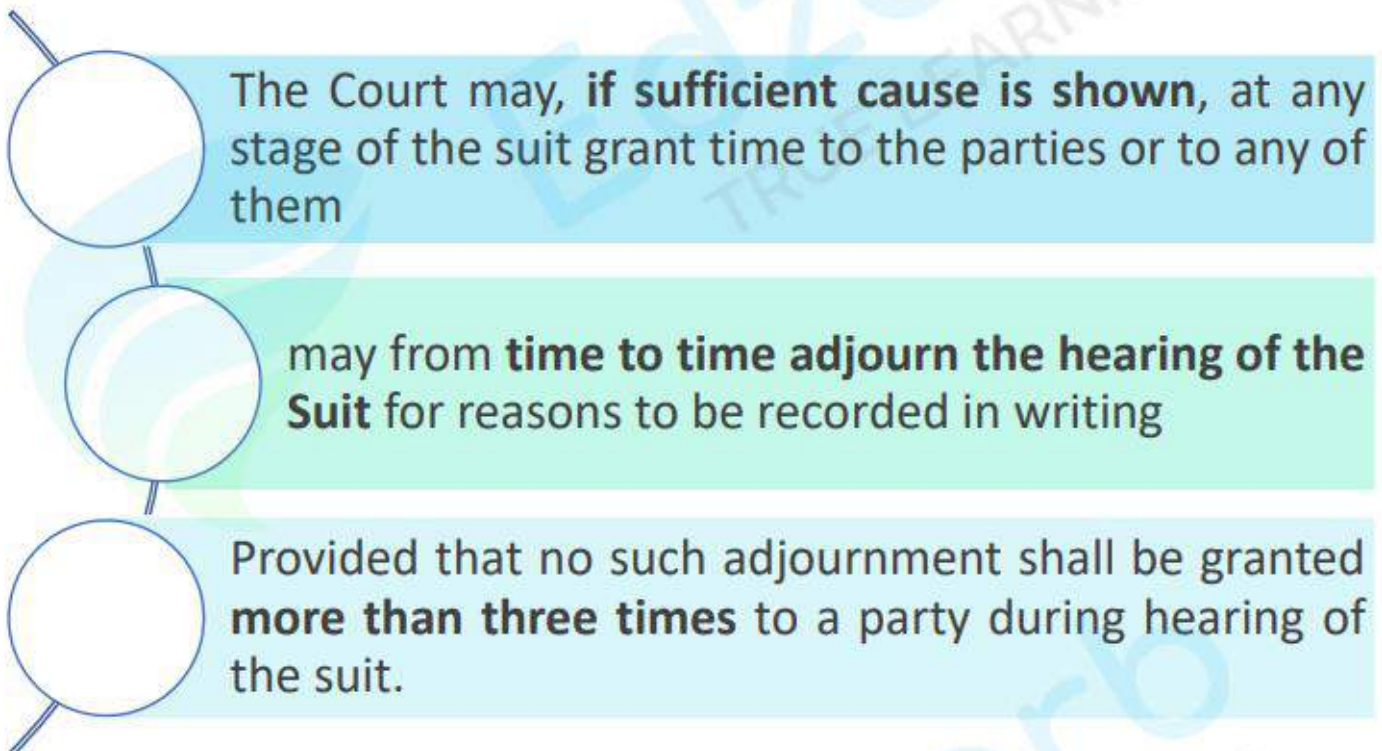
Q.27) If sufficient cause is shown by the parties for adjourn the hearing of the case the court shall not adjourn the case more than:

- a) Once*
- b) Twice*
- c) Thrice*
- d) Four time*

Ans: C

Order 17. Rule 1(1) of the CPC – Court may grant time and adjourn hearing

**DEADLINE
EXTENDED**





Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 273

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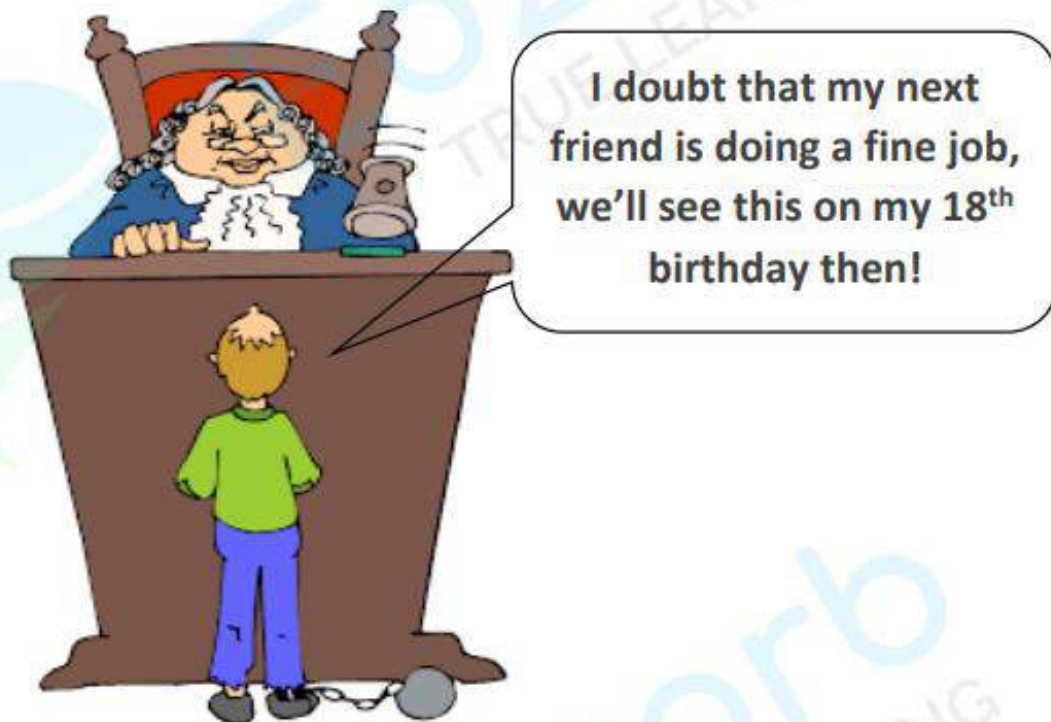
Q.28) Whether a minor on attaining majority may, if a sole plaintiff, apply that a suit instituted in his name by his next friend be dismissed on the ground that it was unreasonable or improper:

- a) No
- b) With the consent of next friend
- c) Yes
- d) Joint application will be with next friend

Ans: C

Order 32. Rule 14 of the CPC - "**Unreasonable or improper suit**"

A minor on attaining majority may, if a sole plaintiff,
-apply that a suit instituted in his name by his next friend be dismissed on the ground that it was unreasonable or improper.



- When some suit is to be instituted by minor plaintiff, it is instituted by his **next friend** in the minor plaintiff's name.
- Similarly, when some suit is instituted against minor defendant, guardian for suit is appointed for such minor defendant and such guardian is called **guardian ad litem**.

Object of having “next Friend” or “Guardian Ad-Litem”

- A minor is deemed incapable of prosecuting or defending a suit himself, thus, the suit should be watched by an adult person in the minor's interest.
- In the case of a **minor plaintiff**, such person is called his **next-friend**; In the case of a **minor defendant**, the person is his **guardian ad-litem** or **guardian for the suit**.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 440

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Q.29) In which of the following cases, Justice Vivian Bose made the observation about the Code of Civil Procedure as 'a code of procedure must be regarded as such that it is procedure, something designed to facilitate justice and further its ends: not a penal enactment for punishment and penalties; not a thing designed to trip people up. Too technical a construction of sections that leaves no room for reasonable elasticity of interpretation should therefore be guarded against (provided always that justice is done to both sides) lest the very means designed for the furtherance of justice be used to frustrate if?

- a) Sangram Singh v Election Tribunal*
- b) Andhra Bank v Sreenivasan*
- c) V C Shukla v Khubchand*
- d) None of the above*

Ans: A



Sangram Singh Vs Election Tribunal, Kotah 1955 425

- A code of procedure is a body of law designed to facilitate justice and should not be treated as an enactment providing for punishments and penalties.
- The laws of procedure are grounded on the principle of **natural justice**.

Few of those principles:

- That men should not be condemned unheard.
- Decisions should not be reached behind their backs.
- Proceedings that affect their lives and property should not continue in their absence.
- They should not be precluded from participating in them.

Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 7

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Q.30) An ex-parte decree is_____?

- a) Decree against which no appeal can be filed**
- b) Order**
- c) Decree against which an appeal can be filed**
- d) None of the above**

Ans: C

Order 9. Rule 13 of the CPC -

Setting aside decree ex-parte against defendant

In any case in which a decree is passed ex-parte against a defendant,

he may apply to the Court by which the decree was passed for an order to set it aside if he satisfies the Court that-

- the summons was not duly served, or
- he was prevented by any sufficient cause from appearing when the suit was called on for hearing,





More information on Ex Parte Decree

- *Ex parte* is Latin for 'from one party.'
- An ex parte decree is a decree and, therefore, an aggrieved party can also file an appeal under Section 96(2) of the Code.
- Effect of setting aside ex parte decree- The trial commences de novo i.e. a fresh. The evidence taken in the ex parte proceedings is not considered any further.

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 273

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Q.31) In a suit by A against B, C, and D, ex parte decree was passed. C and D were not served with summonses while B was served. In such a situation

- a) Decree against all of them can be set aside*
- b) Decree against B cannot be set aside*
- c) Decree against all of them cannot be set aside*
- d) None of these*

Ans: B

Order 9 Rule 7

- Ex- Parte Decree against the defendant for non-appearance.
- To set aside the decree, plaintiff to show "good cause".
- Sita, filed a suit against Rina, Meena and Sheena.
- **Sheena received the summons** and was aware of the hearing.
- Rina and Meena, however, were not served any notices or summons.





Your Honor, Summons were not served

Decree against Rina and Meena is set aside.



Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 276
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Q.32) In which of the following cases the supreme court has upheld the constitutionality of the Code of Civil Procedure (Amendment) Acts of 1999 and 2002?


- a) Salem advocate bar association, Tamil Nadu v. Union of India**
- b) Delhi High court bar association v. Union of India**
- c) Allahabad high court bar association v. Union of India**
- d) Punjab and Haryana high court bar association v. Union of India.**

Ans: A

Salem Advocate Bar Association Vs Union of India (UOI)
AIR 2003 SC 189

In an issue whether, the amendments made in the Code of Civil Procedure (CPC), 1908 by the Amendment Act of 1999 and 2000 were held **Constitutional**.



- A new provision for settlement of disputes **outside the court** has been introduced
- Number of **adjournments**  have been restricted
- A provision for recording for



evidence by the court
Commissioner has been made

- Instituting of appeal against the judgement is allowed where the decree is not drawn up
- Scope of first Appeal, second appeal, letters patent appeal and revision has been curtailed



Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 4-6
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Q.33) Which of the following cases deal with a representative suit?

- a) TN Housing Board Vs Ganpathy**
- b) Daryao Vs State of Haryana**
- c) Both A and B**
- d) Neither A nor B**

Ans: A

Representative Suit:

A representative suit is a suit that is filed by one or more persons on behalf of themselves and others having same interest in the suit.

Don't worry, I am there with you all. I will fight on everyone's behalf.



Order I Rule 8:



Notice must
have been
issued to all



Parties
must be
numerous

Permission
granted or
direction
taken to
file RS



Everyone must
have interest in
the suit



T. N Housing Board Vs Ganapathy

1990 SCR (1) 272

Facts of the case:

- In this case, residential building was allotted by the housing board to the applicants who belongs to the low-income group.
- After settlement of price excess demand was made by the board.



Issue raised:

The allottees challenged the demand by filing suit in a representative capacity.



Contention: RS not maintainable as separate demand notice were served

Judgment: All of them had same interest, so RS maintainable.



Reference: Civil Procedure Code, Order I Rule 8

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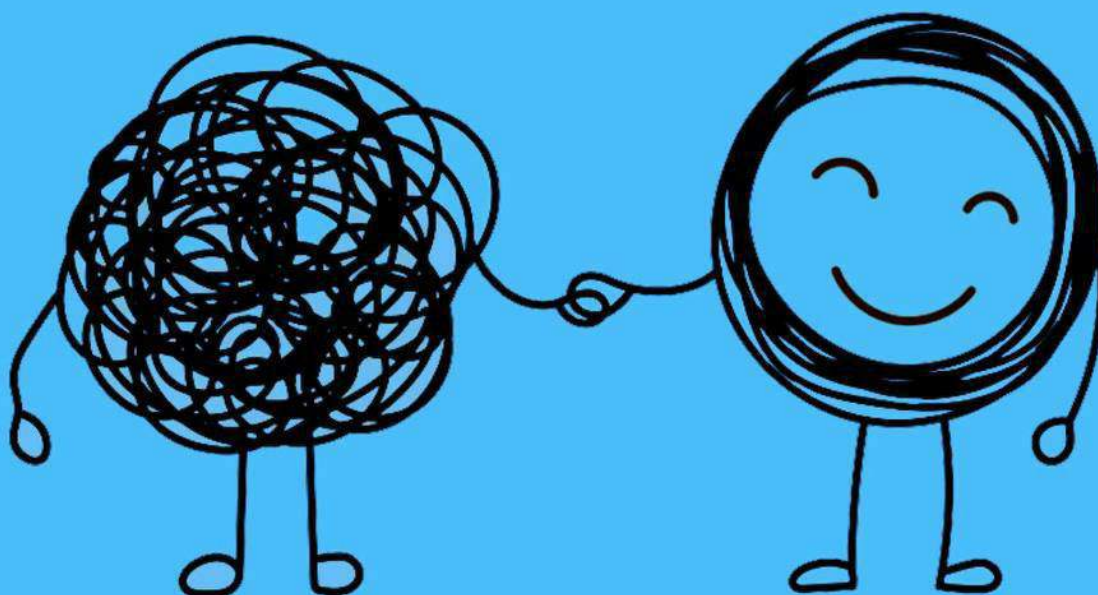




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Q.34) Grounds for Review under O.47 R.1 includes

a. Exemplary Damages

b. Discovery of new evidence

c. Mistake

d. Sufficient reasons

a) a,b,c

b) a,b,c and d

c) b,c,d

d) c and d

Ans: C

Order 47 Rule 1

Grounds for review by aggrieved:

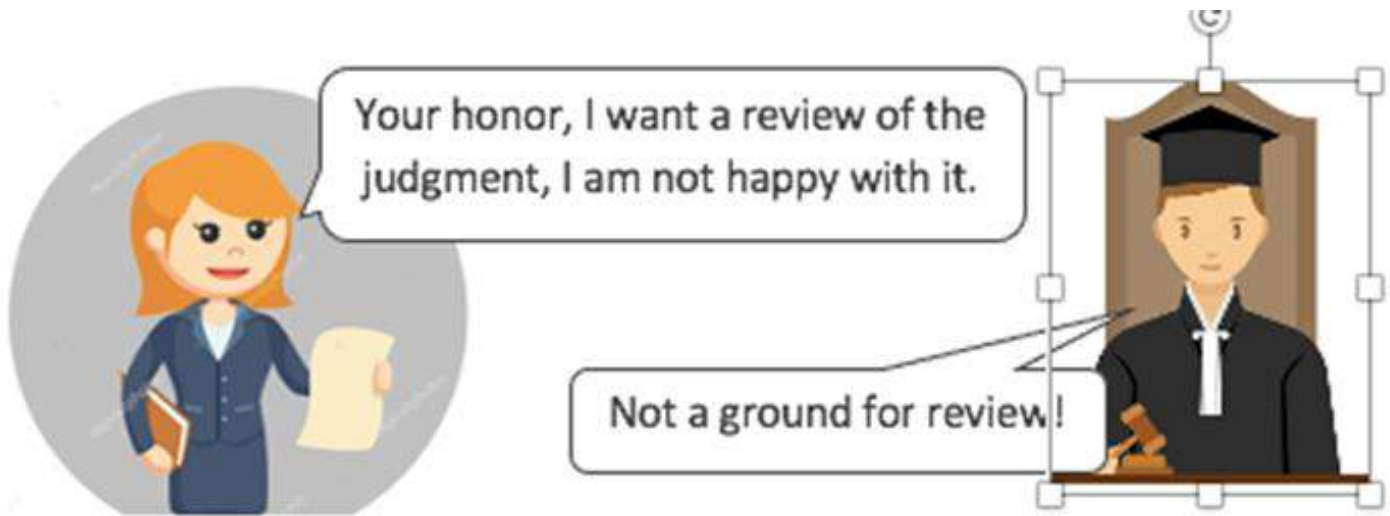
- **New Discovery** which was not within knowledge despite due diligence.
- **Mistake** or error apparent on the face of the record.
- Other **Sufficient reasons.**

Functus officio



**Expiry of the legal
functioning**





Did you Know?

Review is an exception to the rule of **functus officio** as it reopens the case after the courts have decided upon it.



Reference: Code of Civil Procedure, 1908 o.47 r.2

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Q.35) In which of the following writs, the doctrine of res judicata is not applicable?

- a) Certiorari***
- b) Mandamus***
- c) Quo warranto***
- d) Habeas Corpus***

Ans: D

Ghulam Sarwar Vs Union of India
AIR 1967 SC 1335

- **Principle of res judicata or constructive res judicata** would apply only in the case of civil actions and proceedings and
- Do not bar subsequent writ petition in the matter of where personal liberty of citizen is involved;
- Though the successive writ petition can be filed challenging the detention, it has to be shown that fresh grounds were involved and not the grounds which were already raised or were available to be raised.



Habeas Corpus is the right of a citizen to obtain a protection against illegal imprisonment;



Habeas Corpus is filed under **Article 32** before **Supreme Court** and **Article 226** before the **High Court**.



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<https://indianexpress.com/article/cities/ahmedabad/gujarat-hc-accepts-virtual-production-of-person-in-habeas-corpus-plea-6373200/>

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 78

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Q.36) In which of the following case Sir Lawrence Jenkins has observed that “the rule of res judicata, while founded on account of precedent, is directed by a wisdom which is for all times”?

- a) Lal Chand v. Radha Kishan*
- b) Sheopersan v. Ramanand Singh*
- c) Sulochana Amma v. Narayanan Nair*
- d) Pandurang Ramachandra v. Shantibai*

Ans: B

Section 11: Res Judicata

- **No Court shall try any suit or issue**
- In which the matter **directly and substantially** in issue has been directly and substantially in issue **in a former suit** between the **same parties**, or between parties
- Under whom they or any of them claim, litigating under the same title, in a **Court competent to try** such subsequent suit or
- The suit in which such issue has been subsequently raised, and has been **heard and finally decided** by such Court.



- Ancient reference of Res Judicata came from ‘**Brihaspati Samriti**’ known as “**Prangnayaya**” which means **Previous Judgment**.



Conditions for Application of Sec.11

Subject matter directly and substantially in issue are same

Litigating parties are same

Matter finally decided between parties

Decided by of court competent jurisdiction

Litigated under same title in former suit



**Sheoparsan Singh Vs Ramanandan,
AIR 1916 PC**

The **Principle of Res-Judicata** is not the creature of any statute or the handiwork of any code of law; It is the gift of public policy.

In the words of **Sir Lawrence Jenkins** -

"while founded on ancient precedent, it is dictated by a wisdom which is for all time"

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 68

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Q.37) Which of the following is correct:

<i>I. Minor to sue by next friend</i>	<i>Order 32 Rule 1</i>
<i>II. Guardian to be appointed for the minor defendant</i>	<i>Order 32 Rule 2</i>
<i>III. Who may act as next friend or be appointed as guardian</i>	<i>Order 32 Rule 4</i>
<i>IV. Representation of minor by next friend or guardian</i>	<i>Order 32 Rule 5</i>

- a) I, II & III***
- b) I, III & IV***
- c) II, III & IV***
- d) I, II & IV***

Ans: B



Rule 1: Minor to sue by next friend.

Rule 3: Guardian to be appointed by Court for minor defendant.

Rule 4: Who may act as next friend or be appointed guardian

Rule 5: Representation of minor by next friend or guardian

Reference: Civil Procedure Code, Order 32

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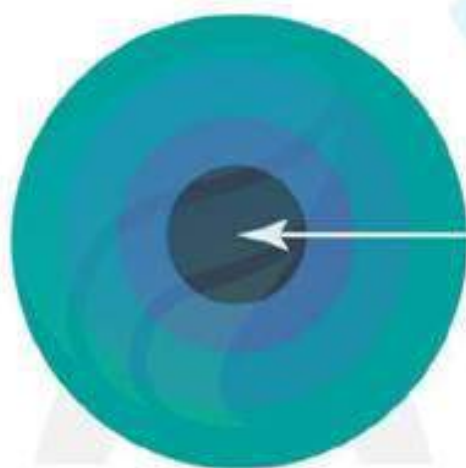
Q.38) Temporary Injunctions/Interim Injunctions are not governed by the Specific Relief Act but by CPC under Order.....?

- a) True/38 CPC
- b) True/39 CPC
- c) False/38CPC
- d) False/39CPC

Ans: B

Temporary Injunction: A temporary injunction is an injunction which is granted, **for a specified period of time**, or till the court deems fit.

When can Temporary Injunction be granted:



Temporary Injunction
granted

Whether the plaintiff
has a prima facie case

Balance of convenience
in favour of plaintiff

Plaintiff would suffer an
irreparable damage, if the
injunction is not granted

Permanent Injunction: A permanent injunction (also known as perpetual injunction) is one that is delivered **at the time of the final judgement**, and therefore is more often than not, prevalent for a longer period of time.



Temporary Injunction Vs Permanent Injunction

Category	Temporary Injunction	Permanent Injunction
Meaning	<ul style="list-style-type: none"> It is granted for a specified period of time, or as adjudged by the court. It may be granted at any point during the suit. 	<ul style="list-style-type: none"> It is granted by the decree of the court, and upon the examination of the facts and merits of the case.
Provision in law	<ul style="list-style-type: none"> Order 39 (Rules 1 to 5) of the Civil Procedure Code, 1908, governs it. 	<ul style="list-style-type: none"> These are governed by sections 38 to 42 of SRA, 1963.
Nature	<ul style="list-style-type: none"> A temporary injunction is non-conclusive. 	<ul style="list-style-type: none"> It deals with the finality of a judgement, thereby providing a conclusive and long-term solution to the dispute at



		hand.
Basis of Decision	<ul style="list-style-type: none"> • It is decided on the basis of one side. 	<ul style="list-style-type: none"> • It is on the basis of both the sides.
Order or Decree	<ul style="list-style-type: none"> • A temporary injunction is simply an order by the court. 	<ul style="list-style-type: none"> • A permanent injunction is a decree (i.e., an official order by a court of law)

Reference: Contract and Specific Relief by Avtar Singh, 12th Ed., 2017, Page no. 948

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Q.39) “When legal action is taken against a person i.e. a suit is filed against a person or a criminal complaint is lodged against him, such person is required to appear before the court on the date and time when the case is fixed for hearing.” Under-

- a) Order VII of the Civil Procedure Code, 1908/Chapter 3 of the Code of Criminal Procedure, 1973*
- b) Order IV of the Civil Procedure Code, 1908/Chapter 8 of the Code of Criminal Procedure, 1973*
- c) Order IX of the Civil Procedure Code, 1908/Chapter 6 of the Code of Criminal Procedure, 1973*
- d) Order V of the Civil Procedure Code, 1908/Chapter 6 of the Code of Criminal Procedure, 1973*

Ans: D

Summons: A summons provides legal notice to a party about a lawsuit. It is the first official notice that a defendant/accused **must appear before the court/magistrate**.



Summons under different law:

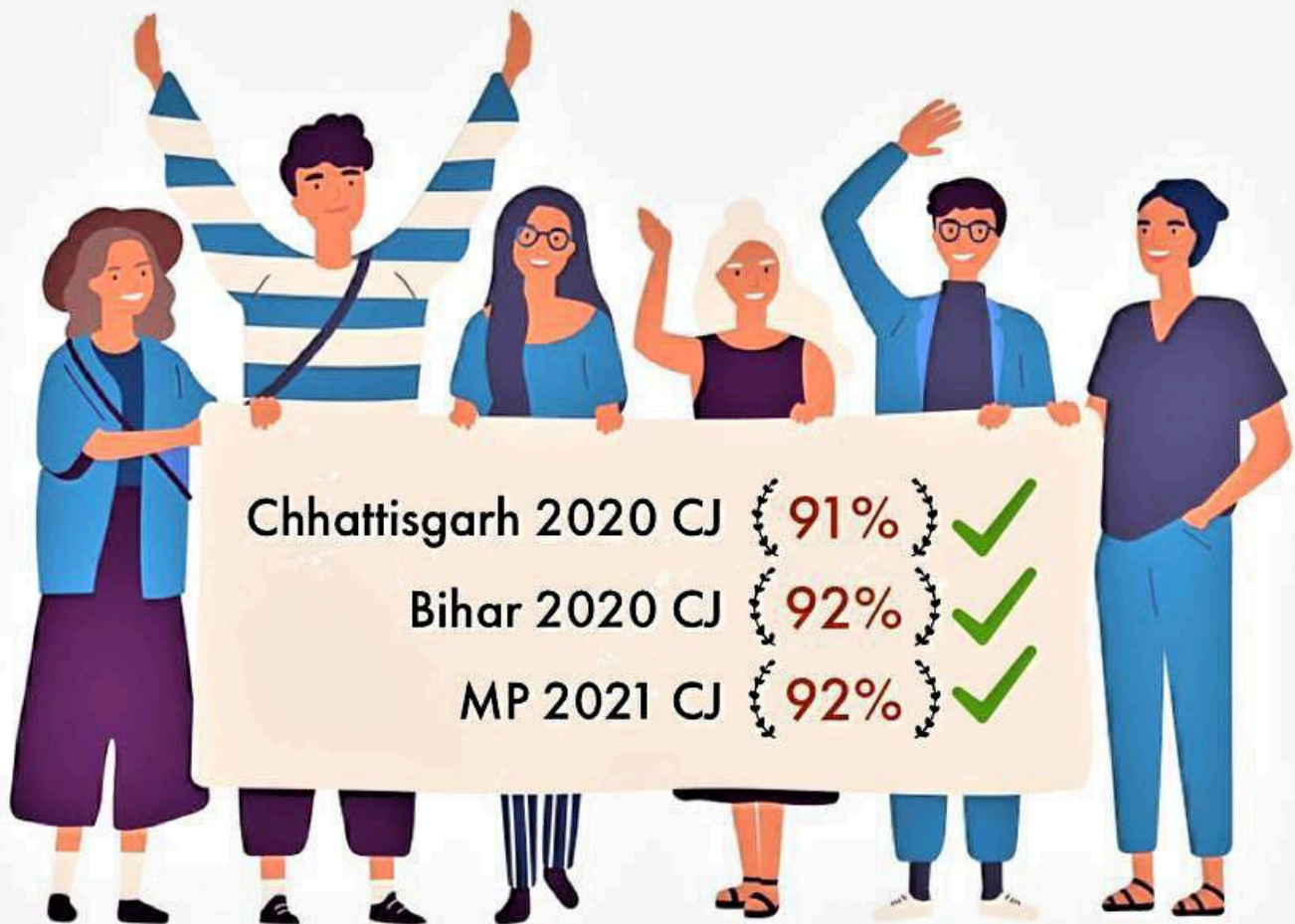
Code of Civil Procedure	Code of Criminal Procedure
Order V	Chapter VI

Reference: Code of Civil Procedure and Code of Criminal Procedure.

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M.P. JUDICIAL SERVICE (CIVIL JUDGE) MAIN EXAMINATION

ARTICLE & SUMMARY WRITING

Second Question Paper

3. Translate the following 10 Sentences into English: -

10

- a) उच्च न्यायालयों का अपीलार्थ अधिकार क्षेत्र भी दीवानी और फौजदारी दोनों प्रकार के मुकदमों तक विस्तृत है।
- b) किसी संस्था या व्यक्ति या कंप्यूटर नेटवर्क में अनधिकृत व्यक्ति द्वारा बिना अनुमति लिये उसके कंप्यूटर के डाटा की कॉपी करना या उसे साझा करना डाटा चोरी अपराध के तहत माना जाता है।
- c) दरअसल कोर्ट की अवमानना की समूची व्यवस्था न सिर्फ जनतंत्र, बल्कि न्यायिक प्रणाली के भी प्राकृतिक नियमों को सस्पेंड किये जाने की मांग करती दिखती है।
- d) जिन दीवानी मुकदमों में कम-से-कम 5,000 रु. की मालियत का प्रश्न अंतर्ग्रस्त हो, उनकी अपील उच्च न्यायालय में की जा सकती है।

EPIC Mains Test Series Question & Evaluation

SAMPLE

- e) यद्यपि भारत एक संघ है, परन्तु अन्य संघों के विपरीत भारत में संविधान द्वारा एकतापूर्ण न्यायपालिका और एक ही मौलिक विषयों के समूह की व्यवस्था की गई है।
- f) पहले उच्च न्यायालयों को केवल बंदी-प्रत्यक्षीकरण के लेख जारी करने का अधिकार था, परन्तु अब उच्च न्यायालयों को बंदी-प्रत्यक्षीकरण, परमादेश, प्रतिषेध, अधिकार-पुच्छा, उत्प्रेषण इत्यादि लेख जारी करने का अधिकार दिया गया है।
- g) सर्वोच्च न्यायालय के मतानुसार उद्देशिका का प्रयोग संविधान निर्माताओं के मस्तिष्क में झांकने और उनके उद्देश्य को जानने में प्रयोग की जा सकती है।
- h) लेकिन कानून में प्रावधानित कारावासों और वास्तविक कारावासों में अत्यधिक अन्तर है।
- i) जमानत, किसी आरोपी को प्राप्त एक ऐसी कानूनी व्यवस्था है जिसके तहत अदालत में प्रतिभूति या गारंटी के रूप में पैसे या संपत्ति या कुछ संपार्श्विक बांड जमा कर रिहाई प्राप्त की जाती है।

- 11
Incorrectly Marked
Q.3
4/10
TOTAL MARKS OBTAINED : (10/100)
- (a) The appellate jurisdiction of high courts also covers both civil and criminal cases. extends upto
- (b) Without seeking ~~the~~ permission of an ~~unauthorised~~ अनधिकृत person of an institution or computer network, the act of making a copy of his computer's data or sharing it is an offence. when
- When an unauthorised person, without the permission of an institution or an individual or a computer network, makes copy of data of such computer.
- (c) Actually the ~~proper~~ entire (21.12.11) system of contempt of court not only seeks to suspend democracy, ~~rather~~ but also envisages to suspend the principles of natural justice of judicial system.
- (d) Those civil cases in which the pecuniary dispute is related to a sum of at least Rs 5000/- is involved (31.12.11) can be appealed before the High Court.

(e) Although India is an union, but unlike other unions, an united judicial system and a group of fundamental subjects have been guaranteed by the Constitution of India. provided by (C2A22A)

(f) Initially, the High Courts only had the right to issue the writ of habeas corpus, but now they have been bestowed the right to issue the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. et cetera (C2A1A) Make sure that every word is covered.

(g) According to Supreme Court, the preamble can be used to look into the minds of framers of the Constitution and to find out their intention and objective.

The sentence is silent on 'intention'

(h) But there is a lot of difference between the prisons laid down by the law and the statutory prisons.

~~of~~ real prisons. huge

(*) Bail is ~~such~~ a ~~restored~~ right for ~~any~~ ~~accused~~

(i) Bail, is ~~such~~ a legal ~~system~~ provision available to any accused, in pursuance of which he can be released by depositing any security, money in the form of guarantee, property or a collateral bond.

The question was about summary miting, and not translation.

Q.5
~~3~~ This ~~Sivaji~~, while judicial decisions had talked about read restriction on crackers and also the government had also declared to put please a ban on them; the public mocked all these factors and burnt crackers the whole night. This is the lowest step of decency and the man standing on this step, environment, his own health or the convenience or



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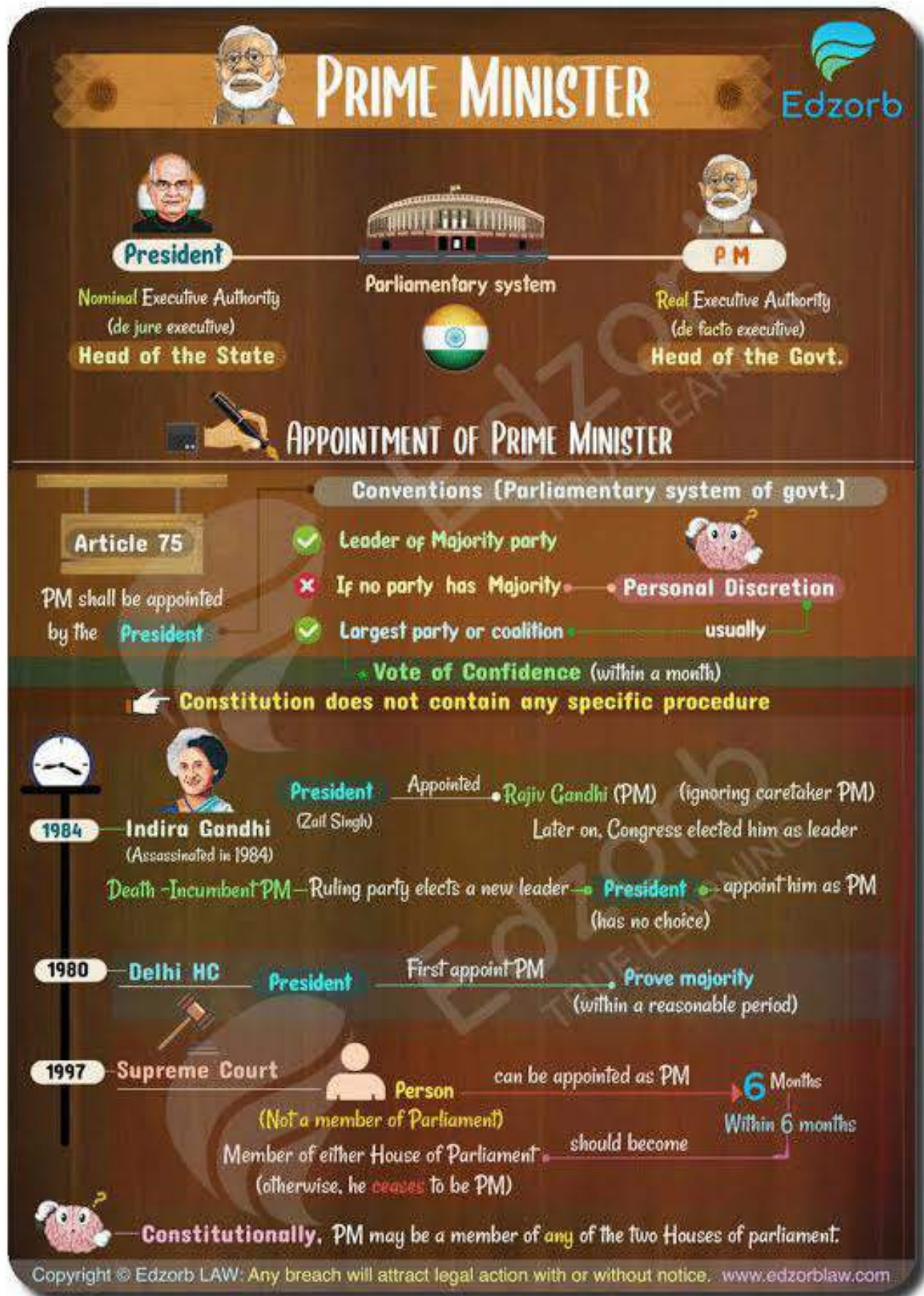
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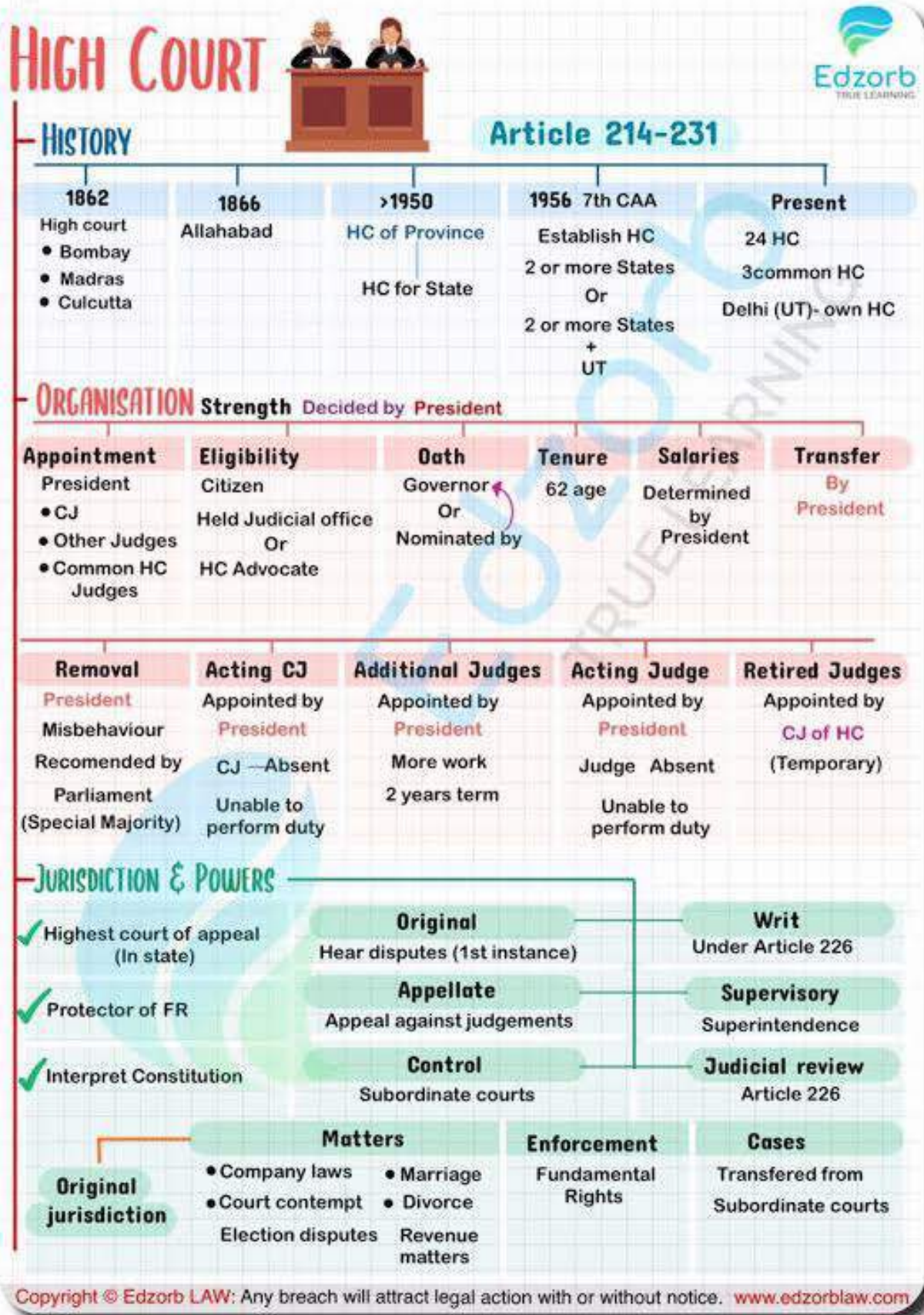
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BIOME



• EQUATORIAL REGION

Tropical rainforest

Evergreen forest

25-30

>250 cm

✓ Heavy precipitation

✗ No winter rainfall

10° N

0°

10° S

Broad leaves

Canopy formation

Very tall trees

Very dense forest

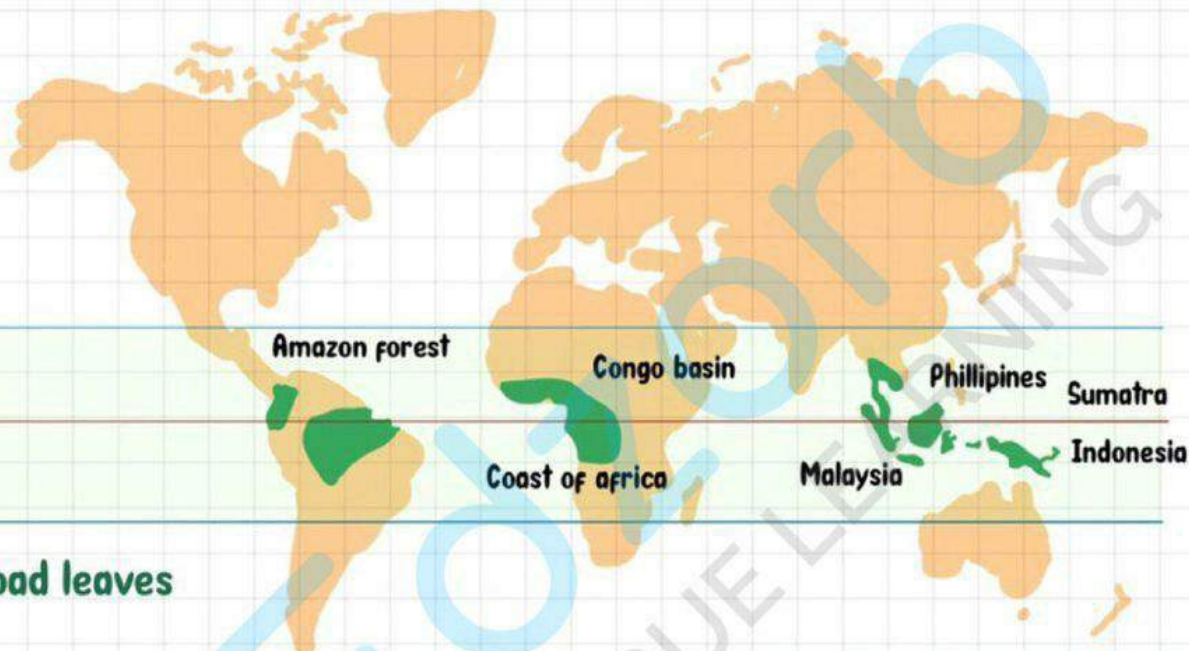
No shedding of leaves

- Hardwood
- Mahogany
- Ebony
- Rosewood
- Rubber
- Cinchona



ECONOMIC ACTIVITIES

- Hunting, gathering
- Shifting cultivation
- Rubber, Coffee, Tea
- Sugarcane, Oil palm



Amazon forest

Congo basin

Coast of africa

Malaysia

Phillipines

Sumatra

Indonesia



Semang (Malaysia)



Kubus (Sumatra)



Dayaks (Borneo)



Pygmies (Congo)



Amazon Indians
(South America)

Sample

Q. "Equal Pay for Equal Work" is not expressly a constitutional right, it has been read into the Constitution through the interpretation of which other articles?

- A. Article 14, 15
- B. Article 39, 14, 15, 16
- C. Article 21
- D. None of the Above

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(B)

Equal Pay for Equal Work:



- The **directive principle of State Policy** under **Article 39**.
- It is the concept of labour rights that individuals in the same workplace be given equal pay.
- Equal pay relates to the full range of payments and benefits, including basic pay, non-salary payments, bonuses and allowances.



History of Equal Pay for Equal Work

As wage-labour became increasingly formalized during the Industrial Revolution, the principle of equal pay for equal work arose at the same part of first-wave feminism, with early efforts for equal pay being associated with nineteenth-century Trade Union activism in industrialized countries.

Principle of Equal Pay for Equal Work – Binding as precedent

State of Punjab Vs Jagjit Singh

(2017) 1 SCC 148

- **Decision of Lower court:** Temporary employees were not entitled to the minimum of the pay-scale, as was being paid to similarly placed regular employees was challenged.
- **Decision of Apex Court:** Principle of "equal pay for equal work" expounded through various decisions of Supreme Court constitutes law declared by Supreme Court, which is binding on all courts in India and is applicable to all temporarily engaged employees.

Did you Know?

The World Bank, which has tracked legal changes for the past decade, found **Belgium, Denmark, France, Latvia, Luxembourg or Sweden** were the only countries in the world to enshrine gender equality in laws affecting work.



SVO MOTU LIMITATION



SC Allows Service Through Instant Tele-Messenger Services

Considering difficulty in visiting post offices amid pandemic, SC allowed service of summons & notices through instant tele-messenger services like whatsapp, email and fax. All these will prove valid service on a party.



SA Bobde, C.J.I.; AS Bopanna, J. & Subhash Reddy, J.

Reference: economictimes.indiatimes.com/news/politics-and-nation/supreme-court-allows-email-fax-instant-messaging-apps-like-whatsapp-for-service-of-notices-summons/articleshow/76898274.cms?from=mdr



Criminal proceedings not to be quashed on the basis of statement made under S. 161 CrPC



S.161 of CrPC, S. 482 CrPC

Statements recorded under S.161 are inadmissible in evidence and are not a valid ground for allowing a petition under S.482. Courts not to appreciate evidence while dealing with the quashing petition filed under S. 482 CrPC.

Bench: L. Nageshwar Rao, J. & Deepak Gupta, J.

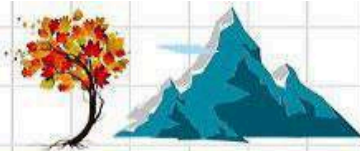
Reference: <https://main.sci.gov.in/supremecourt>

2017/2075/2075-2017-11-1502-20472-Judgement-11-Feb-2020.pdf





BIOME



LAURENTIAN TYPE

ST LAWRENCE TYPE

COOL TEMPERATE EAST MARGIN

HELLO
SUMMER

Short



-18° to -24°C



Winter



-3° to -17°C

Westerlies bring cold influences
interior of the continent

Cold current, reduces warming
Influence from sea

Vegetation consists mostly of coniferous forests



60° N

45° N

0°

North East USA

St Lawrence Lowlands

North East China

North Japan

ECONOMIC ACTIVITIES

• Fruits



Pear



Peach



Plum



Apple



Orange

• Fishing



Prominent

• Mixed Cropping



Mountains in Manchuria

Maple

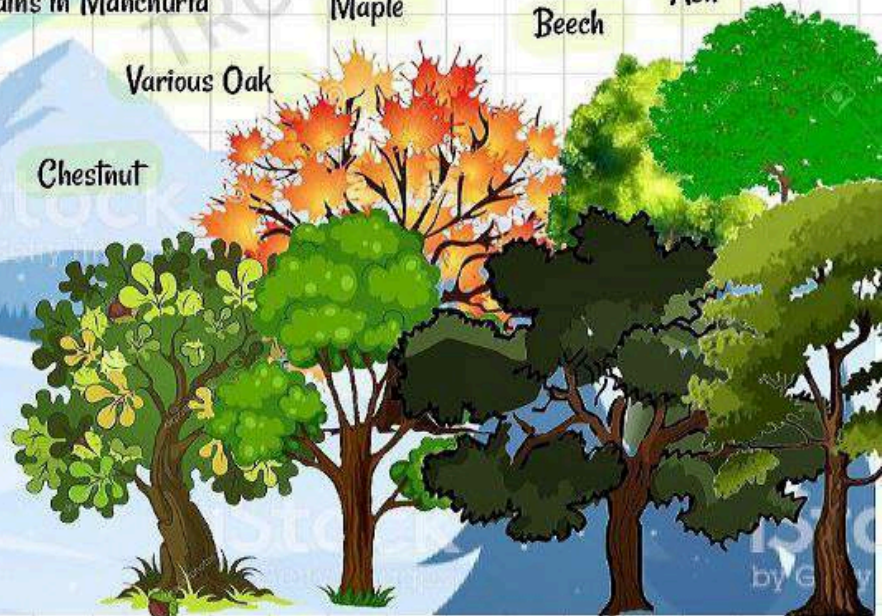
Beech

Ash

Elm

Various Oak

Chestnut



Northern Japan covered with dense Coniferous
made up of Spruce, Fir, Larch, Pine

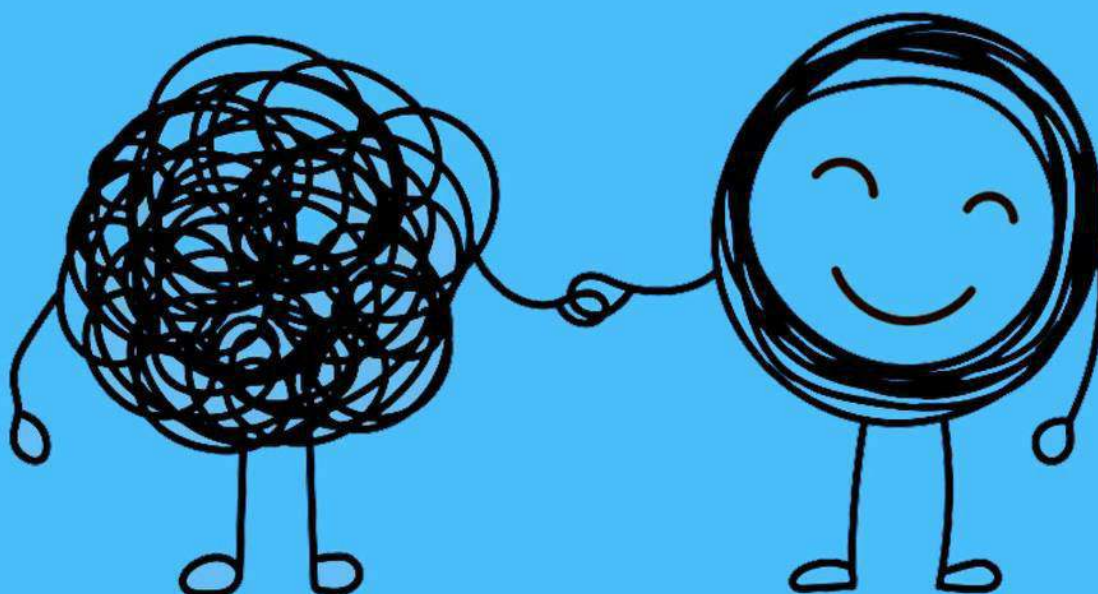
Extreme South East, Deciduous trees flourish



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- Q.40) The outer limit for filing a written statement was**
- a) Originally there in the Code of Civil Procedure, 1908**
 - b) Inserted by 1976 amendment**
 - c) Substituted by 2002 amendment**
 - d) None of the above**

Ans: C

Order 8 Rule 1

**Filing of Written Statement
Amendment of 2002**

- Must be filed withing 30 days

Delay in filing the WS:

- Record reasons for delays
- Can be condoned up to 90 days

Further Delay:

- Record Reasons
- Pay Cost for the delay
- Can be condoned for 120 days.



Any further delay:

- Forfeiture of the right to file a written statement.

Calculation of time period:

The time for filing begins with the service of summons.



Axis Bank Ltd. Vs Mira Gehani 2019 SCC OnLine Bom 358

Commencement of the period of 120 days:

- From the **date of service** of the writ of summons and not the date a defendant first enters appearance.
- However, in order to save time of the Court, in the event a defendant/its advocate enters appearance and **by consent, agrees to waive service**, the period of 120 days will commence **from the date of such waiver**.

Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 244
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Q.41) In which of the following cases, the Supreme Court held that the outer limit for filing written statement prescribed under Order 8 Rule 1 is directory?

- a) Kailash v Nanhku*
- b) F C I v Yadav Engineer and Contractor*
- c) Rajendra Tiwary v Basudeo Prasad*
- d) None of the above*

Ans: A

Order 8 Rule 1

Nature: Directory or mandatory?

Kailash Vs Nankhu (2005) 4 SCC 480

- The appellant was required to appear on 6.4.2004
- On 23.8.2004, **the High Court refused** to take the written statement on record.

Reason: Filed beyond a period of 90 days from the date of service of summons.

Supreme Court held,

- The provision does not impose a ban on the power of the Court to extend the time.
- Departure from the period of limitation can be made for satisfactory reasons only.
- **Order 8 Rule 1** is couched in mandatory form, **but is directory being a provision in the domain of processual law.**

Cautions:

- A prayer for extension shall not be granted as a matter of routine.
- Extension of time may be allowed by way of an exception, for proper reasons assigned and recorded.

Proper Reasons:

- Circumstances which are exceptional.
- By reasons beyond the control of the defendant.
- Grave injustice would be occasioned if the time was not extended.

Maximum Time Limit for Filing a Written Statement:

- 120 days, Commercial Courts Act, 2015 amendment.

Position after the amendment:

		
Directory Can Condone Delay	Directory Can Condone Delay	Mandatory Forfeiture of right



Q.42) Mistake of fact to render a contract void must be

- a) Mistake about facts**
- b) Mistake about parties name specifically**
- c) Mistake about facts essential**
- d) Mistake about parties finances only**

Ans: C

Section 20 of the Indian Contract Act discusses **Effect of Mistake of Fact** as when both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void.



Marshall agrees to buy from Lily a certain horse. It turns out that the horse was dead at the time of bargain, and neither party was aware of the fact. The agreement is void.



What Facts are Essential to an agreement?

- Identity of Parties;
- Identity and nature of the subject-matter of the Contract;
- Nature and Content of the Promise



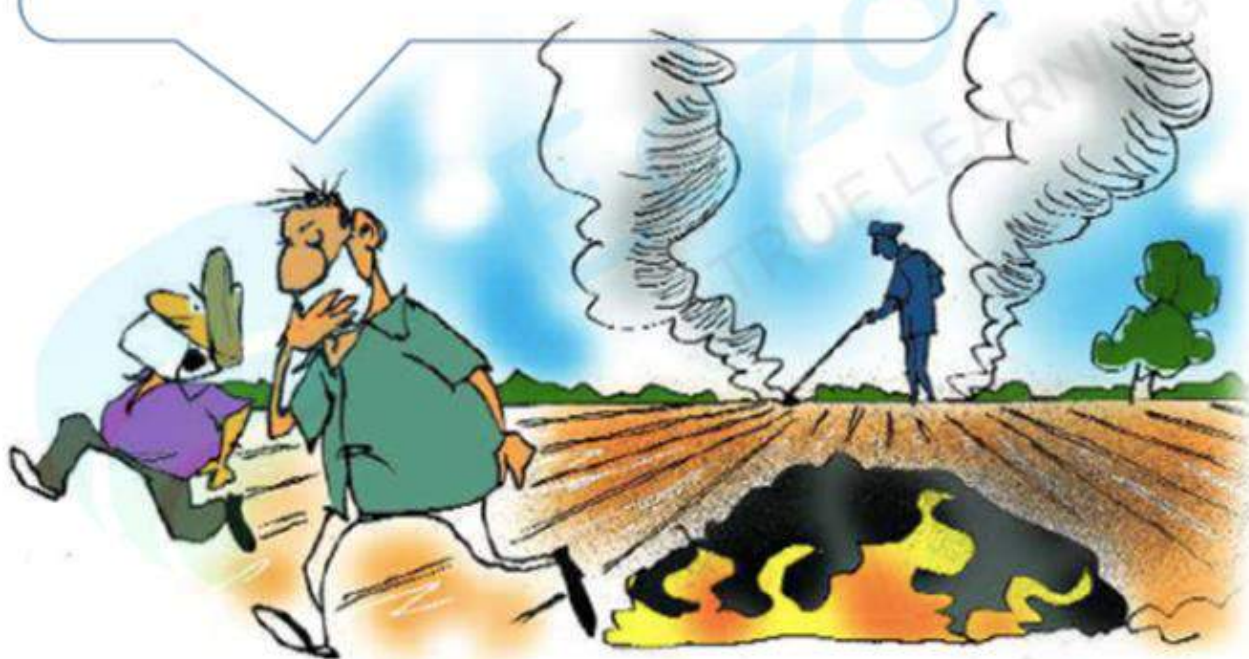


A agrees to buy from B a certain horse. It turns out that the horse was dead at the time of the bargain, though neither party was aware of the fact. The agreement is void.

Types of Mistakes

- Unilateral, where one party only to the contract; or
- Bilateral, where both parties are under a mistake.

The crops are burnt, that means our contract to sell the crops is over now!!



Reference: Contract & Specific Relief by Avtar Singh, 10th Edn. , 2008, Page No. 84
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Q.43) *Pickering Vs Illafracombe* is a leading case on _____?

- a) Section 21**
- b) Section 23**
- c) Section 24**
- d) Section 22**

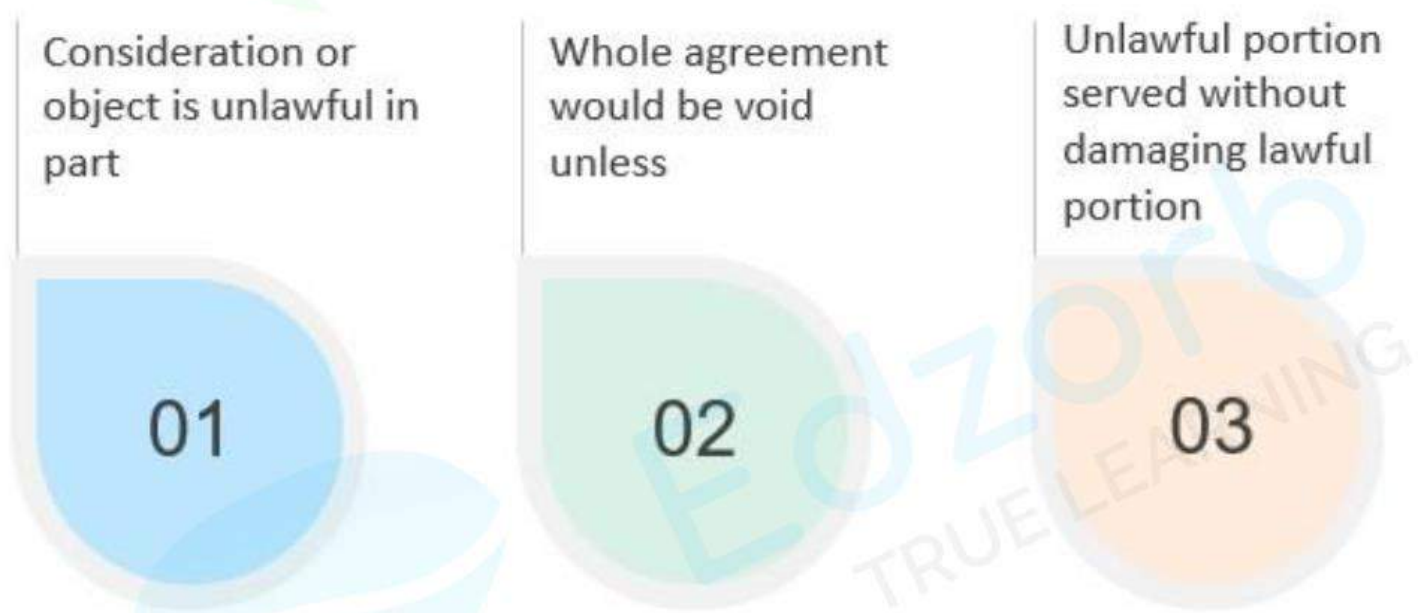
Ans: C

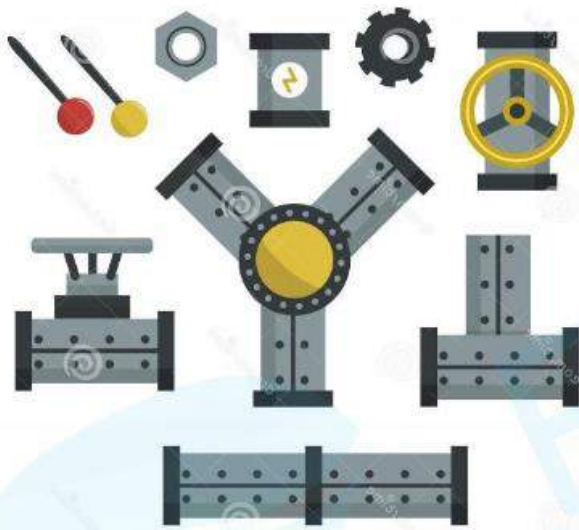
Section 24:

Agreement void, if considerations and objects unlawful in part:

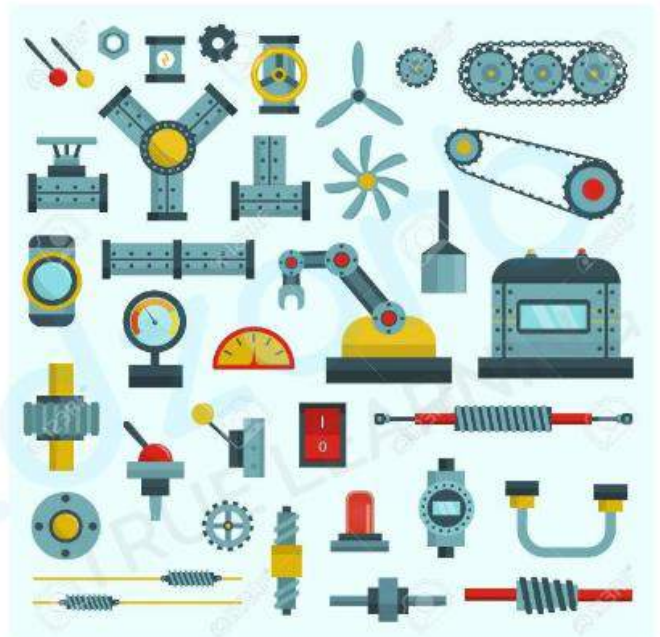
- Any part of a **single consideration** for one or more objects, or
- Any **one or any part** of any one of several considerations for a single object, **is unlawful,**
- The **agreement is void.**

Consideration and objects unlawful





Bogus motor parts



Genuine motor parts



You can take up the post of Manager in my factory, for which I will pay you Rs.20,000 per month

Sure! I promise to manage your motor part factory.



- The agreement is void as partly it is legal and illegal.
- The legal part cannot be separated as the salary is for both the parts.

Pickering Vs Illfracombe
1868 LR 3 CP 235, 250

Where illegal part cannot be severed from legal part of a covenant, the contract is void as whole, but where it can be separated, the bad part may be rejected and good part can be retained.

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 289

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Q.44) 'A' consigns provisions to 'B' at Cochin with directions to send them immediately to 'C' at Thrissur. 'B' may sell the provisions at Cochin if they will not bear journey to Thrissur without spoiling. Here B is acting as

- a) Agency by express agreement*
- b) Agency by necessity*
- c) Agency by implied agreement*
- d) None of the above*

Ans: B

Section 189

Agent's authority in an emergency:

- **Situation:** Emergency
- **Authority:** Do all acts to protect principal from loss.

Based on the English Doctrine of **Agency by Necessity**.

Exall Vs Partridge
(1799) 8 T.R. 308

- Where one person, **in an emergency**, performs services or incurs expenditure to preserve the property or rights of another and seeks reimbursement.

Sell these goods to Mr. Banwarilal at Thrissur.



I should sell these goods here at Cochin itself as they will spoil in the journey to Thrissur.



Here, Mr Dinesh is acting in **Necessity**.

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed., 2020, Page No. 799
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Q.45) 'A' authorizes 'B' a merchant to recover the money due to 'A' from 'C'. 'B' instructs 'D' an advocate to initiate legal proceedings against 'C' for the recovery of money. Here

- a) 'D' is responsible only to 'B' but not responsible to 'A'*
- b) 'D' is a sub agent*
- c) 'D' is not a sub agent but directly responsible to 'A'*
- d) None of the above*

Ans: D

Section 194

Substituted Agent

- Named by the agent.
- Acts as an agent of principal for a specific part of business.
- This person acts for the principal in the business of the agency.



Mr. Pandit: "You have to collect the money due from Mr. Tripathi."



Okay mam we will send notice.



- Ms. Suhani instructs Mr. Amarchand to initiate legal proceedings against Mr. Tripathi.
- Here, Mr. Amarchand is a **substituted agent** and **directly responsible to Mr. Pandit**.

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed., 2020, Page No. 772

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Q.46) 'A' employs 'B' to recover Rs 1000 from 'C'. Through B's misconduct the money is not recovered. 'B' is

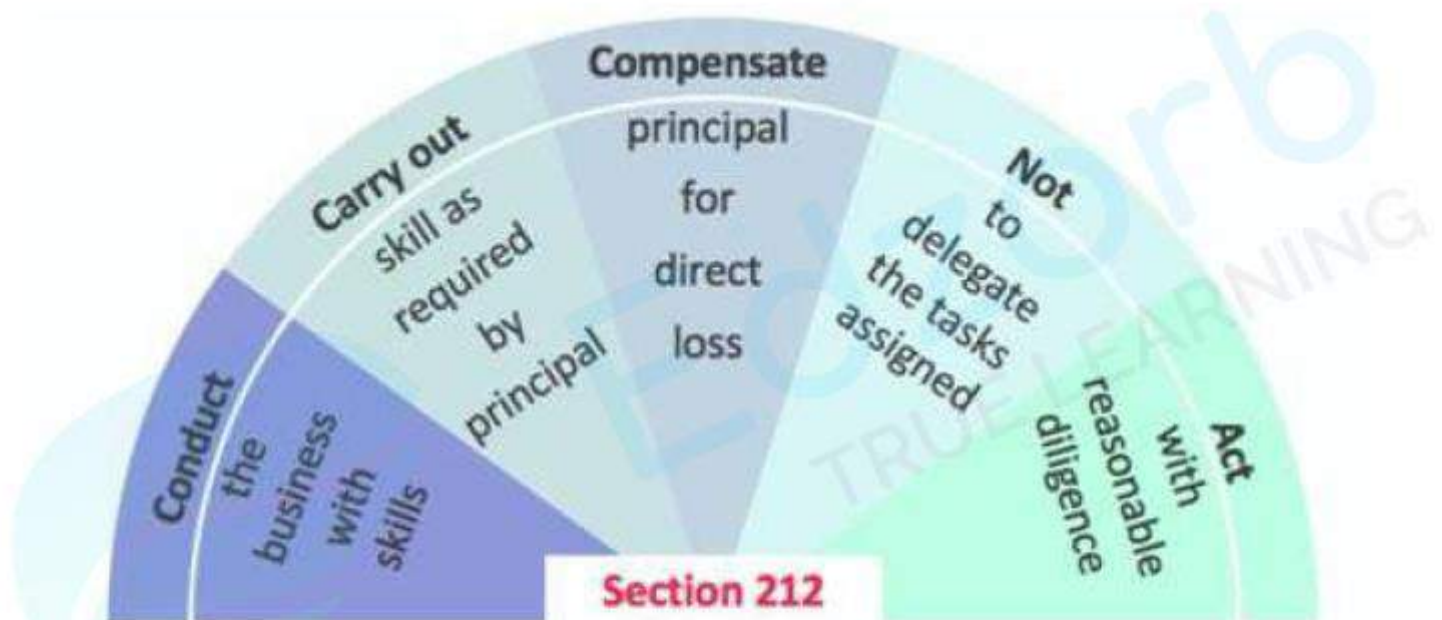
a) Entitled to no remuneration and must make good the loss

b) Neither entitled to remuneration not liable to make good the loss

c) Entitled to commission from 'C'

d) None of the above

Ans: A



Section 212 limits the liability of agent towards direct consequences:

Pannalal Jankidad Vs Mohanlal
AIR 1951 SC 144

- Once misconduct is admitted or proved, the fact that such an extraordinary incident of fire was beyond contemplation is **irrelevant**.
- Agent's duty to use all reasonable diligence.

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed., 2020, Page No. 761

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Q.47) 'B ', the proprietor of a newspaper, publishes, at A 's request, a libel upon 'C' in the paper, and 'A ' agrees to indemnify 'B ' against the consequences of the publication, and all costs and damages of any action in respect thereof. 'B' is sued by 'C' and has to pay damages, and also incurs expenses. Decide in the light of Section 224 of the Indian Contract Act. 1872

- a) 'A' is not liable to 'C' upon indemnity*
- b) 'A' is liable to 'B' upon indemnity*
- c) 'A' is not liable to 'B' upon indemnity*
- d) None of above*

Ans: C

Section 224

Non-liability of employer of agent to do a criminal act:

- Employment is to do a criminal act.
- The employer is not liable to indemnify agent him against the consequences of that Act.



Suvi: "Hey, can you publish this for me in your newspaper?"

Vani: "Mr. Adani's stocks to sink soon".



- Mr. Adani reads this libelous news and decides to file a suit against 'Janta ki Awaz' newspaper.

- All costs and damages have to be paid by Vani.
- Suvi is not liable indemnity Vani.



Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed., 2020, Page No. 783

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Q.48) If the agent has neither express nor implied authority to do an act on behalf of the principal but the principal by his conduct created an impression in the mind of the third person that the agent has an authority to act on his behalf. Then principal is liable towards the third person because of.....

- a) Agency by necessity***
- b) Agency by holding out***
- c) Agency by estoppel***
- d) None of the above***

Ans: C

Section 237

Agency by estoppel:

- Act to induce third person.
- Make belief that such acts were within the scope of the agent's authority.



Don't worry! I have a direct word from Mr. Khurana
He is the one authorizing to close this deal at 2 crore rupees

- And enters into a transaction with the third party.
- **The principal is bound by the act of agent.**

K.S. Ramachandran Vs The Registrar Of Co-Operative (1962) 2 MLJ 407

- A clerk who was also a cashier was barred by the society to receive payments from members of the society.
- **But he continued to receive payments.**
- Clerk was held to have an **apparent authority** and **Section 237** was applicable.

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed., 2020, Page No. 798

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Q.49)is a mercantile agent who guarantees the performance of the contract by the third person on the payment of some extra commission

a) Broker

b) Factor

c) Auctioneer

d) Del credere Agent

Ans: D



Del Credere Agency

Agent acts not only as a salesperson, or broker, for the principal, but **also as a guarantor of credit** extended to the buyer.

Gabrial Vs Churchill & Sim (1914) 3 K.B. 1272

- The liability of the del credere agent is a contingent pecuniary liability.
- In case of a dispute, del credere broker is not to take upon themselves all the obligations and defences of the buyer

K. V. Perlyamanna Marakkayar Vs Banians And Co. 95 Ind Cas 154A

Del credere agent:

- Who in consideration of extra remuneration, called a del credere commission,
- Undertakes that the persons with whom they enter into contracts on the principals' behalf will be in a position to perform their duties.

Did you Know?



A del credere is an Italian term.



Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed., 2020, Page No. 745

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Q.50) 'A' enters in to a contract with 'B' to sing at his theatre two nights in every week during the next two months and 'B' engages to pay her at rate of Rs. 1000 for each night. 'A' wilfully absents herself on the sixth night but with the assent of 'A' sings on the seventh night 'B':-

a) Can put an end to the contract

b) Cannot put an end to the Contract

c) Is not liable to pay for five nights on which A had sung

d) Is not entitled to compensation for damage sustained by him on the sixth night

Ans: B

Section 39 of ICA provides that,

- when a party to a contract has refused to perform, or
- disabled himself from performing,
- his promise in its entirety,
- the promisee may end to the contract **unless he has signified, by words or conduct, his acquiescence** in its continuance.



Natesa Aiyar Vs AppavuPadayachi
(1915) ILR 38 Mad 178

The rule enacted by **Section 39** of ICA gives a right to the vendor to **rescind** the contract if the purchaser has "disabled himself from performing the contract."

Reference: Contract & Special Relief by Avtar Singh; 5th Ed; 2008; Page No. 180.

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Q.51) Assertion (A): 'A' is a boy of nine years of age. He intentionally murders 'B '. 'A ' can be convicted for murder.

Reason (R): A child of less than 12 years is immune from criminal liability.

Make the correct answer from the codes given below:

a) Both (A) and (R) are true and (R) is the correct explanation of (A).

b) Both (A) and (R) are true but (R) is not the correct explanation of (A).

c) A is true but (R) is false.

d) A is false but (R) is true.

Ans: B

Section 83 of IPC: Doli capax

An act not an offence

Done by child under 7-12 years

If he doesnot have sufficient maturity or understanding of his act

In the given problem,

A is 9 years of age.

A intentionally commits murder; meaning he knows the **consequences of his act**

A cannot take the defence of **Section 83 of IPC.**

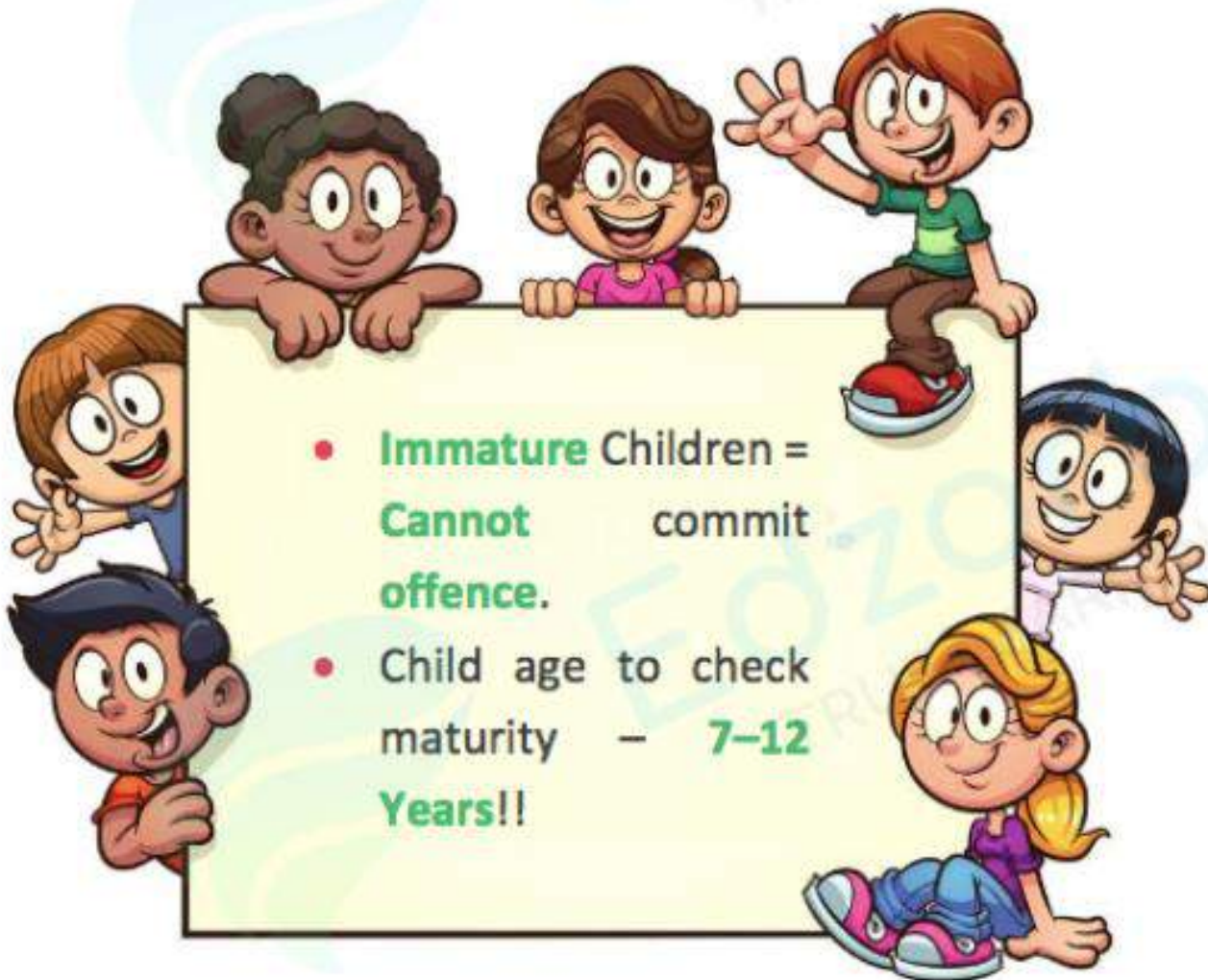
Reference: The Indian Penal Code by S.N. Mishra, 19th Edn.,2013, Page No.190

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Section 83

Act done by a child above 7 years to 12 years = No offence

- Characteristics of such a child: Not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.



Section 82	Section 83
Child below 7 years	Child between 7-12 years
Complete immunity	Immunity depending on the maturity of the child
Child has assumed no Mens Rea	Mens Rea is attributed if the child is shown to be mature

Reference: Indian Penal Code, 1862 s 83

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Q.52) Dishonest misappropriation _____ is dishonest misappropriation.

- a) with the consent of owner**
- b) without guilty mind**
- c) for the time being**
- d) for benefit of owner**

Ans: C



Section 403

IPC

Dishonest Misappropriation of Property

Explanation 1 :

A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.



Section 403

IPC

Dishonest Misappropriation of Property



Ok, I have made the payment through PAYTM.



Commits Dishonest Misappropriation of Property

Thank you! The trip was AMAZINGGG.

Don't be so formal MANN.



Next page...



Q.53) Where a wrong leads to mischief by fire on a building used as a human dwelling or a place for custody of property the right of private defence extends voluntarily causing

- a) Any harm including death***
- b) Any harm other than death***
- c) Any harm other than death & grievous hurt***
- d) Either (b) or (c).***

Ans: A



Section 103

Private defence of property extending to cause death

First

Robbery

Secondly

House Breaking at night

Thirdly

Mischief by fire in a human dwelling

Fourthly

Theft, mischief or house trespass giving apprehension of death/grievous hurt.

- Suraj burned down Rima's house
- Rima in order to stop him, fired shots at Suraj.
- Those shots killed Suraj.



Reference: The Indian Penal Code by Ratanlal & Dhirajlal 33rd Ed., 2013, Page No. 176
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Q.54) A widower, holding an axe accompanied by his son, went to the woods to gather leaves. After some time, his nephew discovered that the accused was sleeping under the tree and the child was missing, who later was found dead. It transpired in evidence that the accused at the time being was seized of the state of mind that a tiger was going to attack him and he killed his son. Which of the following defence is available to the accused.

- a) Defence of unsoundness of mind*
- b) Defence of mistake of fact*
- c) Defence of necessity*
- d) No defence*

Ans: B

Section 79

IPC

Act Done by a Person Justified, or by Mistake of Fact Believing Himself Justified, by Law

- Nothing is an offence which is done by any person who is justified by law, or who by reason of a **mistake of fact** and not by reason of a mistake of law in **good faith**, believes himself to be justified by law, in doing it.



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Chirangi Vs the State of M.P. (1952)53 CrLJ 1212 (M.P.)

- A widower, holding axe accompanied by his son, went to woods to gather leaves.
- After some time, his nephew discovered that the accused was sleeping under the tree and the child was missing. Later, the child was found dead.
- It was transpired in evidence that the accused at the time being was seized of the state of mind in which he visualized that a tiger was going to attack him as by mistake he killed his son considering his son as the tiger.

The court stated that **it was a mistake of fact** that immunized him from liability. He had **no intention to kill his son.**

Reference: The Indian Penal Code by Prof. S. N. Misra; 19th Ed, 2013; Page No: 193.

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Q.55) Attempt to rape shall be punished under

a) Section 375 r/w Section 511

b) Section 375 r/w Section 509

c) Section 376 r/w Section 511

d) Section 376 r/w Section 509

Ans: C



- **Attempted rape** is an **attempt** to have sexual intercourse with another person without that person's consent where no sexual penetration occurs.
- The original **Section 375** and the provisions providing punishment have witnessed **major amendments**, during **1983** and **2013**.



- Both the Amendment Acts were triggered by peculiar instances of custodial rape and of brutal gang rape on young in the capital of the country.



CRIMINAL LAW (AMENDMENT) BILL, 2018

AMENDMENTS TO THE INDIAN PENAL CODE, THE CRIMINAL PROCEDURE CODE, EVIDENCE ACT, AND POCSO



1.) RAPE OF GIRL UNDER 12 YEARS OF AGE

Minimum punishment: 20 years

Maximum punishment: Death penalty

2.) RAPE OF A GIRL UNDER 16 YEARS OF AGE



Previous minimum punishment: 10 years

New minimum punishment: 20 years of rigorous imprisonment

Maximum punishment: Life imprisonment



3.) RAPE OF A WOMAN

Previous minimum punishment: 7 years

New minimum punishment: 10 years of rigorous imprisonment

4.) PROCEEDINGS OF THE COURT

- ☐ Complaint filed
2 months
- ☐ Completion of probe
2 months
- ☐ Conclusion of trial
6 months
- ☐ Limit for disposal of pleas



- The Criminal law (Amendment) Act 13 of 2013, for **Section 375, 376, 376A, 376B, 376C and 376D** of IPC has been amended by a judicial committee headed by Justice J.S. Verma.
- The **attempt to commit rape or any offence** begins when the accused commences to do an act with the **necessary intention**.



CHANGES IN LAW

Acting on the suggestions of the Justice JS Verma panel, Parliament passed the Criminal Law (Amendment) Act 2013, which came into effect on April 2, 2013. The Act widened the definition of rape. A look at how the law has made punishment more stringent:

■ Offence ■ Previous law ■ Criminal law 2013

Punishment for gang rape

10 years to life imprisonment | 20 years to life imprisonment

Rape resulting in death or vegetative state

Rape and murder dealt with as two separate offences. Rape: 7 years to life imprisonment; Murder: Imprisonment for life or death | 20 years of life imprisonment or death sentence

Assault or criminal force on woman with intent to outrage her modesty

Imprisonment for maximum 2 years and fine | 1 to 5 years imprisonment and fine

Use of unwelcome physical contact, words or gestures, demand or request for sexual favours, showing pornography against the will of a woman, making sexually coloured remarks

No specific provision | Up to 3 years imprisonment and fine

Voyeurism

Up to 3 years and/or fine | 1 to 3 years imprisonment; Second time offence with 3 to 7 years

Assault to disrobe a woman or compelling her to be naked

No specific provision | 3 to 7 years imprisonment and fine

Stalking

No specific provision | Up to 3 years in jail and fine

Acid attack

Up to 7 years imprisonment | 10 years to life imprisonment

Consensual sex by a person in authority

Punishable with 5 years imprisonment | 5 to 10 years imprisonment



Chaitu Lal Vs State of Uttarakhand
Crl. A. No. 2127/2009

- The attempt to commit an offence **begins when the accused commences** to do an act with the necessary intention.
- If there is a **definitive intention** to commit rape.
- It is immaterial whether the accused undressed himself or not
- The action of the accused will constitute the offence under **Section 511 (Attempt to commit an offence)** read with **Section 376**.

Reference: Indian Penal Code, 1860 s 376

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Q.56) As per Section 57 of IPC, imprisonment for life is equal to

- a) 14 years**
- b) 20 years**
- c) 30 years**
- d) None of the above.**

Ans: B

Section 57:

Fractions of terms of punishment:

Imprisonment for life = Imprisonment for twenty years.



Reference: Indian Penal Code, 1862 s 57,

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Q.57) Which of the following sections attracts the imprisonment of death?

a) Section 394

b) Section 396

c) Section 398

d) Section 400

Ans: B



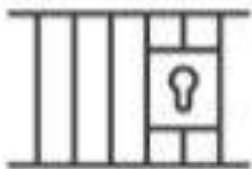
Section 396:

Dacoity with murder:

- When five or more people are **conjointly committing dacoity**.



- And, **if any one** of those five or more persons **commits murder** in so committing dacoity
- **Every one** of those persons shall **be punished**.



- **Death** or
- Imprisonment for **life**,

- Rigorous imprisonment up to **10 Years**
- And, **fine**.



- It is irrelevant who commits murder.
- If 'Anyone' commits murder, it will be seen as if everyone did it.
- And everyone will be punished accordingly.

Reference: Indian Penal Code, 1862 s 396

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Q.58) Match list one with two:

List I	List II
A. KM Nanavati vs State of Maharashtra	1. Criminal Conspiracy
B. Mithu vs State of Punjab	2. Section 300
C. Virsa Singh case	3. Murder Exception 1
D. State of TN vs Nalini	4. Section 303

Code:

a) A:4, B:3, C:2, D:1

b) A:1, B:2, C:3, D:4

c) A:3, B:4, C:2, D:1

d) A:3, B:2, C:4, D:1

Ans: C

State of Tamil Nadu
v.
Nalini
Cri. L.J. 3124 (SC)

Supreme Court held that association of the accused with the main accused or knowledge of conspiracy would not make the accused a conspirator. Agreement is since non for the offence.



Case Laws

IPC

Virsa Singh VS State of Punjab



Next page...

Case Laws

IPC

Virsa Singh VS State of Punjab

There is a four-point test, which the prosecution must do to look into & prove the case.



Physical Injury must be fairly and objectively be established.



Nature of injury must be proved.



That bodily injury was not unintentional or accidental. It was intended to inflame.



Type of injury is enough to cause death in normal course of nature.



- Once all these four elements are established by the prosecution, the offence is then said to be murder under Section 300 (thirdly).



Mithu
v.
State of Punjab
AIR 1983 SC

Supreme Court held Section 303 unconstitutional, as, it is against the spirit of Articles 14 and 21 of the Constitution.



Q.59) In which case the court held, “The word "entice" means to originates the idea of inducement or allurements.”

a) Shaik Ahmed v. State of Telangana

b) Jitender Kumar Sharma v. State

c) Masumsha Hasanasha Musalman v. State of Maharashtra

d) Thakorlal Vadgama v. state of Gujrat.

Ans: D

Case Law




IPC


Thakorlal D. Vadgama v. State of Gujarat

Parker Pen Case

AIR 1973 SC 2313



Oh wow!! Parker Pen, I love it.



It doesn't look nice to take expensive gifts. Go, return it.

Next page...

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Case Law



IPC

Thakorlal D. Vadgama v. State of Gujarat

AIR 1973 SC 2313



Next page...



Case Law

IPC

Thakorlal D. Vadgama v. State of Gujarat

AIR 1973 SC 2313

HOW DARE YOU hangout
with that MANNN...

You will never see
him again...



I am not happy
here. My parents
are scolding me 😞



Next page...



Case Law

IPC

Thakorlal D. Vadgama v. State of Gujarat

AIR 1973 SC 2313

I have come to cheer you up. Let's go for a drive.



Where are we??? When will we go back?



Next page...



Case Law

IPC



Thakorlal D. Vadgama v. State of Gujarat

AIR 1973 SC 2313



Supreme Court held :

- Taking of minor need not to be done by **force**.
- The word "**entice**" means to originate the idea of **inducement or allurements** by giving rise to hope or desire in the other.
- The man **enticed the girl** over the time by giving her gifts etc.
- Hence, the man is liable for **Kidnapping**.



Q.60) A's illegal marriage with B was performed by a priest 'P' knowing that the marriage was illegal; because 'A' was already married. A's father 'C' and two other person 'D' and 'N' were present at the time of marriage. In this case

- a) C, 'D' and 'N' are liable for abetment*
- b) Only A's father 'C' is liable for abetment*
- c) 'C, 'D', 'N' and the priest 'P' all are guilty of abetment*
- d) Only the priest 'P' is liable for abetting the offence of bigamy*

Ans: D



CHAPTER V

OF ABETMENT

Section 107

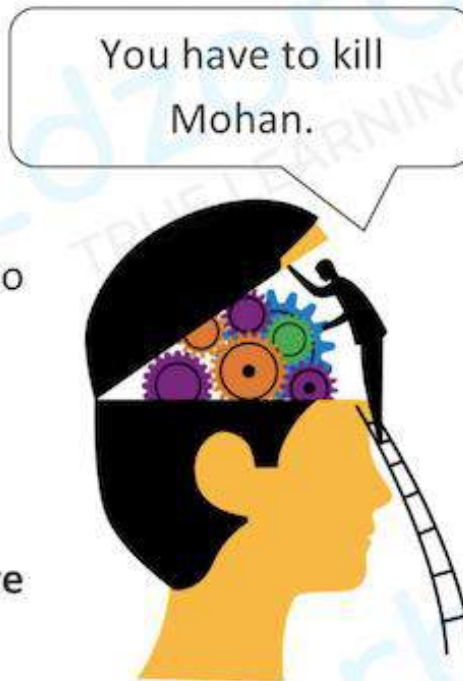
Abetment of a thing =

1. INSTIGATION

Instigates any person to do that thing.

2. CONSPIRACY

- Engages with one or more other person or persons in any conspiracy for the



doing of that thing, if an **act** or **illegal omission** takes place **in pursuance** of that **conspiracy**, and in order to the doing of that thing; or



3.AID

Intentionally aids the doing of that thing by any act or illegal omission



Explanation 1:

Instigate the doing of a thing =

- **Causing** or **procuring** (or attempt) a thing to be done
- By **wilful misrepresentation** or wilful concealment
- Of **material fact** which the person is bound to disclose.

Abetment By Instigation

Psst... killer is inside the

All units informed. Killer inside the house.



215





- Here, the police **officer** was **wilfully represented** by the Jaggu that the killer is inside the house.
- Under this representation, the police officer apprehended and arrested Mangu who was not the wanted killer, Yamraj.
- Here Jaggu **abets by instigation** the **apprehension** of Mangu.



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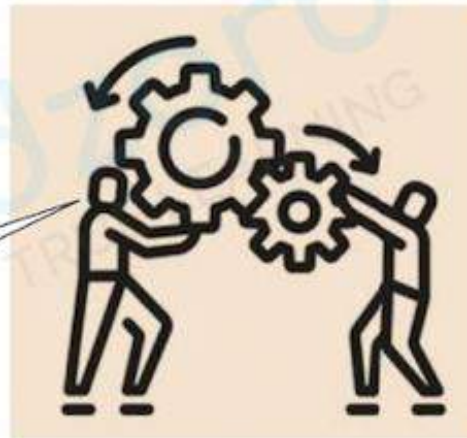


Explanation 2:

Aid the doing of act =

- **Facilitating** the commission of act
- Either prior to at or at the time of the commission of an act

I will help you make fake currency.



Abetment by aiding



Facilitating commission of offence is also abetment by aiding.

- Jaggu is riding the bike and Maggu is snatching the purse.
- **Jaggu is facilitating the snatching of the purse by providing bike**



Section 107



I hope she never gets to know that I am married

So, what, if he is married, he is doing a good work taking care of two women!!

This man is guilty of Bigamy under **Section 494**



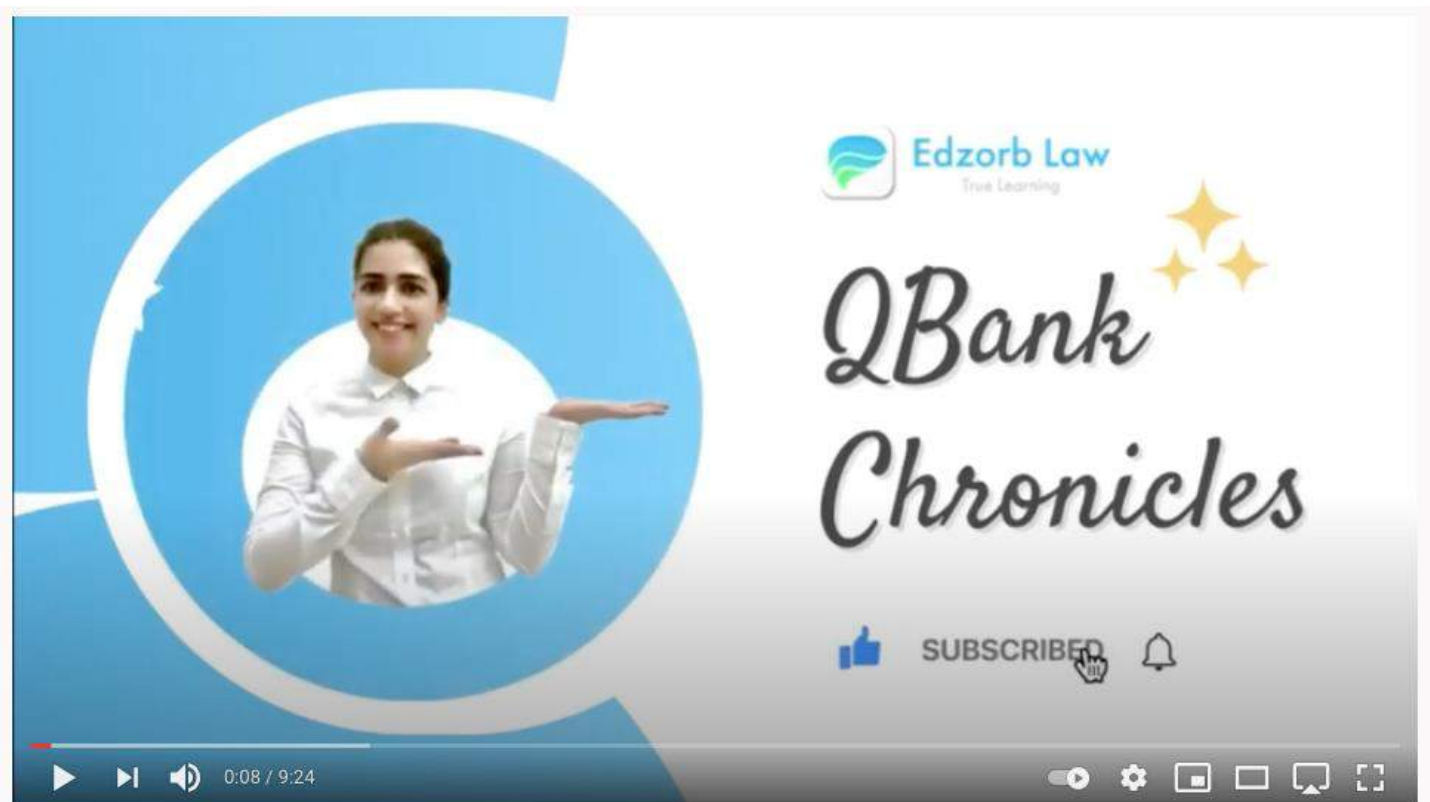
The pandit is guilty **abetment of Bigamy** by **AIDING**



Malan and others Vs State of Bombay 1960 CrLJ 1189

- Mere presence at the commission of a crime **cannot amount to intentional aid**, unless it was intended to have that effect.
- To be **present and to be aware** that an offence is about to be committed **does not constitute abetment** unless the person involves in encouragement for commission of an offence.

Reference: Indian Penal Code KD Gaur: Criminal Law-Cases and Materials, 9th ed, ch 5 p 10
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Q.61) Match List-I with List-II and select the correct answer using the codes given below the lists:

List I	List II
A. Common intention	1. United States v. Holmes
B. Necessity	2. State of M. P. v. Deshraj & Others
C. Attempt to rape	3. Koppula Venkat Rao v. State of Andhra Pradesh
D. Accident	4. Sukhdev Singh v. Delhi State (Government of NCT of Delhi)

Codes:

a) A:3, B:2, C:1, D:4

b) A:4, B:3, C:2, D:1

c) A:1, B:4, C:2, D:3

d) A:2, B:1, C:3, D:4

Ans: D

United States Vs Holmes 6 F. Cas. 360 (C.C.E.D. Pa. 1842)

The ship was drowning and the captain of the ship ordered to throw some people in the sea. The **defence of necessity** was rejected ordering the necessity cannot be claimed for self-preservation.

State of M.P. Vs Deshraj & others

Section 34 is applicable even if no injury has been caused by the particular accused himself. For applying **Section 34** it is not necessary to show some overt act on the part of the accused.

Read more: <https://indiankanoon.org/doc/556277/>

Koppula Venkat Rao Vs State of Andhra Pradesh

When the evidence of the prosecutrix is considered in the proper perspective, it is clear that the commission of actual **rape** has not been established. However, the evidence is sufficient to prove that **attempt to commit rape** was made.

Read more: <https://indiankanoon.org/doc/1762218/>

Sukhdev Singh Vs NCT Delhi

When an accused pleads an exception within the meaning of **Section 80** there is a presumption against him and the burden to rebut the presumption lies on him.

Read more: <https://indiankanoon.org/doc/477654/>

Reference: The Indian Penal Code

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Q.62) Ms. A bought a car on the name of her daughter, B, who is a minor, and got the insurance policy transferred to her name (A). The car met with an accident on two counts and she file for a claim on both the counts, from the insurance agency. She acknowledged the receipt of the money as B. The insurance company prosecuted her under Section 467 of the IPC alleging fraud on the appellant's part?

a) A is guilty of forgery because she made the insurance company believed that she is B

b) A is not guilty of forgery because the said deceit did not secure her any advantage as the entire transaction was that of A

c) A is guilty of forgery because she signed all the papers in the name of B

d) Both (A) and (C)

Ans: B

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

Section 463

Committing Forgery:

- Whoever **makes** any **false document** or **false electronic record** or part of a document or electronic record
- **Intention:**
 - To cause **damage** or injury to the public or to any person
 - To **support** any **claim** or title
 - To cause any **person to part with property**
 - To **enter** into any express or implied **contract**
 - To **commit fraud** or that fraud may be committed.





Reference: Indian Penal Code, 1860 s 463

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Section 465:

Punishment for forgery:

- Imprisonment – up to **2 Years**
- Or with **fine**.
- Or with both.

Cover my insurance claim. My car
got lost!! It duly '*signed*'!!



Vimla Vs Delhi Administration

AIR 1963 SC 1572

- The car was insured in the name of minor daughter, Nalini.
- When the car met with accidents, Dr. Vimla signed the claim forms & receipts of compensation money as Nalini.
- The insurance company **alleged fraud** under **Section 467** – Forgery.
- **False document & Forger must be read together.**

Mens Rea

- Dishonestly and fraudulently (S. 464) are used **alternatively** indicating they must be given different meanings.
- **S. 24** defines **dishonestly**
- Deceit is not an ingredient of dishonestly
- **Fraudulently S. 25**
- Defraud includes an element of deceit.
- **For fraud there must be deceit and injury** to the person deceived.
- Dr . Vimla **was guilty of deceit for signing** as Nalini and making the insurance company believe that her name was Nalini.
- However, **she did not secure any advantage** or cause any non-economic loss or injury to the insurance
- Therefore, Dr. Vimla was **not guilty**

Reference: Indian Penal Code, 1860 s 465

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Q.63) Which of the following does not attract Section 34 of the IPC?

a) the accused husband killed his wife and threw her dead body into the well to the knowledge of co-accused. As yet co-accused took the false plea that on date and hour incident the deceased was present in the house.

b) the accused was involved in looting the victims in broad daylight on the main public road. Main accused indulged in looting but co-accused was simply standing nearby. guarding that the offence be committed

c) Driver and cleaner of a bus when form a common intention to kill the deceased and in pursuance of the plan kill him and take away the sale proceeds of the grain sold by him

d) all of them except the co-accused in B.

Ans: D

Section 34:

ACT DONE WITH COMMON INTENTION

- Criminal act
- Several persons
- In furtherance of **common intention of all**
- Liability attached to each of such persons in the same manner as if it were done by that person alone.



Mahbub Shah vs Emperor AIR 1945 PC 118

Facts:

- Mahbub Shah warned the deceased against collecting reeds from land belonging to them.
- Allah Dad (deceased) with a few others ignored the warning collected reed from their land.
- In the altercation and fight, Mahbub Shah and Wai Shah fired and killed Allah Dad and hurt to Hamidullah.

Issue:

- Whether rightly convicted of Murder upon the true construction of Section 34?

Held:

- ***In furtherance of the common intention of all:*** No evidence to show that they had a premeditated concert to bring about the murder of Allah Dad in carrying out their intention of rescuing Quasim Shah.
- Common intention is different from same or similar intention.



Ground	Section 34	Section 149
Offence	<ul style="list-style-type: none"> Does not create substantive offence. It deals only rule of evidence. Chapter II. 	<ul style="list-style-type: none"> Creates substantive offence. Mentioned under Chapter VIII.
Act	<ul style="list-style-type: none"> Active participation Either in form of overt act or covert act is necessary. 	<ul style="list-style-type: none"> Being a member of unlawful assembly is sufficient. Liable even there is no act.
Common intention/ Objects	<ul style="list-style-type: none"> Common intention is sine qua non. Common intention is wider. 	<ul style="list-style-type: none"> Common object is sine qua non. Common object is limited up to five circumstances as mentioned u/s 141
Minimum persons	<ul style="list-style-type: none"> Requires at least two persons. 	<ul style="list-style-type: none"> Requires at least by five persons.



Q.64) According to Criminal Law (Amendment) Act, 2013, the right of private defence of the body extends to the voluntary causing of death or of any other harm to the assistant if the offence which occasions the exercise of the right is the act of:

a) Stalking

b) Voyeurism

c) Acid Attack

d) All of the above.

Ans: C



Section 100

IPC

When the Right of Private Defence of the Body Extends to Causing Death

- The **right of private** defence of the body extends, under the restrictions mentioned in the last preceding section, to the **voluntary causing of death** or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely –
 - 1 Such an **assault** as may reasonably cause the **apprehension** that **death** will otherwise be the consequence of such assault;



Section 100

IPC

When the Right of Private Defence of the Body Extends to Causing Death

2

Such an **assault** as may reasonably cause the **apprehension** that **grievous hurt** will otherwise be the consequence of such assault.



Section 100

IPC

When the Right of Private Defence of the Body Extends to Causing Death

3 An assault with the intention of committing rape.



Section 100

IPC

When the Right of Private Defence of the Body Extends to Causing Death

4 An assault with the intention of gratifying unnatural lust.



Section 100

IPC

When the Right of Private Defence of the Body Extends to Causing Death

5 An assault with the intention of kidnapping or abducting.



Section 100

IPC

When the right of private defence of the body extends to causing death

6

An **assault** with the **intention** of **wrongfully confining** a person, under circumstances which may reasonably cause him to apprehend that he will be **unable** to have **recourse to the public authorities** for his release.



Section 100

IPC

When the right of private defence of the body extends to causing death

- 7** An act of **throwing or administering acid** or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.



Q.65) Accessorium non ducit, sed sequitur suum principale means:

a) Accomplice does not do away with the offence by principle

b) an accessory does not draw, but follows its principal

c) Accessory does not get saved from the crime as well

d) An accessory to the crime cannot be guilty of a more

Ans: B





Accessorium Non Ducit Sed Sequitur Suum Principale



**AN ACCESSORY DOES NOT DRAW,
BUT FOLLOWS ITS PRINCIPAL**



S. 109 of Indian Penal Code

**Malik v. UOI
1969 SCC OnLine All 276**



Q.66) In Navtej Singh Johar's case, who said "Section 377 an anachronistic colonial law."

a) J. Khanwilkar

b) CJI Mishra

c) Justice Nariman

d) Justice Chandrachud

Ans: D



Section 377

Unnatural offences:

- Voluntarily having carnal intercourse
- Against the order of nature
- With any man, woman or animal
- Punishment – Imprisonment for life or

- Imprisonment of up to **10 Years**
- Fine.



Explanation:

- **Penetration is sufficient** to constitute the carnal intercourse necessary to the offence described in this section.

Bench	Judgment
CJI Misra Justice Khanwilkar	<ul style="list-style-type: none">• Violative of Individual's right self-determination.• Individual's ability to consent.



- Discriminates on the basis of inherent biological determinants and individual's choices.
- Constitution protects an individual's sexual autonomy and intimate personal choices.
- **377 unconstitutional:** Manifest arbitrariness' and the failure to meet the 'reasonable classification test'.

Justice
Chandrachud

- Section 377 an **anachronistic colonial law**.
- Non-recognition of the right to sexual orientation also leads to a **denial of privacy**, a fundamental right recognized in Puttaswamy.
- Human sexuality cannot categorize individuals using a binary male/female construction.
- **Decriminalization of Section 377 is first step to guarantee LGBT individuals their constitutional rights** and that the Constitution envisages much more.



Navtej Singh Johar Vs Union of India

“Decriminalising 377 Case”

(2018) 10 SCC 1

- Section 377 discriminates against individuals on the basis of their sexual orientation and/or gender identity, violating **Art. 14 & 15**
- **Section 377** violates the rights to life, dignity and autonomy of personal choice under **Art 21**.
- It inhibits an LGBT individual's ability to fully realize their identity, by violating the right to freedom of expression under **Art 19(1)(a)**

Reference:

- **NALSA Vs UOI [AIR 2014 SC 1863]**[Recognising Third gender]
- **Puttaswamy Vs UOI (2017) 10 SCC 1** (Recognised Fundamental Right To Privacy).
- In partially striking down **Section 377**, the Bench overruled **Suresh Koushal vs NAZ foundation CA 10972 /2013**.
 - In Suresh Koushal the Court had upheld the constitutionality of **Section 377**. The Court is concerned with safeguarding 'constitutional morality', not 'popular morality'.

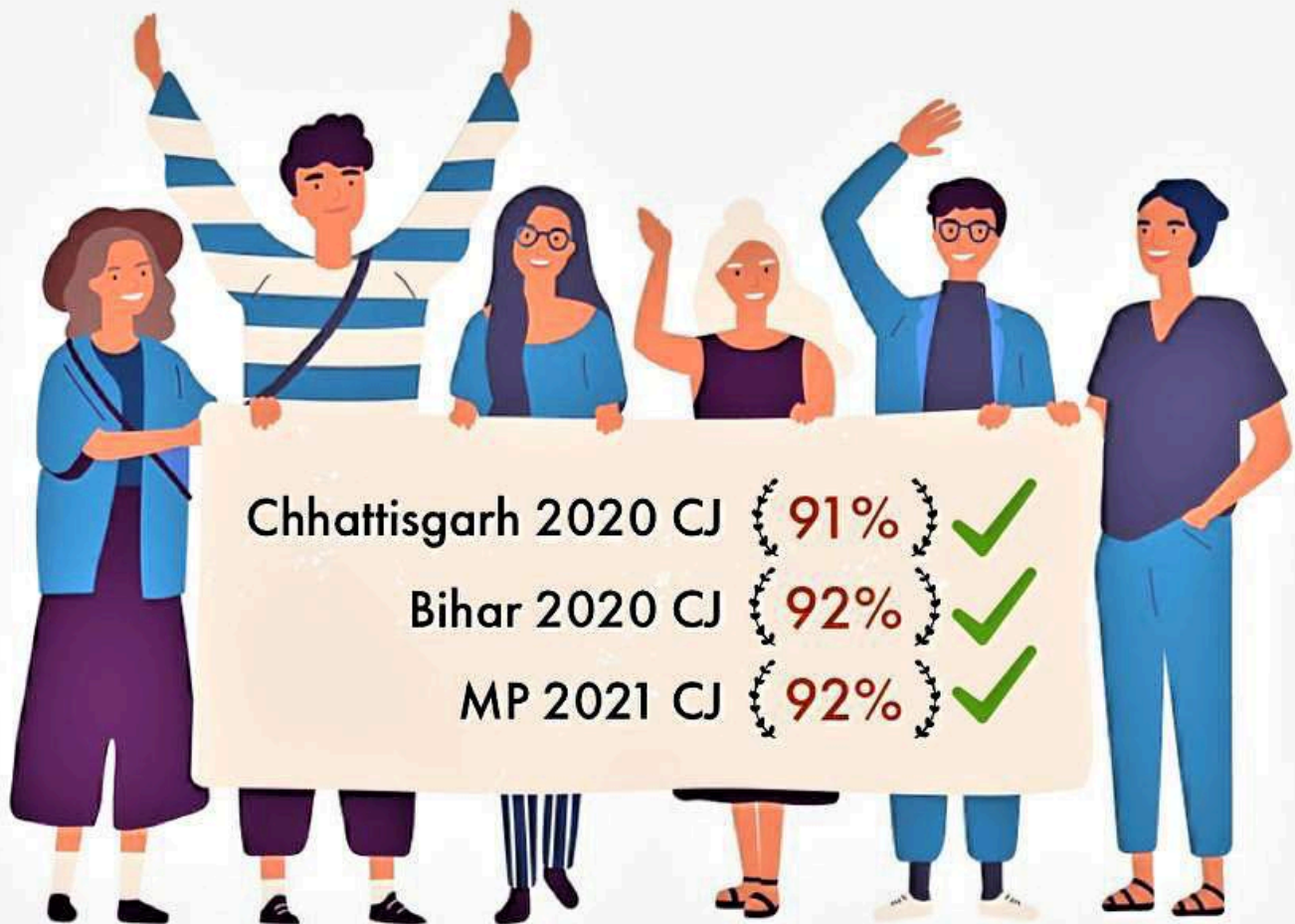
Reference: Indian Penal Code, 1862 s 377

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Q.67) Which of the following case law does not deal with defence of insanity:

a) Madhavan Vs State of Kerala

b) Surendera Mishra Vs State of Jharkhand

c) Hari Singh Gond Vs State of MP

d) None of the above

Ans: D

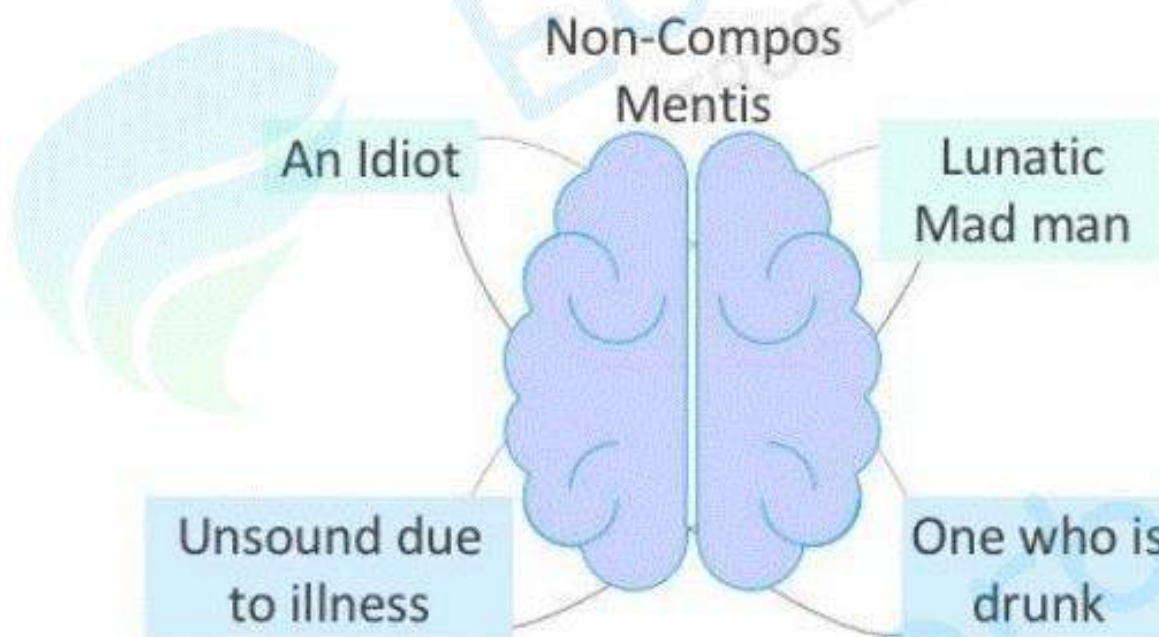


Section 84

Non Compos Mentis



Not of Sound Mind



Madhavan Vs State of Kerala (1992) 1 Ker LT 544

Legal Insanity:

- A person who is **incapable of knowing the nature** of his act or is capable.
- Every type of insanity cannot amount to legal insanity.
- Disorder to the extent as to **destroys volitional capacity**.
- mental condition at the time of the commission of the offence.
- **Previous medical history** is a relevant factor



Surendera Mishra Vs State of Jharkhand
AIR 2011 SC 627

- The **onus of proving insanity** lies on the **accused**.
- **Prove his conduct** prior to offence, at the time or immediately after the offence.
- Prove legal insanity **beyond all reasonable doubt**.

Hari Singh Gond Vs State of Madhya Pradesh
[AIR 2009 SC 31]

- Every person, who is mentally diseased, is not ipso facto exempted from criminal responsibility.
- **A Court is concerned with legal insanity**, and not with medical insanity

Did you Know?

Section 105 of the Indian Evidence Act, 1872: **Burden of proof** rests on an accused to prove his insanity.



Reference: The Indian Penal Code by Ratanlal & Dhirajlal 33rd Ed., 2013, Page No. 119
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Q.68) Sexual harassment of the nature of making sexually coloured remark attracts a punishment of

a) Imprisonment extending upto 1 year or with fine or both

b) Imprisonment extending upto 3 years or with fine or both

c) Imprisonment of not less than 1 year but which may extend to 3 years and fine

d) None of the above

Ans: A

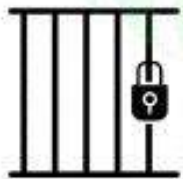


Section 354 A

Sexual Harassment

Ingredients:

- Physical contact and advances with unwelcome and explicit sexual overtures (I)
- Demand or request for sexual favours (II)
- Showing pornography against the will (III)
- Sexually coloured remarks (IV)



I - III → 3 Years + Fine

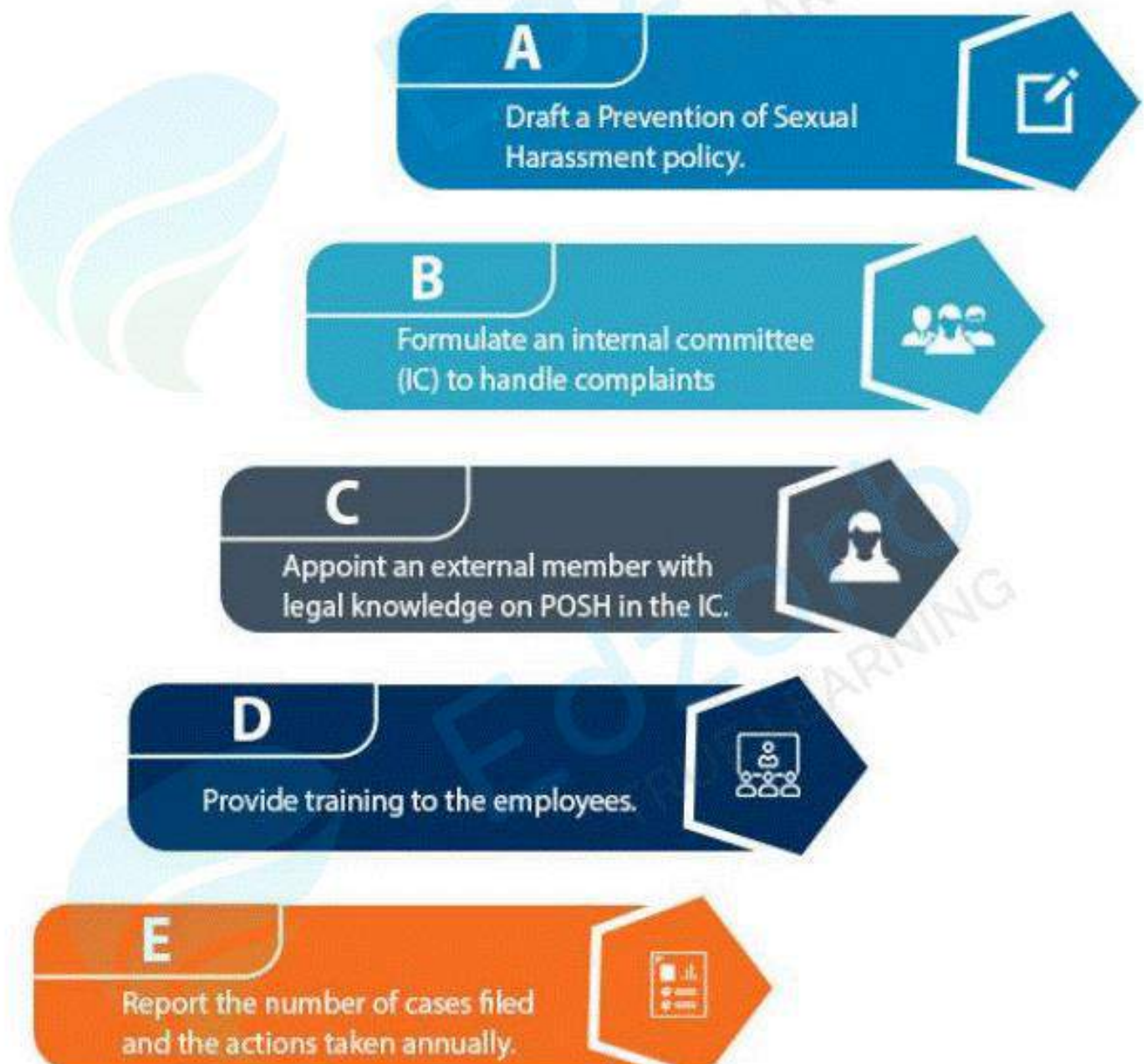
IV → 1 Years + Fine



POSH Act:

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Responsibilities of an employer under POSH Act:



Vishakha Vs State of Rajasthan (1997) 6 SCC 241

- Gender Equality finds place in Fundamental Rights enshrined under Article 14, 19 & 21.
- Sexual Harassment at Workplace is a clear violation of gender Equality

Guidelines:

- **Duty of the employer** to prevent or deter the commission of acts of sexual harassment.
- Guidelines must be issued by States.
- Ensure that **victims**, or witnesses are **not victimized** or discriminated against.
- **Appropriate complaint mechanism** for redressal.
- Complaints committee should be headed by a woman and not less than half of its member should be women.
- Awareness of the rights of female employees.



Reference :Vishakha Vs State of Rajasthan (1997) 6 SCC 241

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Q.69) A will be liable for abetment in the following case:

- a) When he abets B to murder C and B murders C***
- b) When he abets B to murder C and B refuses to murder C***
- c) When he abets B who is a lunatic to kill C and B kills C***
- d) In all the above cases***

Ans: D



Abetment of an offence:

- (a) A abets B to murder C and B murders C. As per **Section 107 of IPC**, A is liable for abetment.

Abettor is liable



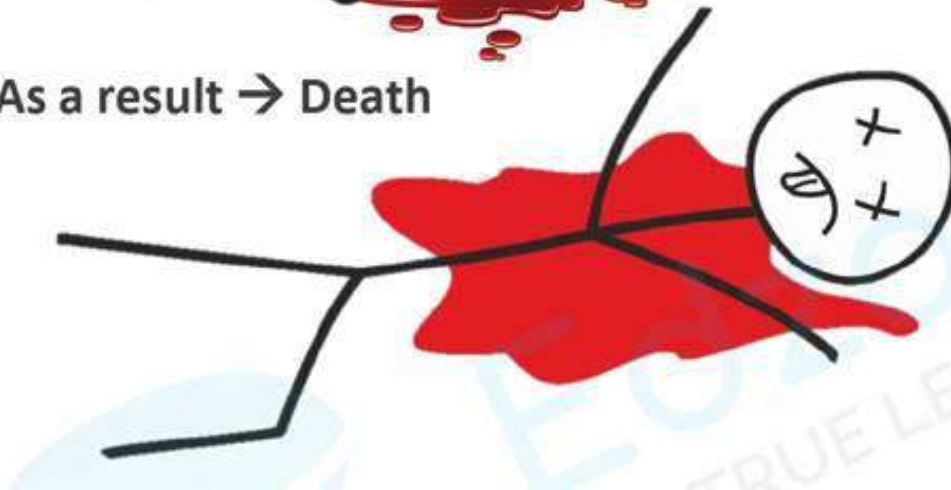
Even if the **effect requisite** to constitute the offence is not caused



Aaah!!

Stabbing due to
instigation

As a result → Death



(b) **Explanation II of Section 108** of IPC:

Abettor is liable



Even if the act abetted
is not committed.

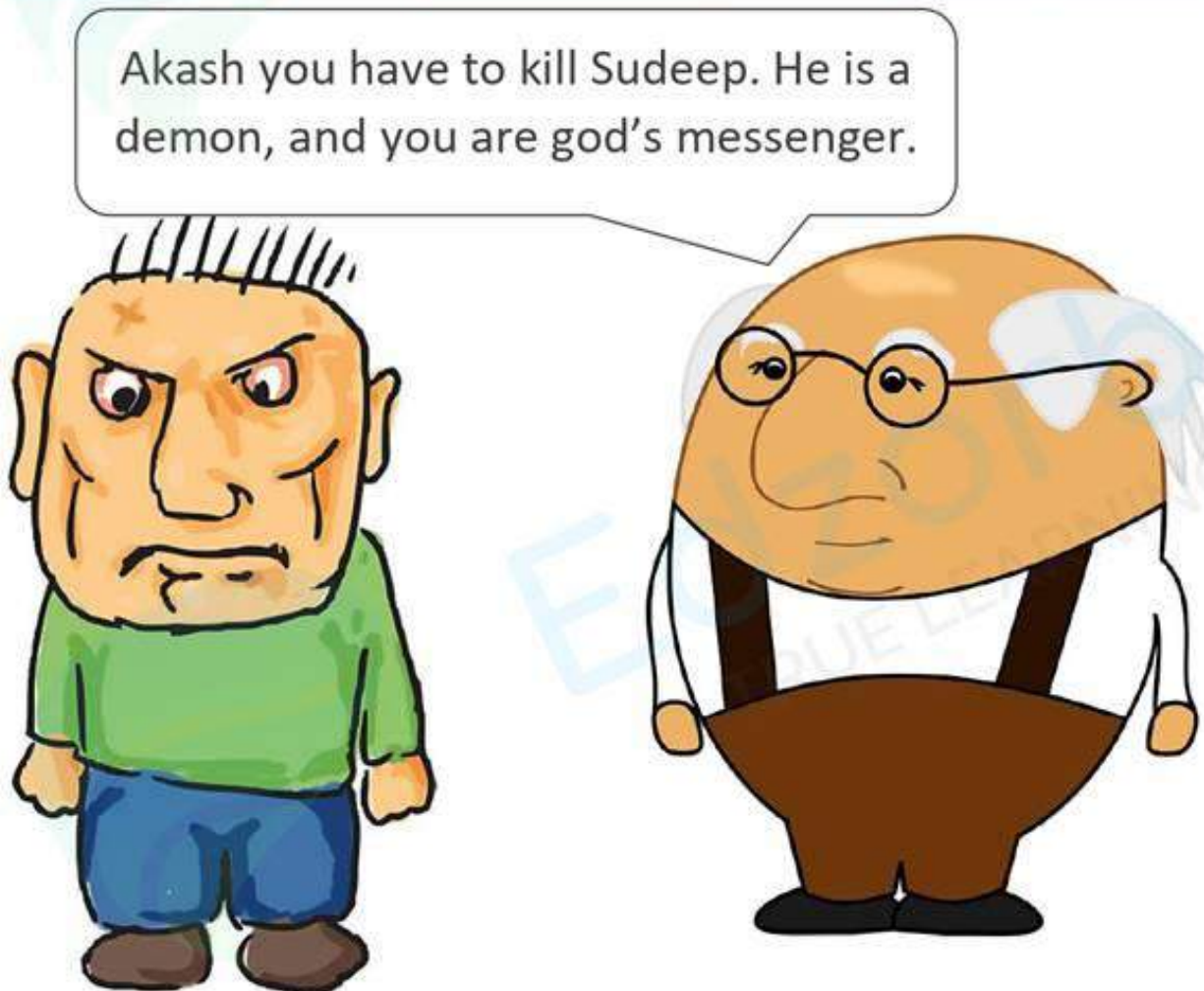
Hence, in light of **Explanation II of Section 108 of IPC**, even if B refuses to murder C, A is liable for abetment.

The offence of abetment
depends upon the
intention of the person
who abets.

It does not depend upon
the knowledge or
intention of the person
who is employed to do
the act.



(C) **Explanation III of Section 108** of IPC: Abettor





- Hence, as per **Explanation III of Section 108** of IPC,
- Even if Professor Gellar has abetted lunatic.
- And **nothing is an offence** done by a person of **unsound mind** u/s **84**. Here Akash is of unsound mind and incapable of understanding the nature of abetment.
- But, **Professor is still liable** for offence of abetment.



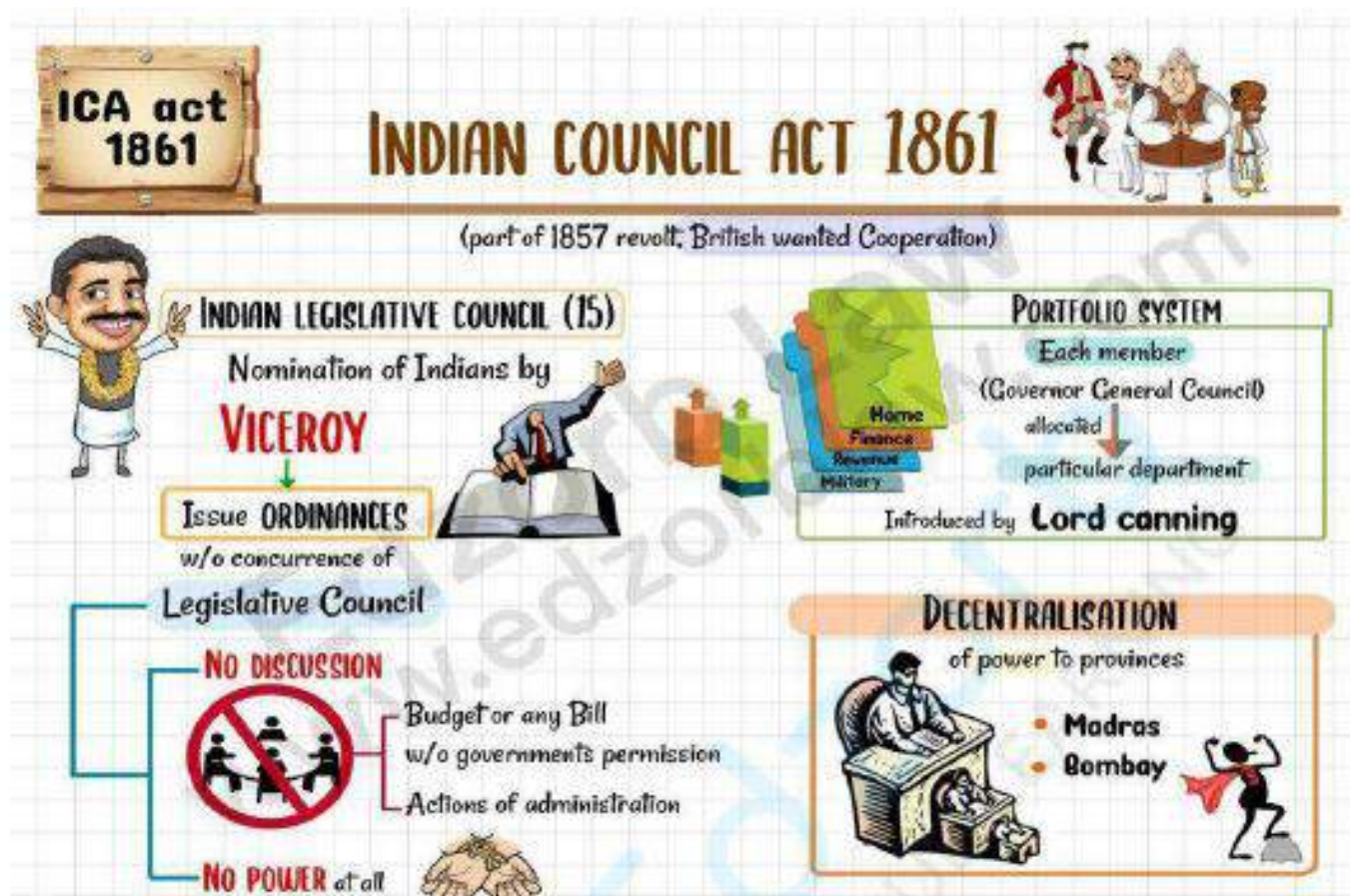
Reference: The Indian Penal Code, 1862 Ratanlal & Dhirajlal Ed 33 p 191

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Q.70) Which among the following had an objective of introducing the self-governing institutions to India?

- a) Indian Council Act, 1909.**
- b) Montague-Chelmsford Reforms**
- c) Cabinet Mission**
- d) Government of India Act, 1935**

Ans: B





MONTAGU-CHELMSFORD



- ✓ Gradual introduction of responsible government
- ✓ **Bicameralism** at centre



Legislature consists of two houses

Upper house
Lower house

Central subjects

CENTRAL LEGISLATURE



Provincial subjects

PROVINCIAL LEGISLATURES

Direct election



- No adult suffrage + no voting powers
- Extended COMMUNAL REPRESENTATION



Sikhs



Europeans



Anglo Indians



Indian Christians



New office - high commissioner for India
London

Central public service commission - 1926



Separated provincial and central budget

Appointment of a statutory commission
(enquire and report after 10 years)



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GOVERNMENT OF INDIA ACT 1935



(based on Simon + RTC + white paper 1933 + joint committees)

Provinces **X** **DYARCHY** ✓ Centre

Provincial autonomy - elected Indian Ministers

ALL INDIA FEDERATION



- British provinces
- Princely states (voluntary)
- 6 Chief commissioner Provinces



Lists	
<input checked="" type="checkbox"/>	Provincial 54
<input checked="" type="checkbox"/>	Federal 59
<input checked="" type="checkbox"/>	Concurrent 39

EXTENDED SEPARATE ELECTORATE

• Women



• Depressed classes



• Labour



Establishment of



Final court of appeal
Privy council

- Abolished council of India (15 members) provided by GOI act of 1858
- Residuary powers to viceroy + veto + ordinance
- Bicameralism in 6 out of 11 provinces

EXTENDED FRANCHISE ABOVE 10%



Separated

Sind
Bihar
Burma

Bombay
Orissa
India



Q.71) Who of the following is known as the founder of the modern Indian postal service?

- a) Lord Hardinge I**
- b) Warren Hastings**
- c) Lord Dalhousie**
- d) Lord Cornwallis**

Ans: C

Lord Hardinge I



- Delhi Durbar of 1911,
- annulment of the partition of Bengal (1911),
- Transfer of capital from Calcutta to Delhi (1911),
- Delhi Conspiracy Case (1912),
- Departure of Mahatma Gandhi to South Africa



Warren Hastings

- codification of Hindu and Muslim laws;
- First and second Anglo-Maratha wars,
- Second Anglo-Mysore war,



- Abolition of Dual System and quinquennial
- settlement of land revenue,
- foundation of Madarasa Aaliya (1781)
- Asiatic Society (1784),
- The Regulating Act 1773
- Pitts India Act, 1784



Lord Dalhousie



- Second Anglo Sikh War,
- Second Anglo-Burmese War 1852-53,
- Doctrine of Lapse,
- Annexation of Oudh 1856,
- Indian Railway Begins Journey 1853,
- **Indian postal service**, Telegraph begins in India 1854,



- Wood's Despatch of 1854

Lord Cornwallis



- Permanent Settlement of the land revenue of Bengal,
- Police Reforms of Cornwallis,
- Mysore Maratha War 1785-1787,
- Third Anglo Mysore war 1790-92

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Q.72) Which was the first newspaper published in India?

- a) Bengal Gazette**
- b) Calcutta Gazette**
- c) Bombay Herald**
- d) Bengal Journal**

Ans: A

Hicky's **Bengal Gazette** was the first English-language newspaper published on the Indian subcontinent. It was founded in Calcutta, capital of British India at the time, by Irishman James Augustus Hicky in 1779




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Q.73) Which place does Hindon River originates?

- a) Jabalpul
- b) Saharanpur
- c) Udhampur
- d) Dibrugarh

Ans: B




HINDON RIVER




ORIGIN

- Originates in the Saharanpur District, Uttar Pradesh

DISTANCE



400 Km




Hindon

RELIEF

- Flows between Ganges & Yamuna rivers & joins Yamuna river just outside Delhi

OTHER

- Rainfed River



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Q.74) Who was a convicted in the Lahore Conspiracy Case?

a) Rajguru

b) Bhagat Singh

c) Both a and b

d) Neither A nor B

Ans: C



Freedom Fighters



Kittur Chennamma

Led rebellion—defiance of
doctrine of lapse
Died imprisoned



Rani Lakshmi Bai

Died fighting against British troops
Tomb - Phool Bagh (Gwalior)



Mangal Pandey

Indian independence fighter
Executed by hanging at Barrackpore



Bhagat Singh

Hanged: 23 March 1931- Lahore jail
Lahore conspiracy case



Chandrashekar Azad

Died at Alfred Park (now Azad Park)
in Allahabad fighting police



Sukdev

Hanged: 23 March 1931- Lahore jail
Lahore conspiracy case



Bal Gangadhar Tilak

Advocated Swaraj [self rule]
Imprisonment in Mandalay



Tantia Tope

Indian Rebellion of 1857
Executed by British at Shivpuri



Sangolli Rayanna

Kittur Military Shetsanadi
Started a guerilla war against the British
Executed by hanging near Nandagad



Rajguru

Hanged: 23 March 1931- Lahore jail
Lahore conspiracy case



Lala Lajpat Rai

Punjab Kesari
Died-Injured during protest against
Simon Commission



Anant Laxman Kanhere

Executed for murder of oppressive
British officer A. M. T. Jackson.

Q.75) Nagarjuna Sagar Dam is built over which river

a) Periyar River

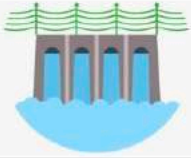
b) Penna River

c) Nramada River

d) Krishna River

Ans: D





DAMS IN INDIA



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Q.76) In which year Shimla Conference was held:

a) 1919

b) 1935

c) 1945

d) 1947

Ans: C





Important Dates

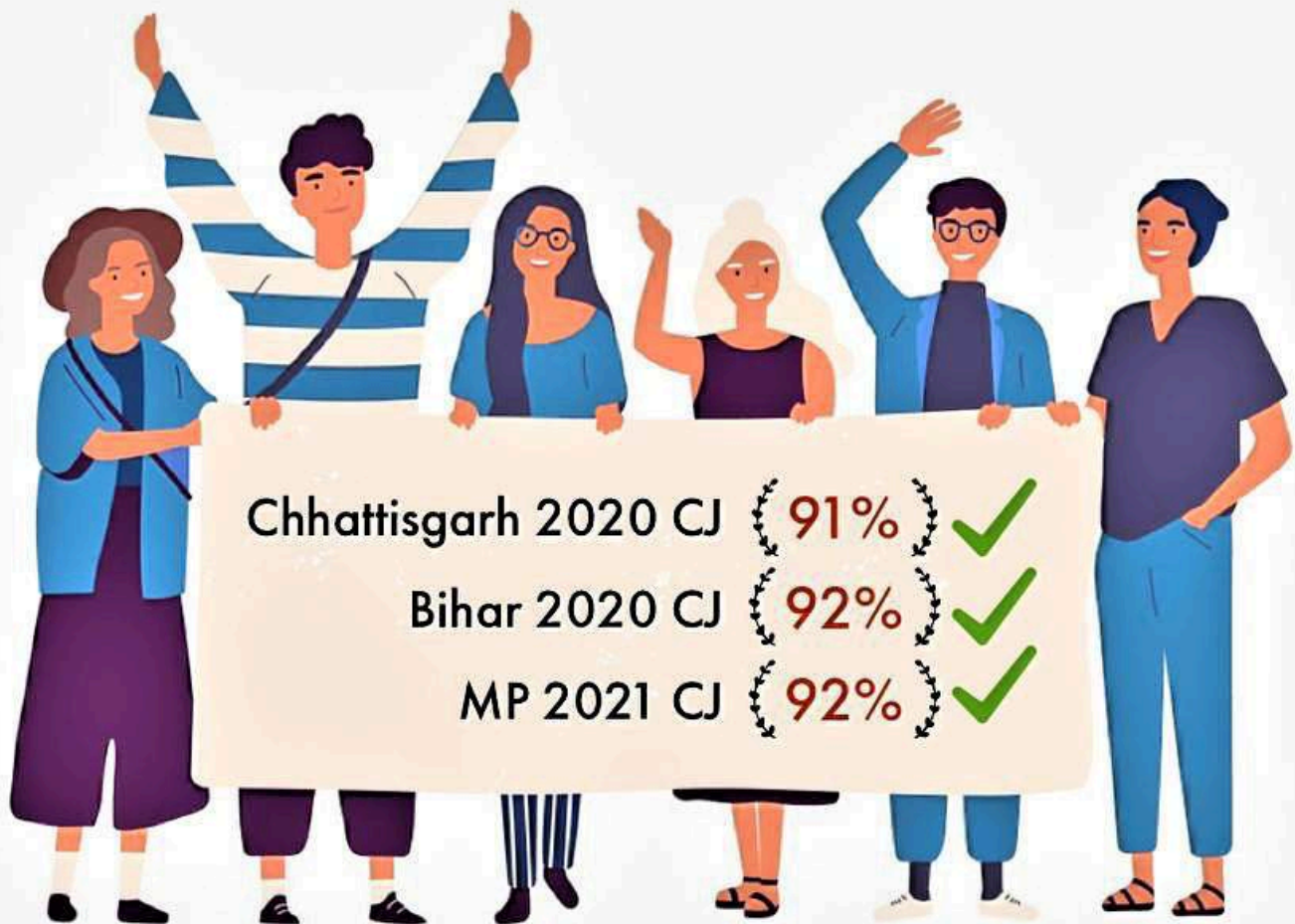
Modern India

1857	The Sepoy Mutiny or First War of Independence.
1861	Birth of Rabindranath Tagore.
1869	Birth of Mahatma Gandhi.
1885	Foundation of Indian National Congress.
1889	Birth of Jawaharlal Nehru.
1897	Birth of Subhash Chandra Bose.
1903	Tibet Expedition (Young Husband delegation).
1905	Partition of Bengal by Lord Curzon.
1906	Foundation of Muslim League by Salimullah (Nawab of Dhaka) at Dhaka.
1911	Delhi Darbar, King and Queen visit India; Delhi becomes the capital of India.
1914	World War I begins.
1916	Lucknow Pact signed by Muslim League and Congress.
1918	World War I ends.
1919	Montague-Chelmsford Reforms introduced, Jallianwala Bagh massacre at Amritsar.
1920	Khilafat Movement launched.
1922	Non Cooperation Movement
1927	Boycott of Simon Commission, broadcasting started in India.
1928	Death of Lala Lajpat Rai.
1929	Resolution of Poorna Swaraj' (complete independence) passed at Lahore Session of INC.
1930	Civil disobedience movement launched, Dandi March by Mahatma Gandhi
1931	Gandhi-Irwin Pact.
1935	Government of India Act.
1937	Provincial Autonomy, Congress forms ministries.
1939	World War II begins (September 3).
1941	Escape of Subhash Chandra Bose from India, Death of Rabindranath Tagore.
1942	Arrival of Cripps Mission in India, Quit India movement launched (August 8).
1943-44	S.C. Bose forms Provisional Government of Free India and INA, Bengal famine.
1945	Trial of Indian National Army at Red Fort; Shimla Conference: World War II ends.
1946	British Cabinet Mission visits India; Interim government formed at the Centre.
1947	Division of India; India & Pakistan form separate independent dominions.



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Q.77) Who wrote the book I too had a dream?

a) Justice Murthy

b) Justice Khanna

c) A B Vajpayee

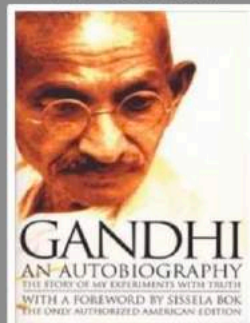
d) Varghese kurien

Ans: D



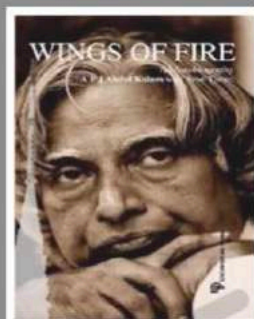
Books related to important personalities

M K Gandhi



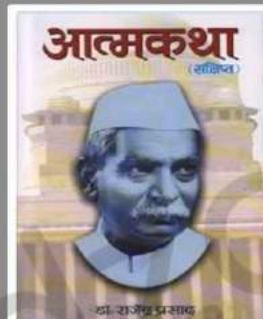
The Story Of
My Experiments With Truth

A P J Abdul Kalam



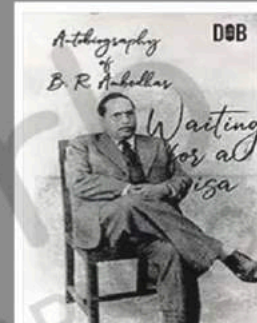
Wings of Fire

Rajendra Prasad



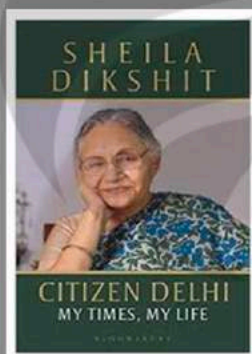
Athma Katha

B R Ambedkar



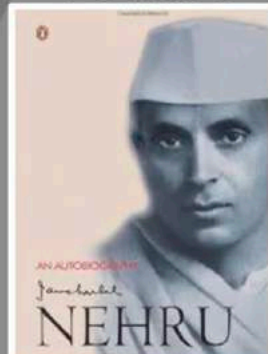
Waiting for a Visa

Sheila Dixit



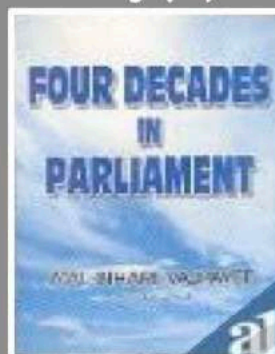
Citizens Delhi, My
Times, My Life

J L Nehru



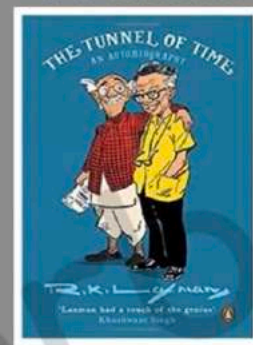
An Autobiography

A B Vajpayee



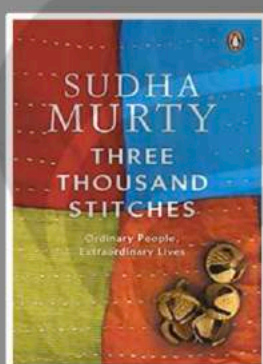
Four Decades in
Parliament

R K Laxman



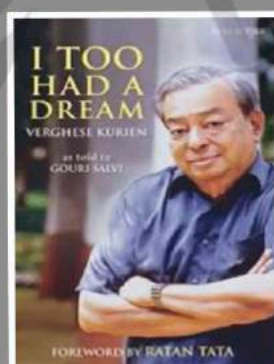
The Tunnel of Time

Sudha Murthy



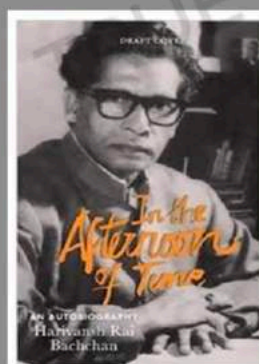
3 Thousand Stiches

Varghese Kurien



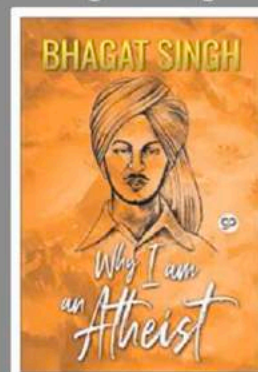
I Too Had a Dream

H R Bachchan



In Afternoon of Time

Bhagat Singh



Why I am an Atheist

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Q.78) Who wrote the book tughlaq nama?

- a) Akbar
- b) Shershah Suri
- c) Siraj ud daullah
- d) Amir Khusrao

Ans: D



Sultanate/ Mughal-Literary Sources



Book	Author	Historical Importance
Tahqiq-i-Hind	Alberni	Alberuni was an Arabian scholar who wrote about the Slave dynasty
Laila-Majnu	Amir Khusrau	Court poet of Alauddin Khilji
Khazain-ul-Futuh	Amir Khusrau	Describes conquests of Alauddin Khilji
Tughlaq-Nama	Amir Khusrau	Gives account of Ghiyasuddin's reign
Nuh-Siphir	Amir Khusrau	Poetic description of Alauddin Khilji
Padmavat	Malik Muhammad Jayasi	Story about Alauddin Khalji
Kitab-fi-Tahqiq	Alberuni	About Indian sciences
Qanun-e-Masudi	Alberuni	About astronomy
Jawahar-fil-Jawahir	Alberuni	About mineralogy
Taj-ul-Maathir	Hasan Nizami	History of Ilbaris, the slave dynasty
Lubab-ul-Alat	Bhukhari	Persian anthology
Khamsah	Amir khusrau	Literature and Poems
Shah Namah	Firdausi	About Mohmud Ghazni's reign
Kitab-ul-Rehla	Ibn Battutah	A travelogue with stories
Humayun Nama	Gulbadan Begum	Biography of Humayun
Ain-i-Akbari	Abul Fazl	History of Akbar's reign
Padshah Namah	Abdul Hamid Lahori	History of Shah Jahan's reign

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Q.79) Who said “ Swaraj is my birthright and I will have it”?

a) Bhagat Singh

b) Chandrashekar Azad

c) Bal Gangadhar Tilak

d) Sarojini Naidu

Ans:- C





Important Sayings



"Back to Vedas"

Dayanand Saraswati

"Dhamma Chakra Pravartana."

Mahatma Buddha

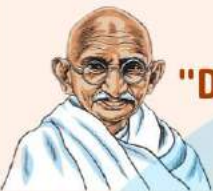


"Give me blood and I will give you freedom. "

Subhas Chandra Bose (in his address to soldiers of Azad Hind Fauj)

"Dilli Chalo! "

Subhash Chandra Bose's battle cry of Azad Hind Fauj



"Do or Die" Mahatma Gandhi (while launching Quit India movement in 1942)

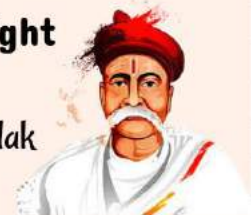


"My ultimate aim is to wipe every tear from every eye. "

Jawaharlal Nehru

"Swaraj is my birthright and I will have it. "

Bal Gangadhar Tilak



"Every blow that is hurled on my back will be a nail in the coffin of the British Empire: "

Lala Lajpat Rai



Q.80) Which of the following is not a launch vehicle?

a) SLV-3

b) SLV -33

c) GSLV MK-II

d) GSLV MK-III

Ans: B



Launch Vehicles



PSLV — Developed for Low Earth Orbit Satellites into Polar & Sun Synchronous Orbits.

GSLV — Developed for heavier INSAT class of Geosynchronous satellite into orbit

	SLV-3	ASLV	PSLV-XL	GSLV MK-II	GSLV MK-III
Height	22.7 m	23.5 m	44 m	49 m	43.43 m
Lift off weight	17 †	39 †	320 †	414 †	640 †
Propulsion	All solid	All solid	Solid & Liquid	Solid, Liquid, & Cryogenic	Solid, Liquid, & Cryogenic
Payload mass	40kg	150 kg	1860 kg	2200 kg	4000 kg
Orbit		Low Earth Orbit	475 km Sun Synchronous Polar Orbit	Geosynchronous Transfer Orbit	Geosynchronous Transfer Orbit

Cryogenic Rocket Engine

uses a cryogenic fuel or oxidizer, that is, its fuel or oxidizers (or both) are **gases liquefied** and **stored at very low temperatures**

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Q.81) Which of the following countries recently became a member of the World Trade Organization (WTO) ?

- a) Sudan
- b) Afghanistan
- c) Bhutan
- d) Ethiopia

Ans: B

The WTO has 164 members and 24 observer governments. Liberia became the 163rd member on 14 July 2016, and Afghanistan became the 164th member on 29 July 2016. In addition to states, the European Union, and each EU country in its own right, is a member.



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Q.82) Which of the following Banks is the World's Largest bank by assets?

a) Bank of America

b) Industrial and Commercial Bank of China (ICBC)

c) BNP Paribas

d) Bank of China

Ans: B

Banks ranking based on Assets

Rank	Name of the Bank
1	 Industrial and Commercial Bank of China
2	 China Construction Bank
3	 Agricultural Bank of China
4	 Bank of China
5	 Mitsubishi UFJ Financial Group



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Q.83) Which tiger reserve received the TX2 International Award?

a) Namdhapa Tiger Reserve

b) Kmalang Tiger reserve

c) Indravati Tiger reserve

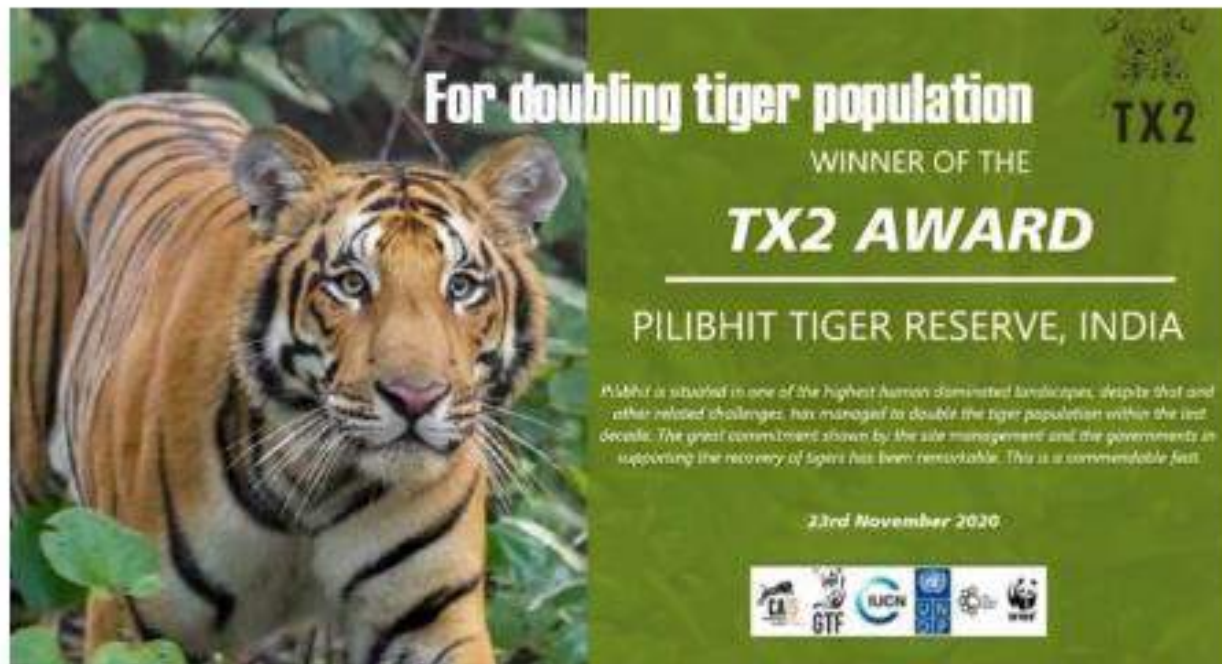
d) Pilibhit Tiger reserve

Ans: D



Pilibhit Tiger Reserve receives first TX2 International Award for doubling its population

The Pilibhit Tiger Reserve and the Uttar Pradesh Forest Department bagged the first international award TX2. The Pilibhit Tiger Reserve was awarded for doubling its number of tigers in four years. The target set was to double the numbers in ten years. The target was set by the partners of the award in **2010**. The partners are Global Tiger Forum, United Nations Development Programme, Conservation Tiger Standards and Lion's Share. None of the other thirteen tiger range countries could success in doubling the big cat population within a span of ten years.



Q.84) Who won the Manbooker Prize in 2020?

a) Anita Desai

b) Hilary Mantel

c) Rohinton Mistry

d) Dougulous Stuart

Ans: D



Booker Prize 2020 won by Douglas Stuart

The Booker Prize of the year 2020 was won by Douglas Stuart for his debut novel **"Shuggie Bain"**. The shortlist of Booker Prize consisted of five more titles such as *Burnt Sugar*. The *Burnt Sugar* was published in India as **"Girl in White Cotton"**. It also included **"The New Wilderness"** by Diane Cook, **"The Shadow King"** by Maaza Mengiste, **"This Mournable Body"** by Tsitsi Dangarembga, **"Real Life"** by Brandon Taylor and **"The Shadow King"** by Maaza Mengiste.

Apart from these authors, the event also witnessed the participation of former US President Barack Obama. He recently published the first volume of his book **"A Promised Land"**. The book was written by Obama during his tenure as the President of United States (2009-17).

About Booker Prize

The Booker Prize is a literary prize awarded annually for the best novel. The prize is awarded to novels written in English and published in Ireland or UK. It was formerly



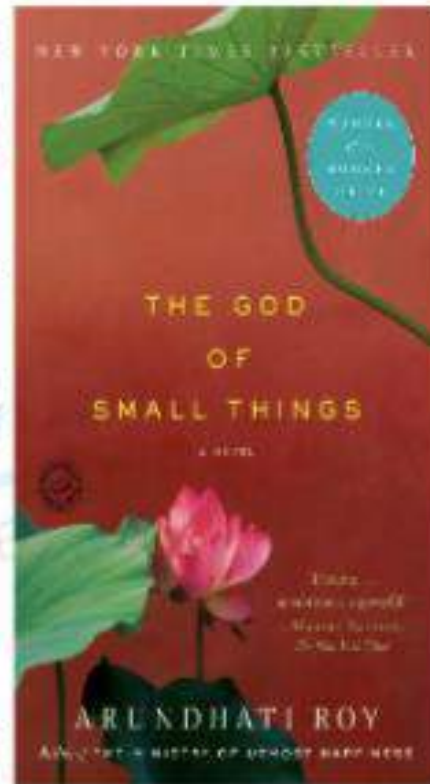
known as **"Booker-McConnell Prize"** (1969-2001) and Man Booker Prize (2002-2019). In 1997, Arundati Roy of India won the Booker Prize for her Novel **"The God of Small Things"**.

The Booker Prize carries 50,000 pounds of cash money.

Douglas Stuart who won the 2020 Booker Prize was the only British author on the US-dominated shortlist. Douglas was born in Glasgow.

International Booker Prize

It is awarded to books that are translated into English and published in United Kingdom. The 2020 winner of International Booker Prize is Marieke Lucas Rijneveld for the book **"The Discomfort of Evening"**. It was translated by Michele Hutchison.



Q.85) NASA launched a commercial aircraft after the name of which astronaut?

a) Rakesh Sharma

b) Yi-So Yeon

c) Kalpana Chawla

d) Peggy Whitson

Ans: C



NASA launches SS Kalpana Chawla Cargo Spacecraft

On October 2, 2020, NASA launched a commercial spacecraft named after Indian Origin deceased NASA Astronaut **"Kalpana Chawla"**. The spacecraft carried 4 tonnes of cargo including refined radishes for the International Space Station.



NASA lifts off SS Kalpana Chawla cargo spacecraft

- A commercial cargo spacecraft bound for the International Space Station launched on 2 Oct carrying the name of deceased NASA astronaut Kalpana K.C. Chawla, the first Indian-born woman to enter space, for her key contributions to human spaceflight.
- The S.S. Kalpana Chawla launched from the Mid-Atlantic Regional Spaceport at NASA's Wallops Flight Facility in Virginia.
- The spacecraft, a Northrop Grumman Cygnus, will arrive at and be attached to the space station 2 days later.



Q.86) Who won the Nobel prize for Economics 2020?

a) Reinhard Genzel

b) Louise Glück

c) Emmanuelle Charpentier

d) Paul R Milgrom

Ans: D






Nobel Prize for Economics, 2020

The Nobel Prize for Economics, 2020 was awarded to Paul R Milgrom and Robert B Wilson. They were awarded for improvements to Auction Theory and also for inventing new auction formats. The prize is also called Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel. The theory formulated by Milgrom allowed calculating common and private values that vary from bidder to bidder.

Highlights

The prize has been awarded 51 times to 84 Laureates between 1969 and 2019. By rule, nobel prize cannot be shared by more than three laureates.

Nobel Prize in Economics



Paul R. Milgrom (USA, right) and Robert B. Wilson (USA, left) share the Nobel Prize "for improvements to auction theory and inventions of new auction formats"

● 2019: Abhijit Banerjee (IND), Esther Duflo (FRA/USA), Michael Kremer (USA) "for their experimental approach to alleviating global poverty"	● 2017: Richard Thaler (USA) "for his contributions to behavioural economics"
● 2018: William Nordhaus (USA) Paul Romer (USA) "for including climate change and technological innovation in longterm economic theory"	● 2016: Bengt Holmström (FIN) Oliver Hart (GBR) "for their contributions to contract theory"
	● 2015: Angus Deaton (UK) "for his analysis of consumption, poverty, and welfare"



Q.87) The present membership of the South Asian Association for Regional Cooperation (SAARC) is:

a) 6

b) 7

c) 8

d) 9

Ans: C

SAARC - South Asian Association for Regional Cooperation in Dhaka in 1985

- intergovernmental organization and geopolitical.
- It promotes development economics and regional integration
- Secretariat - **Kathmandu**
- Myanmar and China are **not its members**
- **9 observer states** - Australia, China, European Union, Japan, Iran, Mauritius, Myanmar, South Korea, and United States.
- **SAFTA: South Asia Free Trade Agreement** was launched in **2006**.



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MEMBERS OF SAARC



INDIA



BHUTAN



PAKISTAN



NEPAL



BANGLADESH



MALDIVES



SRI LANKA



AFGANISTAN

Its seven founding members are **Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka**. **Afghanistan** joined later on 3rd April, 2007



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Substantiality

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M.P. JUDICIAL SERVICE (CIVIL JUDGE) MAIN EXAMINATION

ARTICLE & SUMMARY WRITING

Second Question Paper

3. Translate the following 10 Sentences into English: -

10

- a) उच्च न्यायालयों का अपील्य अधिकार क्षेत्र भी दीवानी और फौजदारी दोनों प्रकार के मुकदमों तक विस्तृत है।
- b) किसी संस्था या व्यक्ति या कंप्यूटर नेटवर्क में अनधिकृत व्यक्ति द्वारा बिना अनुमति लिये उसके कंप्यूटर के डाटा की कॉपी करना या उसे साझा करना डाटा चोरी अपराध के तहत माना जाता है।
- c) दरअसल कोर्ट की अवमानना की समूची व्यवस्था न सिर्फ जनतंत्र, बल्कि न्यायिक प्रणाली के भी प्राकृतिक नियमों को सस्पेंड किये जाने की मांग करती दिखती है।
- d) जिन दीवानी मुकदमों में कम-से-कम 5,000 रु. की मालियत का प्रश्न अंतर्ग्रस्त हो, उनकी अपील उच्च न्यायालय में की जा सकती है।

EPIC Mains Test Series Question & Evaluation

SAMPLE

- e) यद्यपि भारत एक संघ है, परन्तु अन्य संघों के विपरीत भारत में संविधान द्वारा एकतापूर्ण न्यायपालिका और एक ही मौलिक विषयों के समूह की व्यवस्था की गई है।
- f) पहले उच्च न्यायालयों को केवल बंदी-प्रत्यक्षीकरण के लेख जारी करने का अधिकार था, परन्तु अब उच्च न्यायालयों को बंदी-प्रत्यक्षीकरण, परमादेश, प्रतिषेध, अधिकार-पुच्छा, उत्प्रेषण इत्यादि लेख जारी करने का अधिकार दिया गया है।
- g) सर्वोच्च न्यायालय के मतानुसार उद्देशिका का प्रयोग संविधान निर्माताओं के मस्तिष्क में झांकने और उनके उद्देश्य को जानने में प्रयोग की जा सकती है।
- h) लेकिन कानून में प्रावधानित कारावासों और वास्तविक कारावासों में अत्यधिक अन्तर है।
- i) जमानत, किसी आरोपी को प्राप्त एक ऐसी कानूनी व्यवस्था है जिसके तहत अदालत में प्रतिभूति या गारंटी के रूप में पैसे या संपत्ति या कुछ संपार्श्विक बांड जमा कर रिहाई प्राप्त की जाती है।

- Incorrectly Marked** **Q.3** **4/10** **TOTAL MARKS OBTAINED: (10/100)**
- (a) The appellate jurisdiction of high courts also covers both civil and criminal cases. *extends upto*
- (b) Without seeking *the* permission of an *unauthorised* ~~person~~ of an institution or computer network, the act of making a copy of his computer's data or sharing it is an offence. *When an unauthorised person, without the permission of an institution or an individual or a computer network, makes copy of data of such computer.*
- (c) Actually the ~~proper~~ *entire (21.12.11)* system of contempt of court not only seeks to suspend democracy, *but* rather also envisages to suspend the principles of natural justice of judicial system.
- (d) Those civil cases in which the pecuniary dispute is related to a sum of at least Rs 5000/- *is involved (31.12.11)* can be appealed before the High Court.

(e) Although India is an union, but unlike other unions, an united judicial system and a group of fundamental subjects have been guaranteed by the Constitution of India. provided by (C2A22H)

(f) Initially, the High Courts only had the right to issue the writ of habeas corpus, but now they have been bestowed the right to issue the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. et cetera (C2A12) Make sure that every word is covered.

(g) According to Supreme Court, the preamble can be used to look into the minds of framers of the Constitution and to find out their intention and objective.

The sentence is silent on 'intention'

(h) But there is a lot of difference between the prisons laid down by the law and the statutory prisons.

~~of~~ real prisons. huge

- (*) Bail is ~~such~~ a ~~restored~~ right for ~~any~~ ~~accused~~
- (i) Bail, is ~~such~~ a legal ~~system~~ provision available to any accused, in pursuance of which he can be released by depositing any security, money in the form of guarantee, property or a collateral bond.

The question was about summary miting, and not translation.

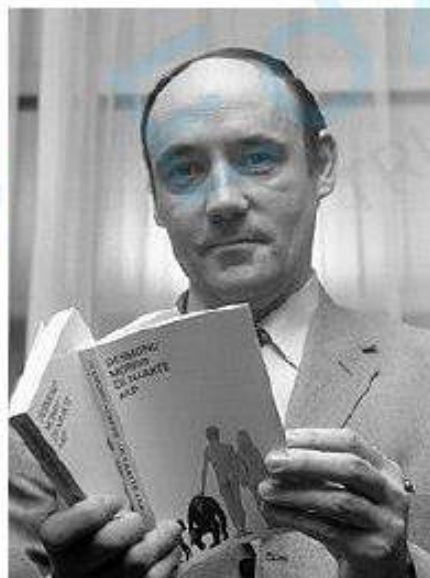
Q.5
~~3~~ This Sivaji, while judicial decisions had talked about restriction on crackers and also the government had also declared to put a ban on them; the public mocked all these factors and burnt crackers the whole night. This is the lowest step of decency and, the man standing on this step, environment, his own health or the convenience or

Q.88) Who wrote “The Naked Ape” and “The Human Zoo”?

- a) Stephen Hawking**
- b) Desmond Morris**
- c) David Attenborough**
- d) P J O'Rourke**

Ans: B

- **Desmond John Morris** FLS hon. caus. (born 24 January 1928) is an English zoologist, ethologist and surrealist painter, as well as a popular author in human sociobiology.
- He is known for his 1967 book **The Naked Ape**, and for his television programmes such as Zoo Time.



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Q.89) Which state ranked first in the India Justice report 2020?

a) Tamil Nadu

b) Maharashtra

c) Uttar Pradesh

d) Kerala

Ans: B



Maharashtra Ranks First

Second Edition of the
India Justice Report (IJR) 2020

Tamil Nadu a close second



Ranking States on Police, Judiciary,
Prisons & Legal Aid

(Score Out of 10)

1	Maharashtra	(5.77)
2	Tamil Nadu	(5.73)
3	Telangana	(5.64)
4	Punjab	(5.41)
5	Kerala	(5.36)
6	Gujarat	(5.17)
7	Chhattisgarh	(5.13)
8	Jharkhand	(5.12)
9	Haryana	(4.94)
10	Raiasthan	(4.93)



INDIA JUSTICE REPORT



Ranking States on Police, Judiciary,
Prisons & Legal Aid



Q.90) This was the third time he bunked the classes, the principal shot him across the bow and called his parent. What did the principal do?

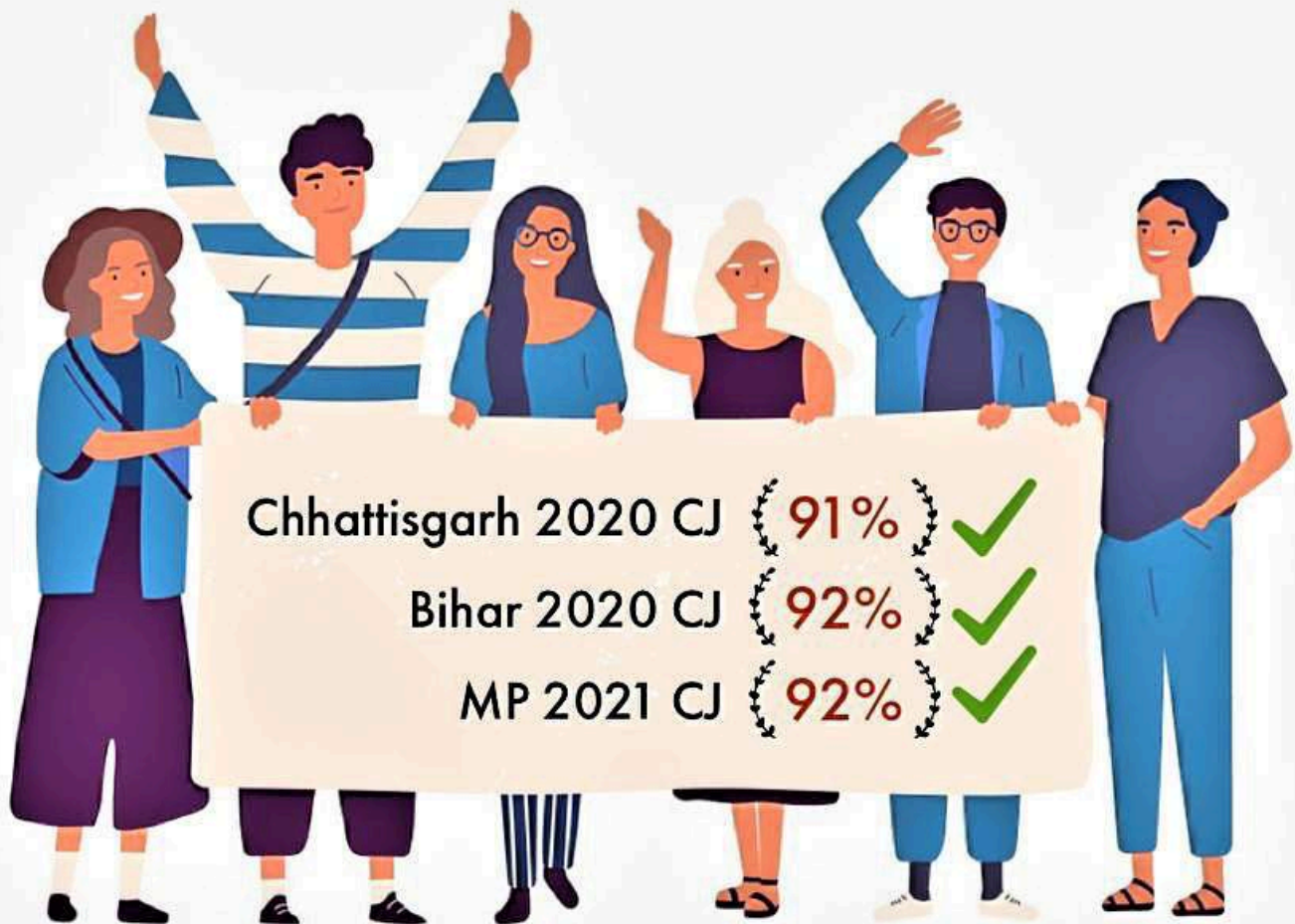
- a) Gave a warning for more serious action to come**
- b) Told him to go home**
- c) Reprimanded the students and have him beating**
- d) Expelled the students and called the parents**

Ans: A

<p>Throw The Book At</p> <p>Prosecute legally as strongly as possible</p> 	<p>Stick It to the Man</p> <p>Do something that frustrates those in authority</p> 	<p>Shot Across the Bow</p> <p>A warning of more serious actions to come</p> 
<p>Up in Arms</p> <p>Angry, protesting (usually said of a group)</p> 	<p>Scorched Earth</p> <p>Ruthless, extremely destructive</p> 	<p>Pin Someone Down</p> <p>Demand a decision or clear answer</p> 

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Q.91) My exams are approaching and I have a lot of syllabi to complete, I am surely in hot water?

- a) Feeling hot*
- b) In need of help*
- c) Feeling excited*
- d) None of the above*

Ans: B

In Hot Water

In need of help; in trouble



Head (Go) South

Decline, get worse



(An) Uphill Climb

A difficult process



Red Tape

Difficult bureaucratic or governmental requirements



(The) Last Straw

A problem or insult that finally demands a response



Above Water

Not in extreme difficulty. Especially said of finances.



Q.92) What does thinking outside the box means?

a) Thing differently

b) think creatively

c) Solve problem in an original way

d) All of the above

Ans: D

Cut Corners

Economize by
reducing quality; take
shortcuts



Think Outside the Box

Try to solve a problem
in an original way;
think creatively



In a Jam

In need of help, in a
difficult spot



Q.93) Find the incorrect spelling:

a) seize

b) decieve

c) believe

d) reign

Ans: B

what are other
words for
deceive?



delude, betray, cozen, mislead,
hoodwink, bamboozle, fool,
trick, dupe, beguile



**The worst
of all deceptions
is self-deception**

–Plato–



Q.94) She's ____ on business ____ 3 weeks.

a) Gone, on

b) Get, in

c) away, for

d) Moved, for

Ans: C





"BE" Phrasal Verbs



Be after

Try to find or get

E.g. *The police are after him because of the theft.*

Be down

Be depressed

E.g. *He's been down since his partner left him.*

Be along

Arrive

E.g. *The next bus should be along in the next quarter of an hour or so.*

Be down

Be reduced or less

E.g. *The firm's profits are down by ten percent this quarter.*

Be away

Be elsewhere; on holiday, etc.

E.g. *She's away on business for three weeks.*

Be down on

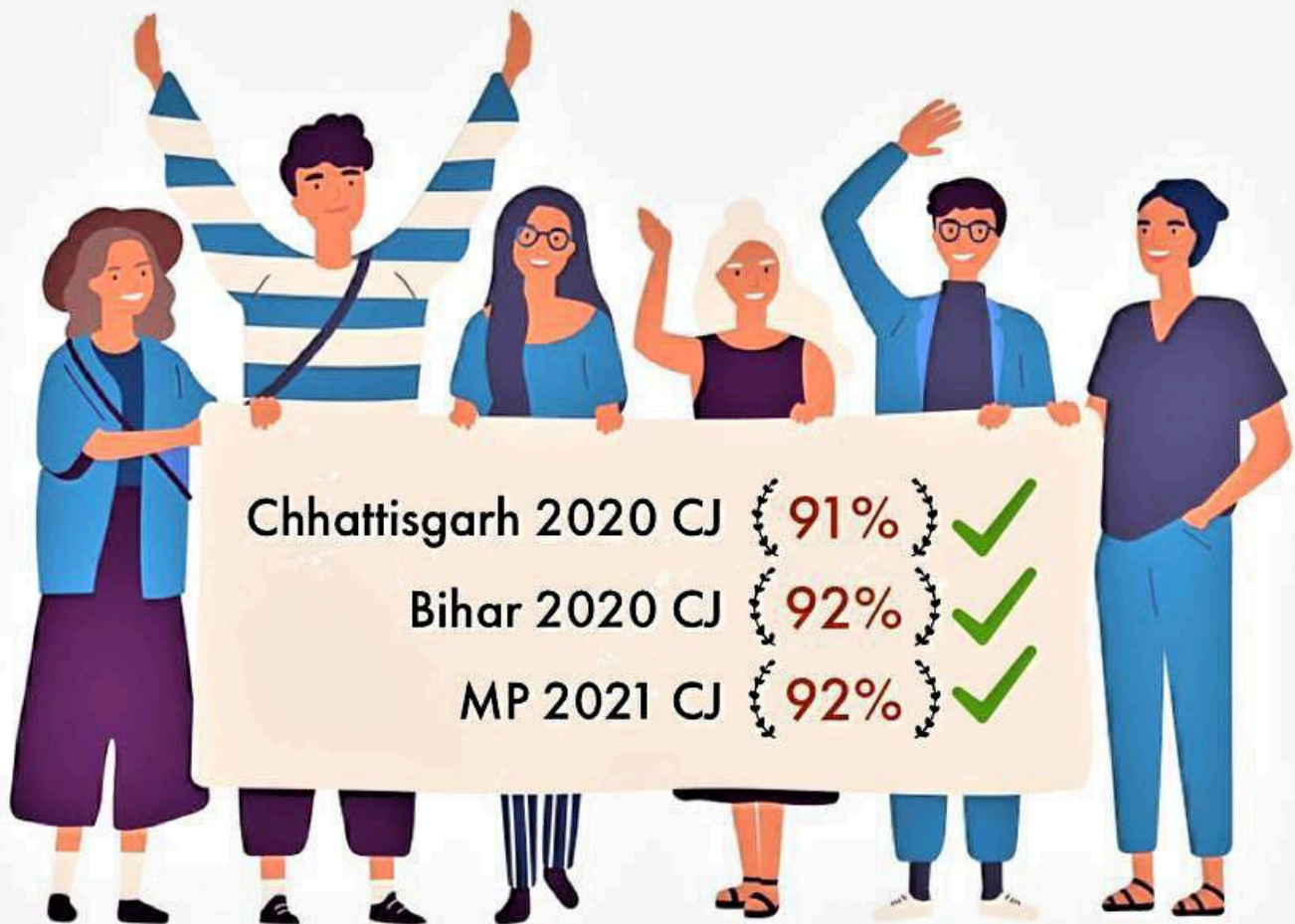
Have negative feelings toward someone

E.g. *After the argument, James is down on his boss.*



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Q.95) The application form must be _ by 3 pm _ Friday

a) on, in

b) on, at

c) in, in

d) in, on

Ans: D

**Be cut
out for**

**Be suitable, have the
necessary qualities**

*E.g. She's not cut out for
this kind of work.*

**Be down
with**

Be ill

*E.g. I didn't go to work
because I was down with
the flu.*

**Be cut
up**

Be upset

*E.g. He was very cut up
about coming second as
he thought he deserved
to win.*

**Be fed
up**

**Be bored, upset or sick
of something**

*E.g. I am fed up of his
complaints.*

Be in

Be at home or at work

*E.g. They are never in; I
always get their
answerphone.*

Be in

Be submitted, arrive

*E.g. The application
form must be in by 3pm
on Friday.*



Q.96) Find the correct spelling

a) adversery

b) adultary

c) advisery

d) arbitrary

Ans: D

***ar·bi·trar·y*/'ärbi, trerē/ Adjective**

1. Based on random choice or personal whim, rather than any reason or system.

Q.97) Find the odd one out.

a) malignant

b) impertinant

c) independant

d) negligent

Ans: A





Q.98) choose the correctly spelt word.

a) Accomodate

b) Accommodate

c) Accomodate

d) Accomodate

Ans: B

what are other
words for
accommodate?



adapt, fit, hold, reconcile,
adjust, oblige, house, contain,
lodge, suit



Q.99) Find the error:

Micro towers / are principles / carriers / of telephone.

a) micro towers

b) are principles

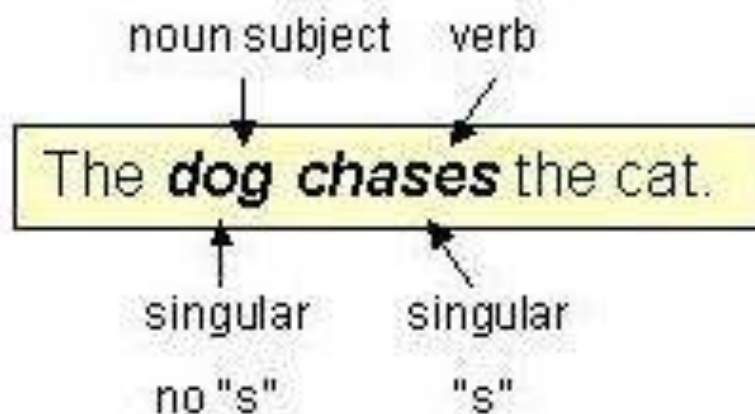
c) carriers

d) of telephone

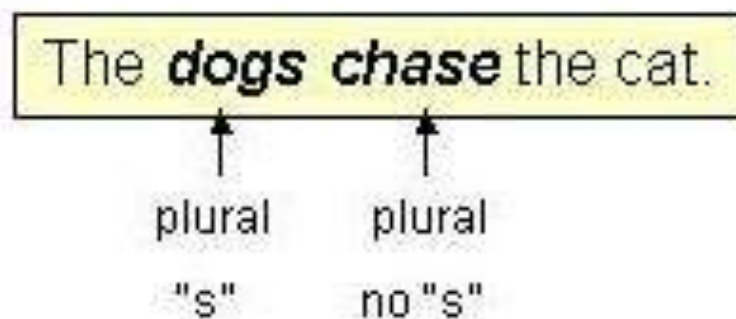
Ans: B

Examples

Singular



Plural



Q.100) She is working _____ 7:00am

a) From

b) Since

c) For

d) In

Ans: B

Difference between For and Since

For :

For + a length of time

For five years

For an hour

For a long time

Example:

She waited at the station for two hours.

Since:

Since + a point in the time past

Since 10 a.m.

Since September

Since 1992

Example:

She is working since 7 a.m.





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Q.101) *I shall meet you ----- 6 o'clock.*

a) by

b) at

c) in

d) during

Ans: B

Prepositions of Time

General

Specific

IN

Parts of days
(morning, afternoon)

Months
(April, May)

Years

Months

Centuries

ON

Holidays with 'day'
(Labor Day, Christmas Day)

Days of the week
(Monday)

Days of the month
(Fourth of July)

Dates
(April 15, my birthday)

AT

Holidays without 'day'
(Easter, New Year's)

Time
(noon, midnight, 6:00, 10 am)

VOA

Q.102) Most of us eat ----- a spoon.

a) with

b) in

c) for

d) by

Ans: A

	With	By
DEFINITION	Basically describes something or someone accompanied by	Basically describes the agent or the means of action
IN PHRASES	Often follows a noun in a dependent clause	Often follows a verb in a dependent clause
ACTIVE VS PASSIVE	Often used in active voice	Often used in passive voice
GRAMMAR	Preposition	Preposition, adverb, adjective and noun

Q.103) Kanmani is richer than I.

a) simple

b) negative

c) complex

d) compound

Ans: C

Complex Sentence



- ☞ **ONE independent clause** joined by one or more **dependent clauses** (cannot stand alone)
- ☞ Always has a **subordinator** (although, because, since, when, after) or relative pronoun (that, which, who)

1. When **he came** home, **his mother hugged** him.
2. **I clapped** loudly when **my son went** up onstage.
3. **I love** English because **it is** interesting.
4. After **she left**, **her parents arrived**.



Q.104) MCQ, Single Correct Question

Prefix: Date

- a) un
- b) ante
- c) in
- d) anti

Ans: B

what are other
words for
antedate?



precede, predate, antecede,
forego, anticipate, go before,
come before, forerun, misdate,
forgo



Q.105) Prefix: Advantage

a) de

b) re

c) dis

d) ub

Ans: C

Another Words For

Disadvantage

Meaning; deficit, damage, harm

- deficit
- damage
- harm
- loss
- hurt
- detriment



Q.106) Prefix: Liven

a) under

b) en

c) on

d) in

Ans: B

what are other
words for
enliven?



animate, invigorate, inspire,
vitalize, stimulate, liven up,
quicken, exhilarate, vivify,
revive



Q.107) Prefix: Human

a) de

b) in

c) un

d) non

Ans: B

inhuman

- *adverb*
inhumanly, in a cold and unfeeling manner, cruelly, without warmth and compassion
- *adjective*
inhumane, not humane, cruel, lacking compassion



Q.108) Find the correct sentence

- a) Except for him and I, everyone brought a present for the little birthday girl**
- b) With the exception of you and I, everyone brought a present for the little birthday girl**
- c) Except for you and I, everyone had brought a present for the little birthday girl**
- d) Except for you and me, everyone brought present for the little birthday girl**

Ans: D



Between You And Me vs. Between You And I

How to use *between you and me* in a sentence

If you're looking to incorporate the more formal phrase (*between you and me*) in your writing, we'll show you a few ways to make it work. It functions equally well at the beginning or end of the sentence, like so:

- So, just *between you and me*, I'm not sure that's the best color for the exterior of the house.
- I do feel like lately there's been some distance *between you and me*. Is something wrong?
- I promise, everything you say is *between you and me*.
- That's the one key difference *between you and me*: I hate being the center of attention.



I

I
love
you!

Me

You
love
me!



I is a
subjective
pronoun.

I is the
subject of
the
sentence.

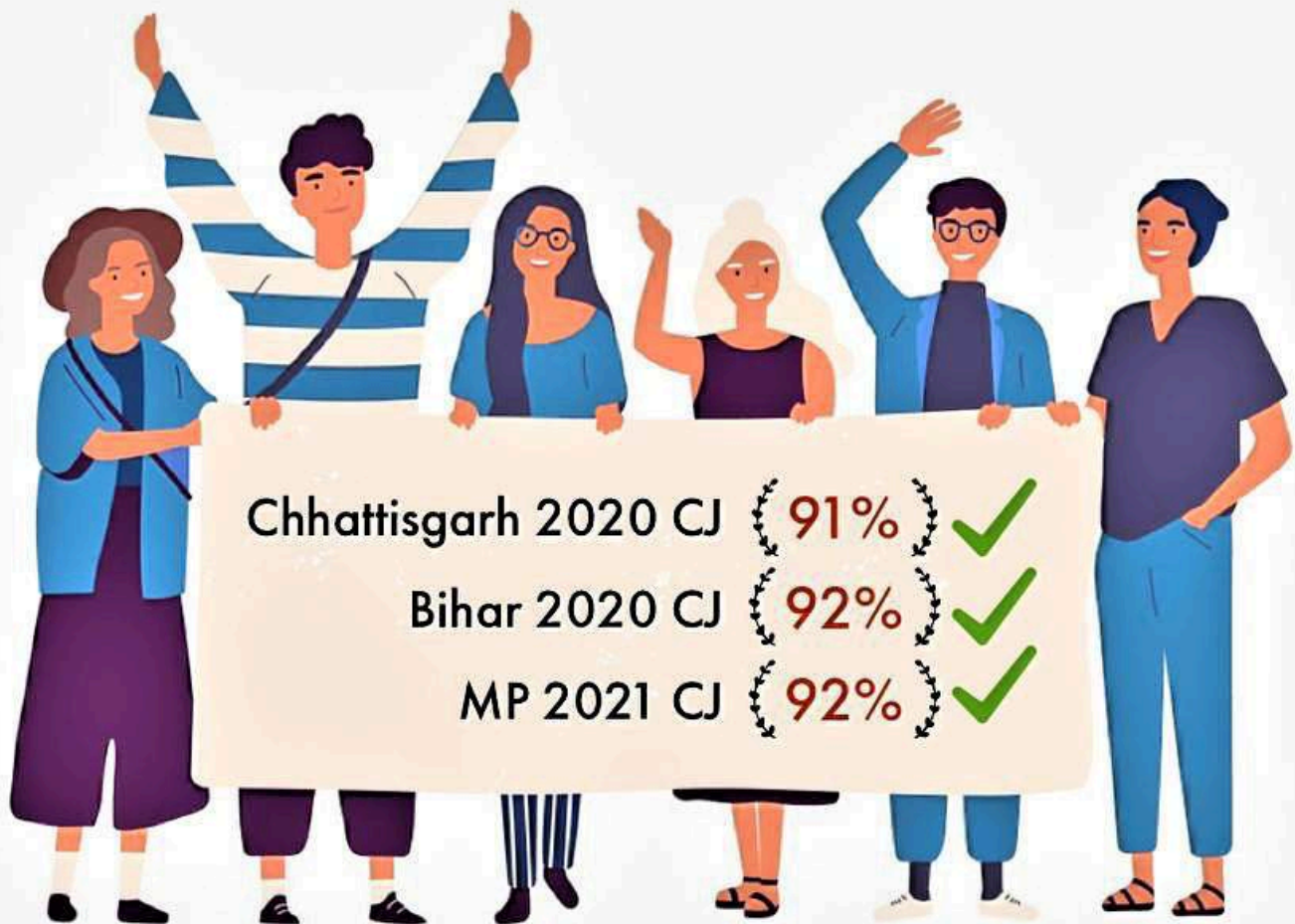
ME is an
objective
pronoun.

ME is the
object of
the
sentence.



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Q.109) In the following questions, only one statement is grammatically correct. Identify the correct one.

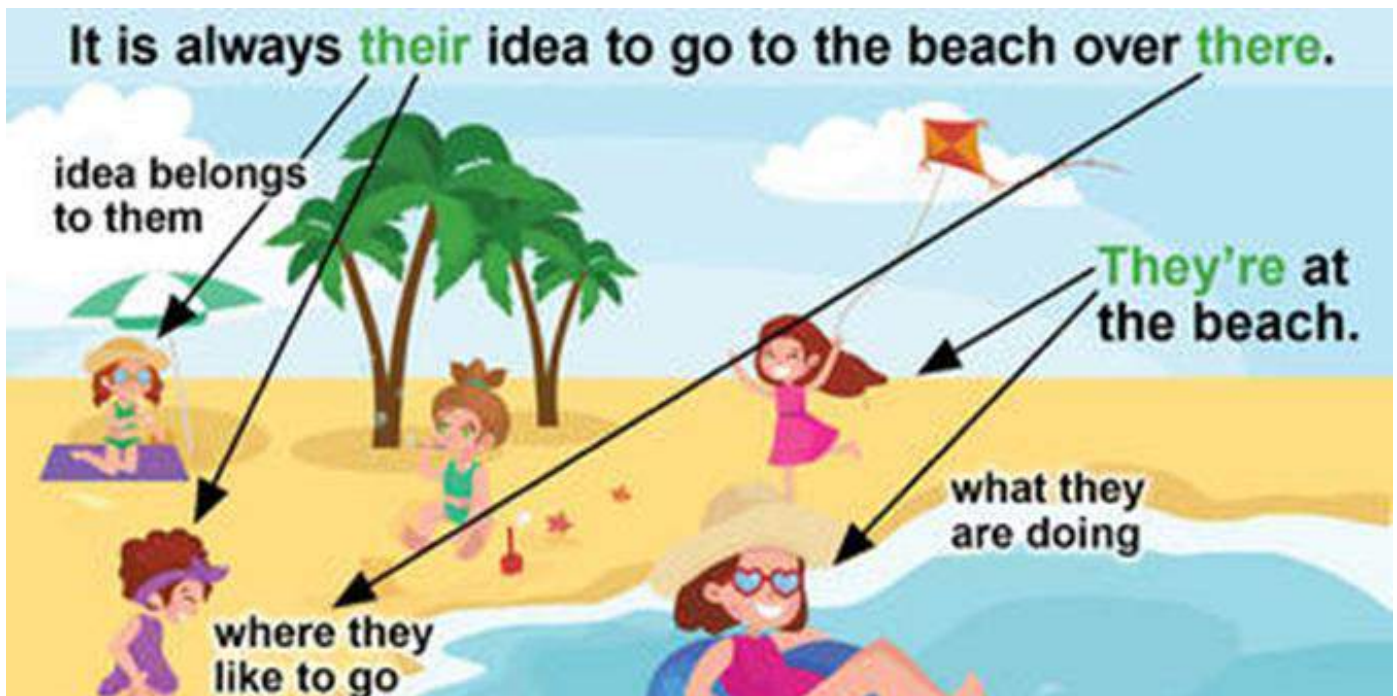
- a) In the course of there journey, they were able to absolve a lot of local cultures**
- b) In the coarse of their journey, they were able to absorb a lot of local culture**
- c) In the course of their journey, they were able to observe a lot of local cultures**
- d) In the course of their journey, they were able to observe a lot of the local culture**

Ans: D



THE ARTICLE "THE" IN GEOGRAPHICAL NAMES

DIRECTION REGIONS  The North, the South, the East, and the West	UNIONS OF COUNTRIES, STATES  The United States of America, the United Kingdom, etc.	GROUPS OF ISLANDS  The Philippines, the Caribbean, the Canaries, etc.	SEAS  The Mediterranean, the Black, the Red, the Nile, etc.
GULFS  The Gulf Steam, the Persian Gulf, the Finland Gulf, etc.	GROUPS OF LAKES  The Great lakes, the Shats Lakes, the	RIVERS  The Danube, the Dnipro, the Amazon,	CANALS & CHANNELS  The English channel, the Panama canal, the



Q.110) You should _____ swimming.

a) start up

b) get off

c) take up

d) take off

Ans: C



Q.111) _____ to school yesterday?

a) Did you walk

b) Do you walk

c) Did you walked

d) Had you walked

Ans: A

To Do - VERB

Present Tense

Past Tense

Past Participle

I / you / we / they

DO

DID

DONE

he / she / it

DOES

- I **do** exercises

- He **does** exercises

- I **did** my homework

- He **did** his homework

- I have **done** many things

- He has **done** many things

Do/Does/Did - AUXILIARY (To make questions)

P
R
E
S
E
N
T

Auxiliary

DO

+

Subject

I / you / we / they

+

Verb

go ... ?

want ... ?

like ... ?

DOES

+

he / she / it

P
A
S
T

Auxiliary

DID

+

Subject

I / you / we / they

+

Verb

go ... ?

want ... ?

he / she / it

The ONLY difference between a question in the present tense and a question in the past tense is the auxiliary (*Do/Does* or *Did*).

Do you **speak** English? **Does** he **speak** English?

Did you **speak** English? **Did** he **speak** English?



Q.112) Is Jo _____ Chris?

a) taller than

b) as tall as

c) taller

d) more tall

Ans: B

Is John *really* as tall as a giraffe (literally)?



No, but **figurative language** helps us to understand that John is very tall. We get a clearer picture of John.



Q.113) The period of limitation for a suit against a carrier for compensation for non-delivery of or delay in delivering goods is three years from

- a) When the price becomes payable***
- b) When the loss or injury occurs***
- c) When the goods ought to be delivered***
- d) None of the above***

Ans: C



(C)

Article 11

Description of suit

Against a carrier for compensation for non-delivery of, or delay in delivering, goods.

Period of limitation

Three years.

Time from which period begins to run

When the goods ought to be delivered.



Reference: Limitation Act, 1963; FIRST SCHEDULE

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Q.114) The period of limitation for a suit on a promissory-note or bond payable by installments is three years on the expiration of the first term of payment as to the part then payable; and for the other parts, the expiration of the respective terms of payment. The statement is

a) True

b) False

c) Partly Correct

d) None of the above

Ans: A



Article 36

Description of suit

On a promissory note or bond payable by instalments.

Period of limitation

Three years.

Time from which period begins to run

The expiration of the first term of payment as to the part then payable; and for the other parts, the expiration of the respective terms of payment.



Raj signs a ***promissory note*** to pay Varun Rs. 5000 on a certain date is also stamped. Varun on the due date gets the money from Raj showing the note.

Reference: Limitation Act, 1963; FIRST SCHEDULE

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Q.115) The period of limitation for a suit on a bill of exchange payable at sight, or after sight but not at a fixed time is three years from

a) When the bill falls due

b) Date of executing the bill

c) When the bill is presented

d) None of the above

Ans: C



Article 32

Description of suit

On a bill of exchange payable at sight, or after sight, but not at a fixed time.

Period of limitation

Three years.

Time from which period begins to run

When the bill is presented.



Reference: Limitation Act, 1963; FIRST SCHEDULE

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Q.116) Which of the following is related to the Geo Miller case?

a) The Negotiation for good faith settlement may not be excluded from the limitation period

b) The Negotiation for good faith settlement may be excluded from the limitation period

c) Either A or B

d) None of these

Ans: B

- Complex commercial transactions and arrangements often requires good faith negotiations/discussions or mediation in order to resolve the dispute amicably before the parties can resort to arbitration.



- It is often a matter of considerable debate whether the time spent in negotiations/discussions/mediation can **be excluded** for the purpose of **computing the period of limitation** for reference to arbitration.



- In case of **Geo Miller & Co. Pvt. Ltd. v. Rajasthan Vidyut Utpadan Nigam Ltd. (Geo Miller Case)** has explained the legal position on this aspect.



- The **limitation period** for making an arbitral claim/proceeding is **three years** from the date of accrual of the cause of action.



- On certain facts and circumstances, the **period during** which the parties were bona fide **negotiating towards an amicable settlement may be excluded** for the purpose of calculating the **period of limitation** for reference to arbitration.



NEGOTIATION



- The claimant will have to specifically plead and place strong evidence on record,



- Establishing the entire negotiation history between the parties to show that there was a serious effort to reach an amicable settlement prior to the stage when reference to arbitration became unavoidable.



- The judgement also **does not tamper** with the settled position of the law that the applicant cannot postpone the accrual of cause of arbitration by writing representations and/or sending reminders to the respondent.

Reference: Geo Miller & Co. Pvt. Ltd. v. Rajasthan Vidyut Utpadan Nigam Ltd. (Geo Miller Case), 2019 SCC Online SC 1137

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Q.117) For the purpose of the Limitation Act, 1963, a suit is instituted, in the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator. The statement is

a) True

b) False

c) Partly Correct

d) None of the above

Ans: A



Section 3:

- The suit shall be dismissed if it is instituted after the prescribed period.
- In the case of a claim against a company which is being wound up by the court, when the **claimant first sends in his claim to the official liquidator**.

Who is a liquidator?

A person appointed to carry out the winding up of the company is called liquidator. If the winding up of the company is through the court, the term used is official liquidator.



Chalisgaon Shri Lakshmi Narayana Mills Co. Ltd. Vs Amritlal

6 December, 1962, Bombay High Court

- The provision in **Section 3(2)(a)(iii)** would apply only in relation to a suit instituted in the regular Civil Court but previous to the institution of the suit the plaintiff has put in a claim to the official liquidator.
- The provision **does not apply to a claim against an Insolvent Company in liquidation** in which case time will run from the date of application for winding up and not of adjudication.

Reference: Civil Procedure & Limitation Act by C. K. Takwani; 8th Ed., 2013, Page No. 771

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Q.118) Which of the following is true and correct?

a) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule.

b) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

c) Both (a) and (b)

d) Neither (a) nor (b)

Ans: C



Section 6---Legal Disability

Where a person entitled to institute a **suit** or **make an application for the execution of a decree** is

at the time from which the prescribed period is to begin, is a->



MINOR



INSANE



IDIOT

He may file such suit or make an application **within the same period** as specified in the schedule of the Limitation Act for others **when he is free of the disability**.



(2) Where such person is-

Affected by **two** such disabilities-

OR

Before his disability has ceased, he is affected by another disability-

He may institute the suit or make the application within the same period **after both disabilities have ceased.**

- **Section 6, 7 and 8** of the Limitation Act deal with provisions relating to legal disability.



Morgan Vs Morgan

The court has explained the position of a minor in particular and of a disabled person in general.

Reference: Limitation Act, 1963

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Q.119) In computing the period of limitation for any suit, the time, during which the plaintiff has been prosecuting with due diligence another civil proceeding whether in a court of first instance or of the appeal or revision, shall be excluded, where

a) The proceeding relates to the same matter in issue

b) The matter was prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

c) Both (a) and (b)

d) Neither (a) nor (b)

Ans: C

(C)

Section 14: Exclusion of time of a civil proceeding bona fide in a court without jurisdiction.

The principle is that no one who honestly and with due diligence proceeds should be penalised for the delay caused by him in instituting a case in a wrong court.

Mind the following three points and get the benefit of S. 14!



The litigant must have proceeded with **due diligence** and the preceding suit or application should relate to the same matter in issue.

She must have acted in good faith.

That previous court should be unable to entertain the case due to defect in the jurisdiction.



**Courts which have jurisdiction to grant exemption under
Section 14 (1):**



Reference: Civil Procedure & Limitation Act by C. K. Takwani; 8th Ed., 2013, Page No. 772
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Q.120) In which of the following cases, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute such suit or make such application?

a) Where a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues,

b) Where a right to institute a suit or make an application against any person accrues on the death of such person,

c) Both (a) and (b)

d) Neither (a) nor (b)

Ans: C

Section 16: Effect of death on or before the accrual of the right to sue:

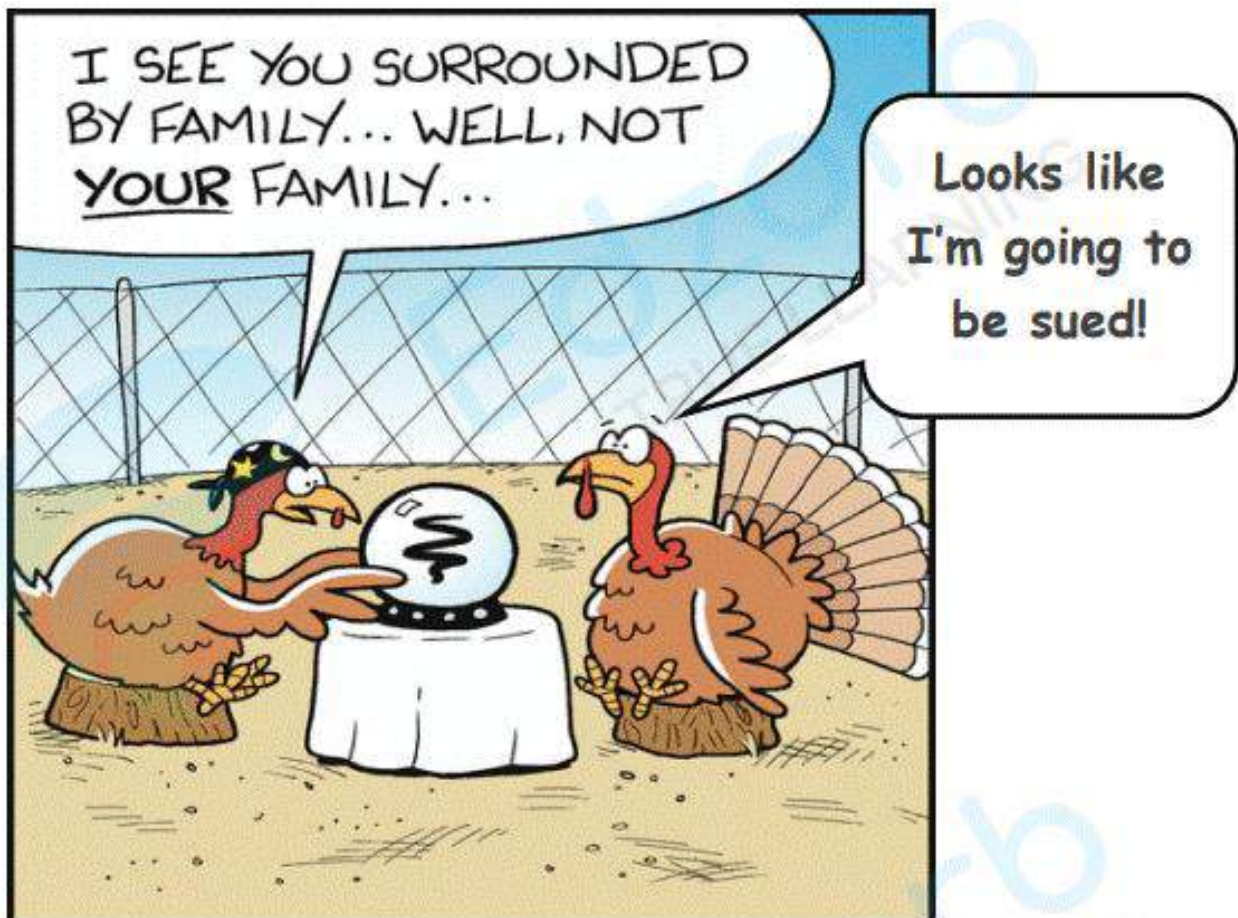
- Where a right to institute a suit or make an application
- **Against any person** accrues on the death of such person,

OR

- Where a **person against whom**, if he were living, a right to institute a suit or make an application
- Would have accrued dies before the right accrues,

The period of limitation shall be computed from the time when there is a **legal representative of the deceased against whom** the plaintiff may institute such suit or make such application.





Section 2(11) of the Civil Procedure Code:

Legal representative means **a person who in law represents the estate of a deceased person**, and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued.

Reference: Civil Procedure & Limitation Act by C. K. Takwani; 8th Ed., 2013, Page No. 772
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Q.121) Nothing in section 17 of the Limitation Act, 1963 shall enable any suit to be instituted or application to be made to recover or enforce any charge against or set aside any transaction affecting, any property which-

a) In the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed,

b) In the case of a concealed document, has been purchased for valuable consideration by a person who was a party to the concealment and, at the time of purchase knew, or have reason to believe, that the document had been concealed.

c) In the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made,




d) A & C

Ans:D



Section 17: Effect of Fraud or Mistake

This section **shall not enable** any suit to be instituted or application to be made to recover or enforce any charge against or set aside **any transaction affecting, any property** which:

In the case of fraud	In the case of mistake	In the case of a concealed document
Has been purchased by a person who was not a party to the fraud and did not at the time of the purchase know about any fraud.	Has been purchased subsequently to the transaction in which the mistake was made, by a person who did not know about it.	Has been purchased by a person who was not a party to the concealment and, did not at the time of purchase know about it.
		



She'll not get the protection of section 17 if she goes ahead with the purchase even after having **the reason to believe** that the sellers are frauds.

Reference: Civil Procedure & Limitation Act by C. K. Takwani; 8th Ed., 2013, Page No. 772
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Q.122) Where a judgment-debtor has, by fraud or force, prevented the execution of a decree or order within the period of limitation, the court may, on the application of the judgment creditor made after the expiry of the said period extend the period for execution of the decree or order: provided that such application is made withinfrom the date of the discovery of the fraud or the cessation of force, as the case may be.

a) One month

b) Three months

c) Six months

d) One year

Ans: D

Section 17: Effect of Fraud or Mistake

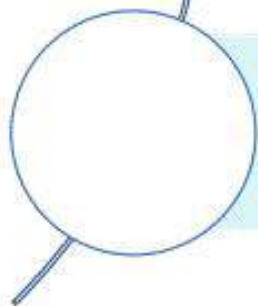
(2)



Where a **judgment-debtor** has, by fraud or force, **prevented the execution of a decree** or order within the period of limitation



The **court may**, on the application of the judgment-creditor made after the expiry of the said period



Extend the period for execution of the decree or order

Provided that such application is made **within one year from the date of the discovery** of the fraud or the cessation of force.





If I were you, I would worry
about filing the case the
against the fraud this year.

Reference: Civil Procedure & Limitation Act by C. K. Takwani; 8th Ed., 2013, Page No. 772
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Q.123) Where after the institution of a suit, a new is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was made a party

a) Plaintiff

b) Defendant

c) Either (a) or (b)

d) None of the above

Ans: C



Section 21: Effect of Substituting or Adding New Plaintiff or Defendant

(1) Where after the institution of a suit,

A new plaintiff or defendant is **substituted or added**,
The suit shall, as regards him,



I was under wrong
legal guidance.
Hence, I got late to
join!

Be deemed to have
been instituted
**when he was made
a party:**



Provided that: the court is **satisfied** that

- the omission to include a new plaintiff or defendant **was due to a mistake in good faith**
- it may direct that the suit as regards such plaintiff or defendant shall be deemed to have been instituted on any earlier date.



Reference: Civil Procedure & Limitation Act by C. K. Takwani; 8th Ed., 2013, Page No. 776
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Q.124) A Patwari issued a certified copy of Khatuani without complying with the provisions of law. The Court –

- a) Can draw a presumption under section 79 of the Indian Evidence Act, 1872 in regard to the genuineness of document.***
- b) Can draw a presumption under section 81 of the Indian Evidence Act, 1872 in regard to the genuineness of document.***
- c) Can draw a presumption under section 83 of the Indian Evidence Act, 1872 in regard to the genuineness of document.***
- d) Cannot draw a presumption under the provisions of the Indian Evidence Act, 1872 in regard to the genuineness of document.***

Ans: D



Section 79:



The **Court shall presume** to be genuine every document declared by law to **be admissible as evidence of any particular fact and which is duly certified by:**

- By any officer of the Government, or
- By any officer of Jammu and Kashmir duly authorized by the Central Government.



2

No, I have certified the doc.

1

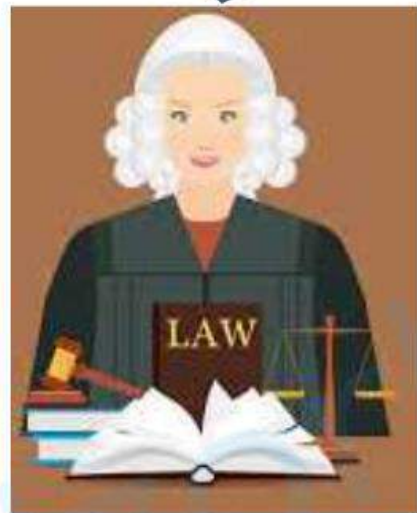
Would I have to prove its genuineness too?

Proviso: The document must be substantially in the form and purports to be executed in the manner directed by law.



The **Court shall also presume** that officer by whom document purports to be signed or certified held when he signed it, the official character which he claims in such paper.

I have to presume the genuineness of your official character; I hope I am not committing any mistake.



Bhinka and Ors. Vs Charan Singh

AIR 1959 SC 960

If a Patwari issued a certified copy of Khatauni without complying with the provision of law governing its issue. It was held that court is not bound to draw presumption in regard to its genuineness.



Section 81:

The Court **shall presume the genuineness of every document** purporting to be



- The London Gazette or any official Gazette

- The Government Gazette of any colony of the British Crown



- A newspaper or journal, or copy of a private Act of Parliament of the UK printed by the Queen's Printer and

Document directed by any law to be kept by any person, if such document is **kept substantially in the form required by law and is produced from proper custody.**



Section 83:

The Court shall presume that **maps or plans made by authority of the Government were so made**, and are accurate;



Map of India by Ministry of External Affairs.

Hence, court shall presume the genuineness of such map.





Maps or plans made for the purposes of any cause must be proved to be accurate.

Reference: Indian Evidence Act, 1872, Section 83

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Q.125) Which of the following section of the Indian Evidence Act deals with questions lawful in cross-examination?

a) Section 139

b) Section 166

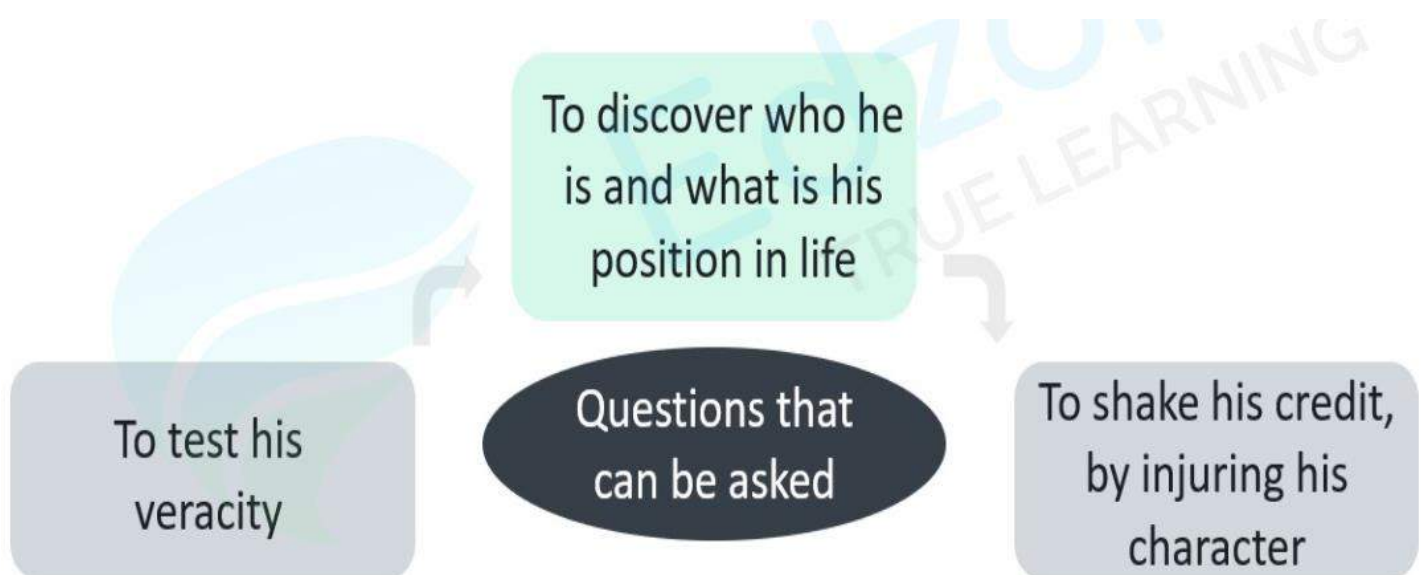
c) Section 140

d) Section 146

Ans: D

Section 146: Questions lawful in cross-examination:

When a witness is cross-examined, he may be asked any questions which tend:



Although the answer to such questions might:



Criminate, or may tend to criminate him or

Expose, or tend to expose him to a **penalty or forfeiture**.



Provided that **in a prosecution for an offence**,

section 376,
section 376A, AB
section 376B,
section 376C,
section 376D, DA
section 376DB
section 376E

Where the question of consent is an issue in mentioned section, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to

- The general immoral character, or
- previous sexual experience of such victim.



Section 136	Judge to decide as to admissibility of evidence
Section 140	Witnesses to character
Section 166	Power of jury or assessors to put questions

Reference: Indian Evidence Act, 1872, Section 146

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Q.126) The father and one of his son were judgement debtors in a decree of eviction and they had applied for a review. The father died and the son continued the review pro-ceedings without asking for substitution of his broth-ers for the deceased father. He was not later allowed to challenge the validity of the execution proceedings because of the absence of legal representatives. This is an example of:

- a) Estoppels by matter of record*
- b) Estoppels by deed*
- c) Estoppels in Pais*
- d) Waiver*

Ans: A

Kinds of Estoppel:

I. Estoppel by matter of record or judgment:



- The basis of estoppel by record is the conclusiveness of judgment.
- The judgment must be given by competent court.

Did you Know?

Estoppel by matter of record is substantially **same as Res Judicata in Indian law.**



II. Estoppel by matter in writing/deed:

It is that a party who executes a deed is estopped in a court of law from **saying that the facts stated in the deed are not truly stated.**



III. Estoppel by Pais/ Conduct/ Representation:

It arises from an **agreement, contract, act or conduct** of misrepresentation, negligence and omission which has induced in the **change in position.**

Section 115 - 117 is based on estoppel by conduct. It is based on maxim:

**Allegans contraria
non est audiendus**



Contrary allegation should not be heard. Yesterday if you have said, tomorrow you cannot deny.

IV. Equitable Estoppel:

When a person tries to take a legal action that would conflict with his previously given statements, claims or acts, this legal principle would prohibit him from doing so. So, the plaintiff would be stopped from bringing a suit.



V. Estoppel by Election:

Having made his choice, the person choosing cannot go back upon it and later attempt to choose the other. It also rises in cases where a person cannot approbate or reprobate under the same instrument.



VI. Estoppel by silence:

Where there is inherent duty of person to inform someone but he remains silent, his failure to discharge duty will work as estoppel against him.

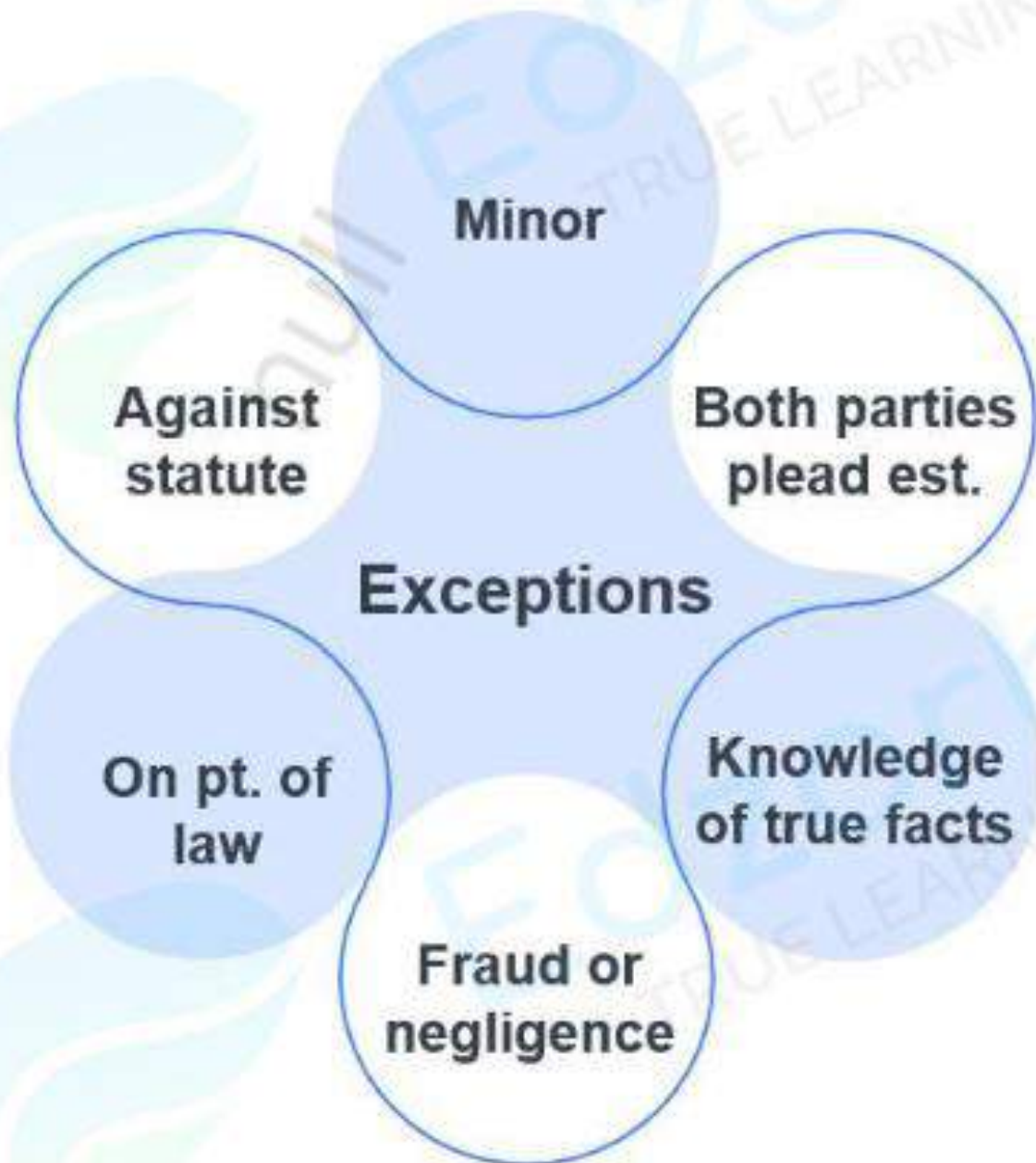


VII. Estoppel by Acquiescence:

When the other party acknowledges the claim of other party, it is estoppel by acquiescence.



Exceptions of Estoppel:



Reference: Indian Evidence Act, 1872, Section 115

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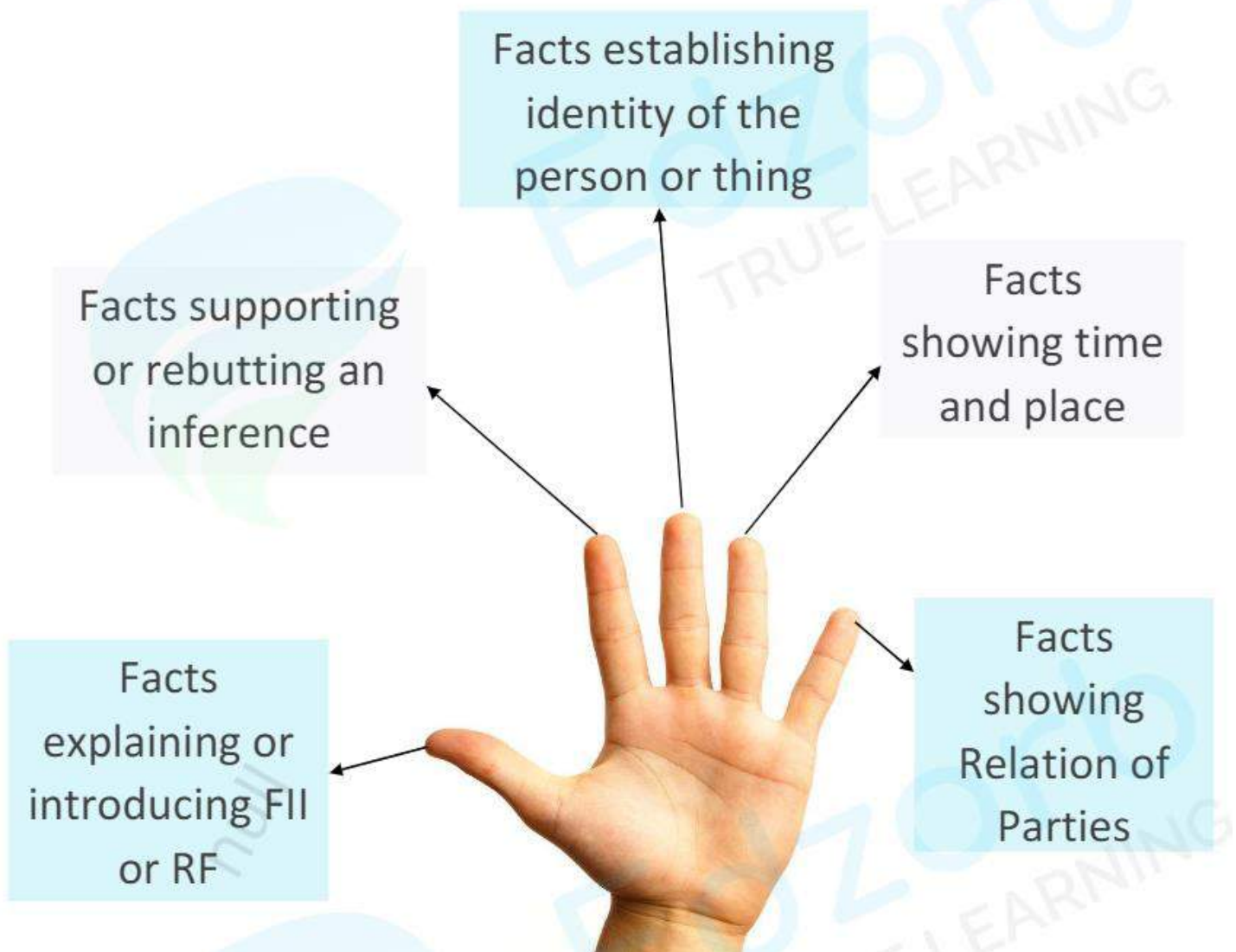
Q.127) Which of the following statement is correct about Test Identification Parade...?

- a) TIP is relevant under Section 8 of Indian Evidence Act***
- b) TIP is necessary to be conducted when the accused is known to the witness, otherwise the same can be proved to be fatal to the case of prosecution***
- c) The TIP has two-fold objective: to satisfy witness and to satisfy investigating authorities.***
- d) All the above statements are correct.***

Ans: C



Section 9: Facts necessary to explain or introduce relevant facts



Facts **establishing identity of thing or person:**

When the identity of thing is in question, every fact which will be helpful to identify the thing is relevant.

Test Identification Parade relevant under **Section 9**:

To obtain an identification of the suspect, police use several modes like visual, audio, scientific and test identification parade.



Evidentiary Value of TIP

Raju Majhi Vs State of Bihar 2018 SCC Online SC 778

The identification parade goes to the stage of the investigation. They are not considered substantive evidence but these are essentially governed by **Section 162** of CrPC.

Objective of TIP:

Ramkrishnan Vs State of Bombay A.I.R. 1955 S.C. 104

What is the purpose of TIP?

It is for our satisfaction that the accused we suspect is really the one who committed crime.



INVESTIGATION



Mulla & Another Vs State of U.P.

8 February, 2010

The identification parades are not primarily meant for the Court. They are **meant for investigation purposes**. The object of conducting a test identification parade is two - fold.

- First, is to enable the witnesses to satisfy themselves that the accused whom they suspect is really the one who was seen by them in connection with the commission of the crime.
- Second, is to satisfy the investigating authorities that the suspect is the real person whom the witnesses had seen in connection with the said occurrence.

Reference: Indian Evidence Act, 1872, Section 9

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Q.128) An accused was being taken to the police station by the police officer. On a way to the Police Station, accused went to the washroom wherein he saw his friend. He confessed that he committed the murder of his wife and now he is being taken to the police station. The confession made by the accused is:

- a) Inadmissible as it was in the form of extra judicial confession.*
- b) Inadmissible as the accused was in the police custody at the time of making the confession*
- c) Admissible because the accused ceased to be in police custody the moment, he entered the washroom*
- d) Admissible as it is in form of extra-judicial confession, though he was in custody of police officer*

Ans: B



Section 26:

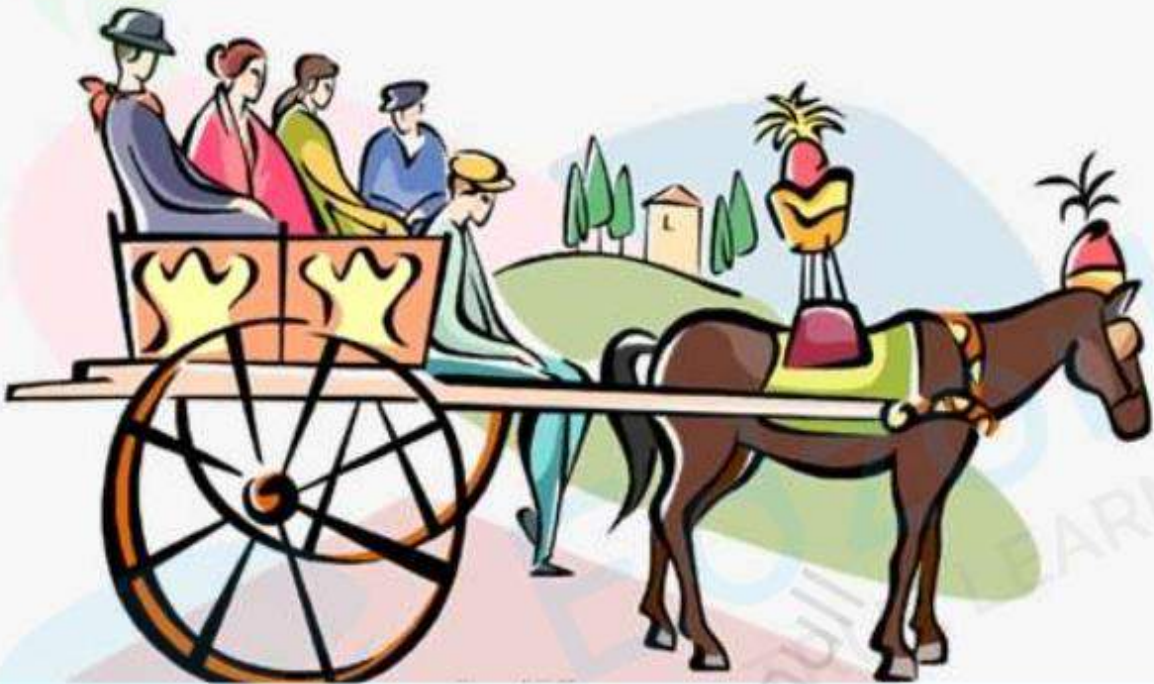
Confession made by any person whilst he is in the custody of a police-officer shall not be proved as against such person.



Police custody:

- The word **custody** is used here in wide sense.
- A police officer may not even touch a person but his movement is in the control of the police officer.

Now, PO has gone for washroom. You know we really committed crime.



The confession is not admissible as they are in Police custody.

R. Vs Lester

2008 QCA 354

- **Facts:** The accused was being taken in a tonga by a police constable. In the absence of constable, the accused confessed to the driver that he committed the crime.
- **Held:** The confession was held to be in police custody as the accused was in the custody of constable and it made no difference of his temporary absence.

Exception to it:

Confession can be proved if it be made in the immediate presence of a Magistrate.



I committed crime.



Confession is admissible made in presence of magistrate.



Explanation:

- "**Magistrate**" does not include the head of a village discharging magisterial functions in the presidency of Fort St. George or elsewhere,
- Unless such headman is a Magistrate exercising the powers of a Magistrate under the CrPC.



Reference: Indian Evidence Act, 1872, Section 26

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Q.129) A person who comes into possession of an immovable property from a person, whom he accepts as the landlord, is not permitted to say as against his landlord that he had no title to the property:

- a) During the period of tenancy*
- b) At the commencement of tenancy*
- c) At the end of tenancy*
- d) At anytime.*

Ans: B

Section 116:

I. TENANT AND LANDLORD:

A person who comes into possession of an immovable property from a person, whom he accepts as the landlord, is not permitted to say as against his landlord that he had no title to the property at the commencement of the tenancy.



Point to remember!

This section here only talks about commencement of tenancy and not the period afterwards.



II. LICENSEE AND LICENSOR:

A person who comes in possession of an immovable property with the license, is not permitted to say afterwards that his licensor had no right to the possession of the property.



Here, the person won't be able to deny the licensor had no right to the possession of the property.



Tej Bhan Madan Vs IIADJ and Others

AIR 1988 SC 1431

- After the tenancy with new landlord has been adorned, the tenancy with new landlord starts.
- Now, the tenant is free to deny the title of the earlier landlord at the time of commencement of new tenancy.
- However, the tenant can't deny the title of new landlord on date of adornment on the basis of the defective title of earlier landlord.

Reference: Indian Evidence Act, 1872, Section 116

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Q.130) Ankush and Reeta are spouses. Reeta went to her father, Rakesh, to enjoy her vacation. Ankush writes a letter to Reeta mentioning that her father is a corrupt man. The letter is delivered to Rakesh instead of Reeta. Rakesh files the case of defamation and produces letter in the evidence. Which of the following statement holds true?

- a) Letters are admissible evidence in present case*
- b) Letters are relevant but not admissible*
- c) Letters are not relevant and not admissible*
- d) None of the above*

Ans: A



Section 122: Communications during marriage:

No person who is or has been married, **shall be compelled or permitted to disclose any communication made to him** during marriage by any person to whom he is or has been married.

The communication made by the husband cannot be disclosed by the wife to court.

I want to tell you that I have not adopted this child, but kidnapped him and now we will be his parents.



Exception to the General Rule:



The person consents so



Suit is between husband and wife



Proceeding in which one has prosecuted for any crime committed against other.



M.C. Verghese Vs T.J. Ponnann

AIR 1970 SC 1876

In case of defamation proceedings against husband by wife's father, a father can present the letters written by husband to wife containing defamatory statement.

Reference: Indian Evidence Act, 1872, Section 122

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Q.131) In which of the following landmark judgment, the Apex Court held that evidence of a child witness cannot be sole basis for conviction:

- a) Hero vs State of UP***
- b) Ram Vijay Singh Vs State of UP***
- c) Both A and B***
- d) Neither A nor B***

Ans: A



Hero v. State of U.P

Crl. No. 1256/2017



Evidence of a child witness cannot be a sole basis for conviction



S.118 of Indian Evidence Act

The version of child witness cannot be relied upon when there are certain inconsistencies in his deposition.

Additionally, absence of any substantive evidence other than fingerprints cannot be basis for conviction.



Bench: Uday Umesh Lalit,J. Indu Malhotra,J. & Krishna Murari,J.

Ram Vijay Singh v. State of U.P.

Cr. A. No. 175/2021



Ossification test conducted on accused aged Around 40-55 Years cannot be conclusive of his juvenility



S.94 of The Juvenile Justice (Care & Protection of Children) Act

When a person is around 18 years, the ossification test can be said to be relevant. But, when the person is around 40-55 years, the structure of bones cannot be helpful in determining the age.



Bench: RF Nariman,J., Hemant Gupta,J.
& BR Gavai,J.

Q.132) Which of the guidelines were not given in Gautam Kundu Vs State of West Bengal Judgment

I. Blood test must not be ordered as matter of course

II. Presumption of legitimacy can be displaced by preponderance of probability.

III. Presumption of legitimacy is irrebuttable

IV. Person can be compelled to give sample of blood

Codes:

a) I & II

b) II & III

c) I & IV

d) II & IV

Ans: D



Section 112: Birth during marriage, conclusive proof of legitimacy:

The fact that any person was born during



Or



the continuance of a valid marriage between his mother and any man

within 280 days after its dissolution, mother remains unmarried



It **shall be conclusive proof that he is the legitimate son of that man**

Goutam Kundu Vs State of West Bengal

1993 (3) SCC 418



Blood Test determining Paternity

In **Goutam Kundu Vs State of West Bengal, 1993 (3) SCC 418** held that:

Blood test must not be ordered as matter of course

Where applications are for prayers in order to have roving inquiry, prayer not be entertained

No one can be compelled to give sample of blood

Court must carefully examine the consequences of blood test

Reference: Indian Evidence Act, 1872, Section 112

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Q.133) In which of the following judgement, the Apex Court held that the act of witness turning hostile can be described as “culture of compromise”.

- a) Baldev Singh Vs State of HP***
- b) Sat paul Vs Delhi Administration***
- c) Ramesh Vs State of Haryana***
- d) None of the above***

Ans: C



Section 154: Question by party to his own witness:

The Court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.



HOSTILE WITNESS AND UNFAVOURABLE WITNESS:

- A **hostile witness** is the one who is not desirous of telling the truth at the instance of the party who has called him
- An **unfavourable witness** is one who instead of proving a particular fact, in turn, fails to prove such fact or proves an opposite fact.



Evidentiary Value of Hostile Witness

Baldev Singh & Others Vs State of H.P.
April 29, 2017, Himachal Pradesh H.C.

- Mere fact that a witness is declared hostile does not make him unreliable witness so as to exclude his evidence from consideration altogether but
- The said evidence remains admissible in the trial and there is no legal bar to base conviction or acquittal upon testimony of hostile witness if corroborated by other reliable evidence.

Must know fact!

In **Ramesh Vs State of Haryana, (2017) 1 SCC 529**, it was held that the act of witness turning hostile may be described as '**culture of compromise.**'



Landmark Judgment:

Sat Paul Vs Delhi Administration

(September 30, 1975, SC)

'Hostile witness', "unfavorable witness" are all terms of English Law.

'Hostile witness' is witness who is not desirous of telling the truth.

'Unfavorable witness' is one who was called to prove a particular fact but fails to do so or proves opposite

The discretion of court u/s.154 is unqualified and untrammelled





Did you Know?

Jessica Lal murder case is the biggest example of hostile witness wherein around 80 witnesses turned hostile.



Reference: Indian Evidence Act, 1872, Section 154

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Q.134) The United Nations Commission on International Trade Law (UNCITRAL) adopted the model law on commercial arbitration in

a) 1980

b) 1985

c) 1990

d) 1995

Ans: B



UNCITRAL Model Law on International Commercial Arbitration (1985) was adopted by the United Nations Commission on International Trade Law on **21 June 1985**.



21 June 1985

The **UNCITRAL Model Law** on International Commercial Arbitration is a **model** law prepared by **UNCITRAL**, and **adopted** by the United Nations Commission on International Trade Law on **21 June 1985**.

- In **2006, it was amended** and now includes more detailed provisions on interim measures.

- The UNCITRAL adopted the UNCITRAL Conciliation Rules in 1980.



United Nations
UNCITRAL



Chloro Controls P. Ltd. Vs Severn Trent Water Purification

JT 2012 (10) SC 187

Held: The legislative intent and essence of arbitration Act is **to bring domestic and ICA in consonance with UNCITRAL Model Rules**, the New York Convention and Geneva Convention.

Food for Thought!

Read more about this case on –

<https://indiankanoon.org/doc/92712826>



Reference: The Arbitration and Conciliation Act, 1996

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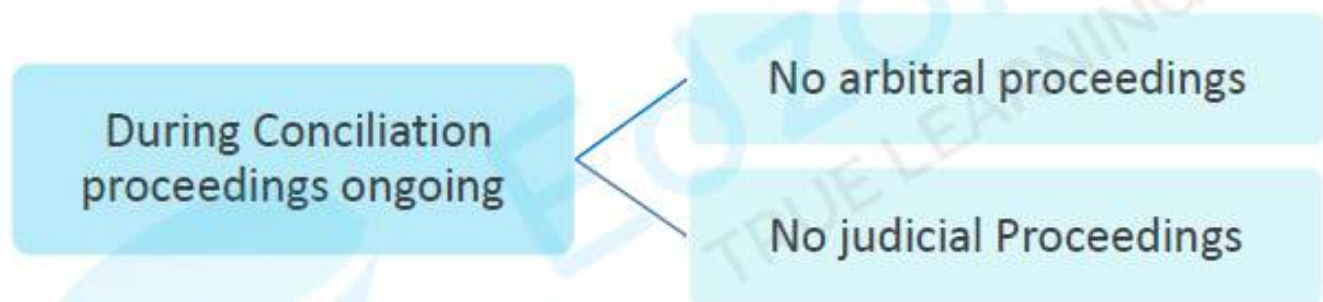
Q.135) Anita and Rajni entered into an agreement. On breach of agreement, they agreed to resolve through conciliation. However, while conciliation proceedings were ongoing without any effect to their rights. Rajni sent a letter for appointment of arbitrator. Whether Rajni can start arbitral proceeding against Anita?

- a) Yes***
- b) No***
- c) Depends***
- d) None of the above***

Ans: B



Section 77 of Arbitration and Conciliation Act, 1996: Bars parties from initiating judicial or arbitral proceedings



Exception to General Rule:

When the other proceedings are necessary to preserve the rights, the parties may start the arbitral or judicial proceedings.

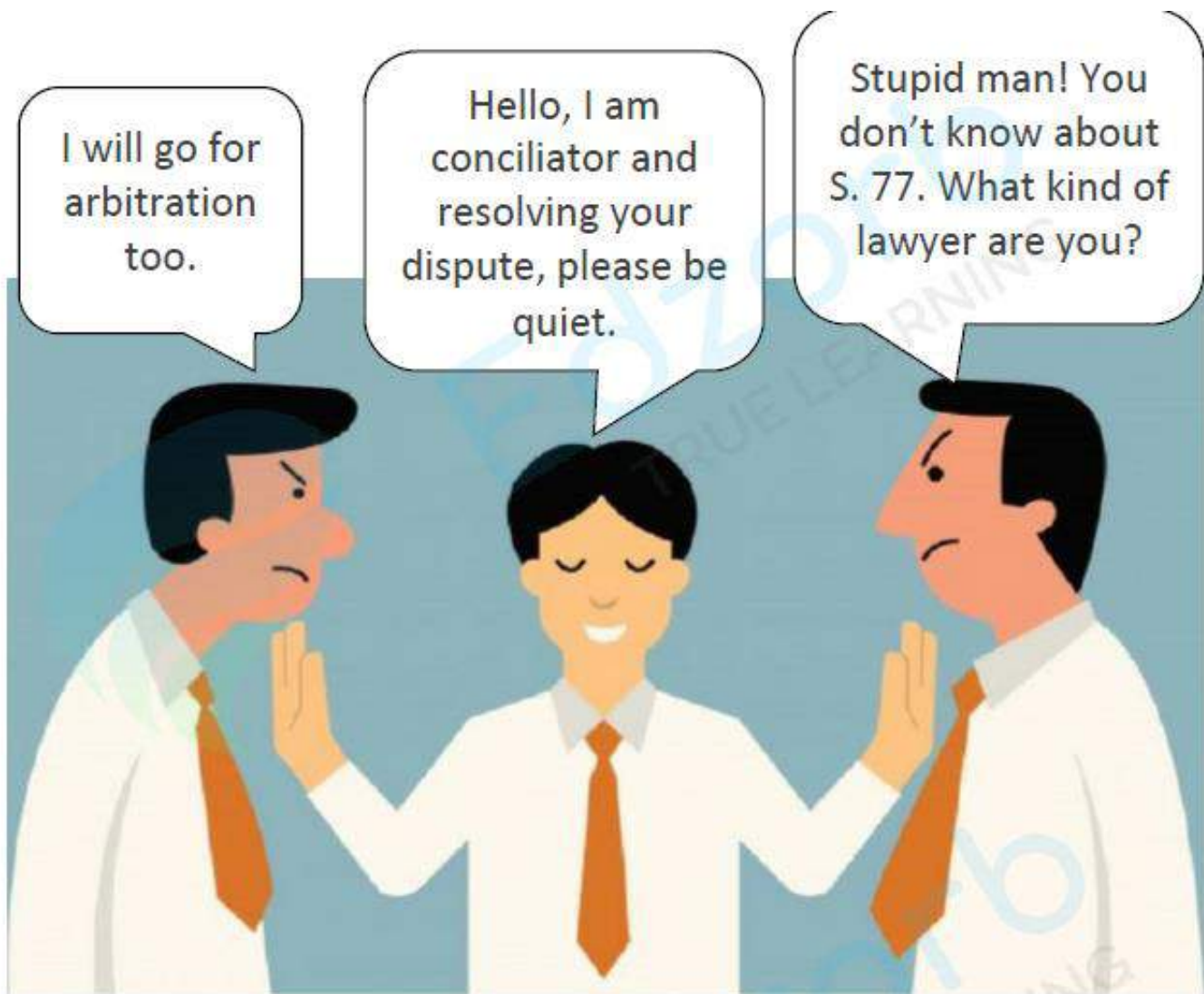
Limitation clause and Section 77:

M/S Geo Miller & Co. Vs Chairman, Rajasthan Vidyut

The time spent by the parties in pre-arbitration negotiations and settlement talks shall be excluded for the purpose of computing the period of limitation.

Read more : <https://indiankanoon.org/doc/109178821/>





Reference: Law of Arbitration & Conciliation, By Avatar Singh, 9th Edition, Page No. 479

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Q.136) Which of the following shall not be relied on by the parties or introduced as evidence in arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings?

- i) Views expressed or suggestions made by the other party in respect of a possible settlement of the dispute*
- ii) Admissions made by the other party in the course of the conciliation proceedings*
- iii) Proposals made by the conciliator*
- iv) The fact that the other party had indicated his willingness to accept a proposal for settlement made by the conciliator*

Which of the following are correct?

- a) (i) only*
- b) (i) and (ii) only*
- c) (i), (ii) and (iii) only*
- d) (i), (ii), (iii) and (iv)*

Ans: D

Section 81 of Arbitration and Conciliation Act, 1996: **Admissibility** of **evidence** in **proceedings**.

- The parties shall **not** rely on or introduce as an evidence in arbitral or judicial proceedings any of the following:



Views expressed in respect of a possible settlement of the dispute.



Admissions made by the other party in the course of the conciliation proceedings.



The fact of the other party had indicated his **willingness to accept** a proposal.



Proposals made by the conciliator.

Reference: Law of Arbitration & Conciliation, By Avatar Singh, 9th Edition, Page No. 473

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Q.137) Principle of Co-operation is provided under

- a) Section 69 of Arbitration and Conciliation Act***
- b) Section 70 of Arbitration and Conciliation Act***
- c) Section 71 of Arbitration and Conciliation Act***
- d) None of the above***

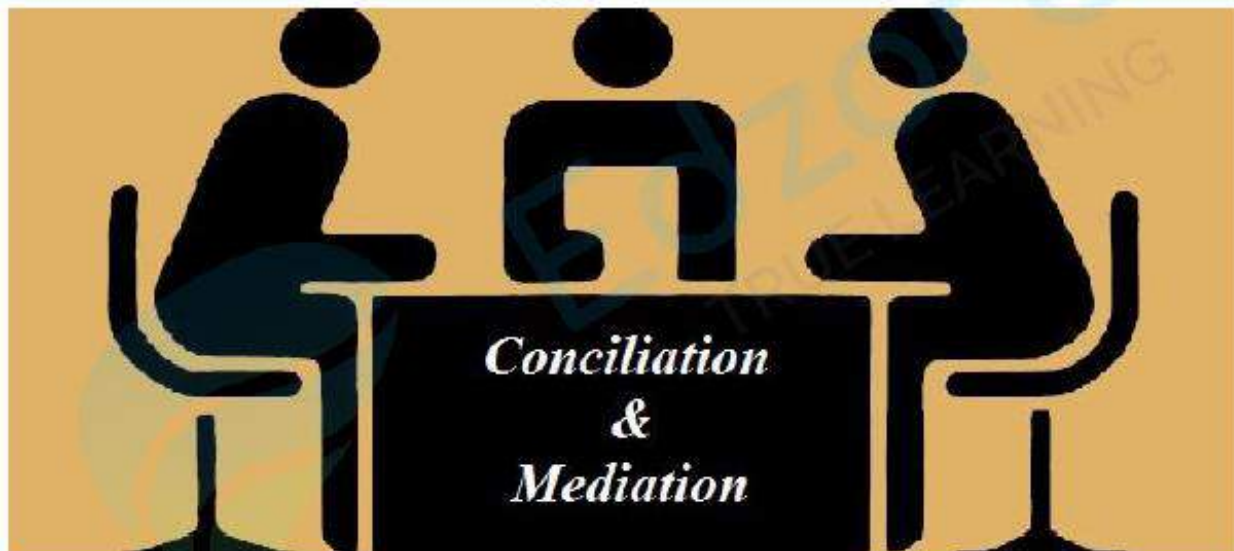
Ans: C



Section 71 of Arbitration and Conciliation Act, 1996: **Principle of co-operation.**

- The parties shall in **good faith co-operate** with the conciliator and,
- In particular, shall endeavor to comply with requests by the conciliator for submitting written materials, provide evidence and attend meetings.

The issue will be resolved at earliest if we work in co-operation as provided in **Section 71** of the Act.



Reference: Law of Arbitration & Conciliation, By Avatar Singh, 9th Edition, Page No. 473

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Q.138) In a conciliation proceeding between Ashok and Mahendra, they both appointed one conciliator each. The act of the parties is:

- a) Invalid as two conciliators cannot be appointed**
- b) Valid as in case of two conciliator, each party must appoint one conciliator**
- c) Invalid as number of conciliators must always be odd**
- d) Valid as it is upto the parties who wants to appoint the conciliator.**

Ans: B

Appointment of Conciliator

Section 64(1)



Proceeding with **one** conciliator:

- By agreement of parties



Proceeding with **two** conciliators:

- Each party may appoint one conciliator



Proceedings with **three** conciliators:

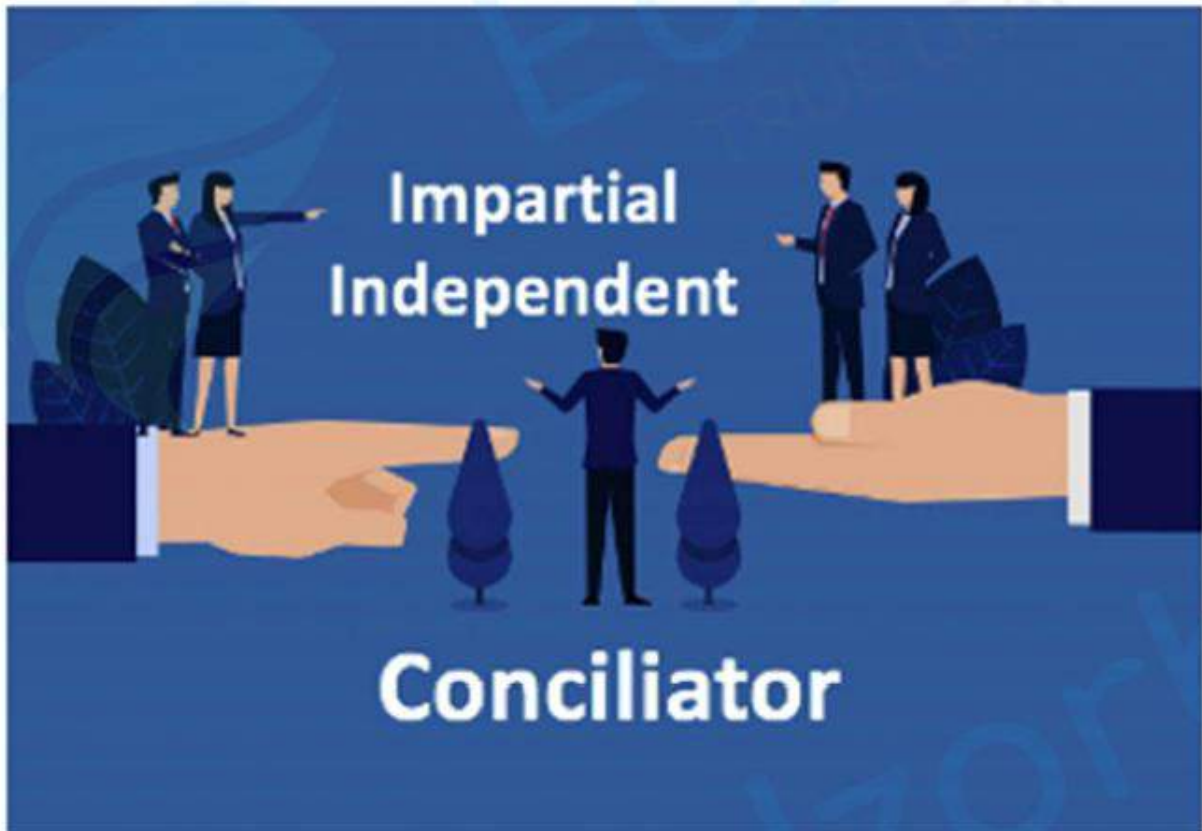
- Each party may appoint one conciliator and the third conciliator by agreement.

Note: Third conciliator will be **presiding conciliator**.



Section 64(2)

- Parties can take assistance of suitable institution for appointment of conciliators.
- The institution will take into considerations requirement of the parties.



Reference: Arbitration and Conciliation Act, 1996 s 64

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Q.139) In case of international commercial arbitration, an arbitrator can be appointed by:

- a) Chief Justice of India*
- b) Person or institution designated by CJI*
- c) Only b*
- d) Both A and B*

Ans: D

Section 11: Appointment of Arbitrator

If parties fail to appoint an arbitrator, the arbitrator may be appointed by Chief Justice, or any person or institution designated by him.

SBP Vs Patel Engineering (2005) 8 SCC 618

- The power to appoint an arbitrator under **Section 11** is a "*judicial*" power.
- Thus, it must go into the question of the validity of the arbitration agreement, the maintainability and arbitrability of the claim, the qualifications of the arbitrators and other jurisdictional matters.

Section 11 (9)

Appointment of arbitrator in an international commercial arbitration:

- **By Chief Justice of India.**
- A person or institution **designated by him.**
- **Requirement:** Nationality of the arbitrator should be other than the nationalities of the parties.



Food for Thought!

Do you think the judgement of **SBP Vs Patel Engineering** is in consonance with the Act?



To know more:

<http://docs.manupatra.in/newsline/articles/Upload/98CB9349-134A-4D2C-A047-207D3957AA6B.pdf>

Reference: Law of Arbitration & Conciliation, By Avatar Singh, 9th Edition, Page No. 128
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Q.140) Ruhani and Sawita entered into an agreement. Ruhani mentioned to Sawita that in case any dispute arises, they will refer the same to the Arbitrator. Ruhani just said that they will see to it at that time. When the dispute arose, Ruhani claims that there is a valid arbitration agreement between them. Whether the plea of Ruhani is acceptable in court of law??

- a) Yes, there is a valid agreement between the parties*
- b) No, there is no valid arbitration agreement between the parties*
- c) Depends*
- d) None of the above*

Ans: B



Section 7(2): An arbitration agreement may be in the form of –

Arbitration Clause in a Contract

Separate Agreement



Jagdish Chandra Vs Ramesh Chander

2007 (5) SCC 719

Facts: There is no arbitration agreement between parties.

- They just speak about the possibility of going for arbitration.

Issue: Whether there is valid and binding arbitration agreement?

Held: If there is just **possibility of parties agreeing to arbitration in future**, then

- It is in contrast to refer disputes to arbitration.
- Also, **there is no valid and binding arbitration agreement.**
- Hence, order for appointing arbitrator is set aside.

Food for Thought!

Read more about this judgement on –

<https://indiankanoon.org/doc/1913246/>





Reference: The Arbitration and Conciliation Act, 1996 s 7

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Q.141) In which of the following cases the Supreme Court has held that the interpretation of the provisions of the Arbitration and Conciliation Act, 1996 should be independent and without reference to the principles underlying the Arbitration Act, 1940?

a) Sundaram Finance Ltd v N E P C India Ltd

b) Bhatia International v Bulk Trading

c) Bharat Aluminium Co v Kaiser Aluminium Technical Service

d) None of the above

Ans: A

Section 9(1): A party may –

Before or during arbitral proceedings
OR

At any time after the arbitral award

But before award is enforced

Can apply to a court for interim
measures.





Sundaram Finance Ltd. Vs Nepc India Ltd.

Appeal Civil 141-143 of 1999

Facts: The dispute is related to hire-purchase agreement.

- Appellant filed application under **Section 9** before the proceedings.

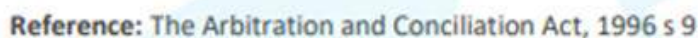
Issue: Whether the court has jurisdiction to pass interim orders before arbitrator is appointed?

Held: The **interpretation of the provisions** of the Arbitration and Conciliation Act, 1996 **should be independent** and without reference to the principles underlying the Arbitration Act, 1940.

- Hence, **High Court committed error** as the Trial Court can entertain application under **Section 9** even before the initiation of arbitration proceedings.



One of the **object** of Arbitration Amendment Act, 2021 is **to address the issue of corrupt practices** in securing contracts or arbitral awards.



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Q.142) Do the provisions of the Limitation Act, 1963 apply to arbitrations as they apply to proceedings in court?

a) Yes

b) No

c) Depends

d) None of the above

Ans: A



Section 43: Limitations

(1) The Limitation Act, 1963 (36 of 1963) **shall apply to arbitrations** as it applies to proceedings in Court.



(2)

Arbitration
commenced on the

date

referred in **Section 21**



Computer Sciences Corporation Vs Harishchandra Lodwal

AIR 2006 MP 34

Facts: The application for **execution proceedings** made at residing place of judgement debtor, while award was passed at another place.

Held: The **decree cannot be executed** unless and until the court transfer decree to the residing place of judgement debtor.

The award must be passed at the residing place of judgement debtor.



Reference: The Arbitration and Conciliation Act, 1996 s 43

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M.P. JUDICIAL SERVICE (CIVIL JUDGE) MAIN EXAMINATION

ARTICLE & SUMMARY WRITING

Second Question Paper

3. Translate the following 10 Sentences into English: -

10

- a) उच्च न्यायालयों का अपील्य अधिकार क्षेत्र भी दीवानी और फौजदारी दोनों प्रकार के मुकदमों तक विस्तृत है।
- b) किसी संस्था या व्यक्ति या कंप्यूटर नेटवर्क में अनधिकृत व्यक्ति द्वारा बिना अनुमति लिये उसके कंप्यूटर के डाटा की कॉपी करना या उसे साझा करना डाटा चोरी अपराध के तहत माना जाता है।
- c) दरअसल कोर्ट की अवमानना की समूची व्यवस्था न सिर्फ जनतंत्र, बल्कि न्यायिक प्रणाली के भी प्राकृतिक नियमों को सस्पेंड किये जाने की मांग करती दिखती है।
- d) जिन दीवानी मुकदमों में कम-से-कम 5,000 रु. की मालियत का प्रश्न अंतर्ग्रस्त हो, उनकी अपील उच्च न्यायालय में की जा सकती है।

EPIC Mains Test Series Question & Evaluation

SAMPLE

- e) यद्यपि भारत एक संघ है, परन्तु अन्य संघों के विपरीत भारत में संविधान द्वारा एकतापूर्ण न्यायपालिका और एक ही मौलिक विषयों के समूह की व्यवस्था की गई है।
- f) पहले उच्च न्यायालयों को केवल बंदी-प्रत्यक्षीकरण के लेख जारी करने का अधिकार था, परन्तु अब उच्च न्यायालयों को बंदी-प्रत्यक्षीकरण, परमादेश, प्रतिषेध, अधिकार-पुच्छा, उत्प्रेषण इत्यादि लेख जारी करने का अधिकार दिया गया है।
- g) सर्वोच्च न्यायालय के मतानुसार उद्देशिका का प्रयोग संविधान निर्माताओं के मस्तिष्क में झांकने और उनके उद्देश्य को जानने में प्रयोग की जा सकती है।
- h) लेकिन कानून में प्रावधानित कारावासों और वास्तविक कारावासों में अत्यधिक अन्तर है।
- i) जमानत, किसी आरोपी को प्राप्त एक ऐसी कानूनी व्यवस्था है जिसके तहत अदालत में प्रतिभूति या गारंटी के रूप में पैसे या संपत्ति या कुछ संपार्श्विक बांड जमा कर रिहाई प्राप्त की जाती है।

- Incorrectly Marked** **Q.3** **4/10** **TOTAL MARKS OBTAINED: (10/100)**
- (a) The appellate jurisdiction of high courts also covers both civil and criminal cases. *extends upto*
- (b) Without seeking *the* permission of an *unauthorised* ~~person~~ of an institution or computer network, the act of making a copy of his computer's data or sharing it is an offence. *When an unauthorised person, without the permission of an institution or an individual or a computer network, makes copy of data of such computer.*
- (c) Actually the ~~proper~~ *entire (21.12.11)* system of contempt of court not only seeks to suspend democracy, *but* rather also envisages to suspend the principles of natural justice of judicial system.
- (d) Those civil cases in which the pecuniary dispute is related to a sum of at least Rs 5000/- *is involved (31.12.11)* can be appealed before the High Court.

(e) Although India is an union, but unlike other unions, an united judicial system and a group of fundamental subjects have been guaranteed by the Constitution of India. provided by (C2A2211)

(f) Initially, the High Courts only had the right to issue the writ of habeas corpus, but now they have been bestowed the right to issue the writs of habeas corpus, mandamus, prohibition, quo warrant and certiorari. et cetera (C2A112) Make sure that every word is covered.

(g) According to Supreme Court, the preamble can be used to look into the minds of framers of the Constitution and to find out their intention and objective.

The sentence is silent on 'intention'

(h) But there is a lot of difference between the prisons laid down by the law and the statutory prisons.

~~of~~ real prisons. huge

- (*) Bail is ~~such~~ a ~~restored~~ right for ~~any~~ ~~accused~~
- (i) Bail, is ~~such~~ a legal ~~system~~ provision available to any accused, in pursuance of which he can be released by depositing any security, money in the form of guarantee, property or a collateral bond.

The question was about summary miting, and not translation.

~~Q.5~~ This ~~Sivaji~~, while judicial decisions had talked about read restriction on crackers and also the government had also declared to put please a ban on them; the public mocked all these factors and burnt crackers the whole night. This is the lowest step of decency and, the man standing on this step, environment, his own health or the convenience or

Q.143) Though the Arbitration and Conciliation Act, 1996 received the Presidential assent on 16 August 1996, it is deemed to have been effective from 25 January 1996. The statement is

a) True

b) False

c) Partly Correct

d) None of the above

Ans: A



Section 2(1)(a): Arbitration means any arbitration whether or not administered by permanent arbitral institution.



- The Arbitration and Conciliation Act, 1996 is molded as per UNCITRAL Model Law.



- Objectives of the Act –

1. To cover International and Domestic Arbitration and Conciliation.

2. To make fair, efficient and capable provisions.

3. To minimize the supervisory role of courts.

4. To permit arbitral tribunal to use mediation, conciliation or other procedures.

5. To provide proper enforcement of foreign awards.



Bharat Sewa Sansthan Vs U.P. Electronic Corporation

AIR 2007 SC 2961

Held: The **main objective** of the Act is to make **provisions for** an **arbitral procedure** which is fair, efficient and capable of meeting the needs of specific arbitration.

- It **minimizes the supervisory role** of courts in arbitral process.
- It **permits** the arbitral tribunal to **use mediation, conciliation** or other procedures during the arbitral

Did you Know?

The **Arbitration and Conciliation Act, 1996** is applicable on Jammu and Kashmir. After, it became the Indian Union Territory.



Reference: The Arbitration and Conciliation Act, 1996 s 2(1)(a)

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Q.144) Private arbitration is also described as

- a) Domestic arbitration***
- b) Integral arbitration***
- c) Fast track arbitration***
- d) Consensual arbitration***

Ans: D



Meaning – Parties choose to refer a dispute to an **impartial third person**.

- After hearing, the parties are bound by the arbitrator's decision.
- It is also called **Consensual Arbitration**.



Consensual Arbitration – The parties themselves decide the process of resolving the disputes.

Section 11(1): Subject to the appointment procedure,

- Here, parties are free to agree on a procedure for appointing the arbitrator(s).



Deutsche Post Bank Ltd. Vs Taduri Sridhar

AIR 2011 SC 1899

Facts: There was arbitration agreement between the parties.

Held: The existence of arbitration agreement as per **Section 11**, and

- Existence of **disputes to be referred to arbitrator are conditions precedent** for appointing an arbitrator.

Did you Know?

If **Section 11** jurisdiction has contractually been conferred on Courts of a place other than the seat of arbitration, then **Courts of such place vest with exclusive jurisdiction** limited solely to the extend of entertaining an application **for the appointment of an arbitrator.** – Cars 24 Services Vs Cyber Approach, ARB P. 328/2020.



Reference: The Arbitration and Conciliation Act, 1996 s 11

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Q.145) Mutual rights and duties of the partners after the changes in a partnership firm:

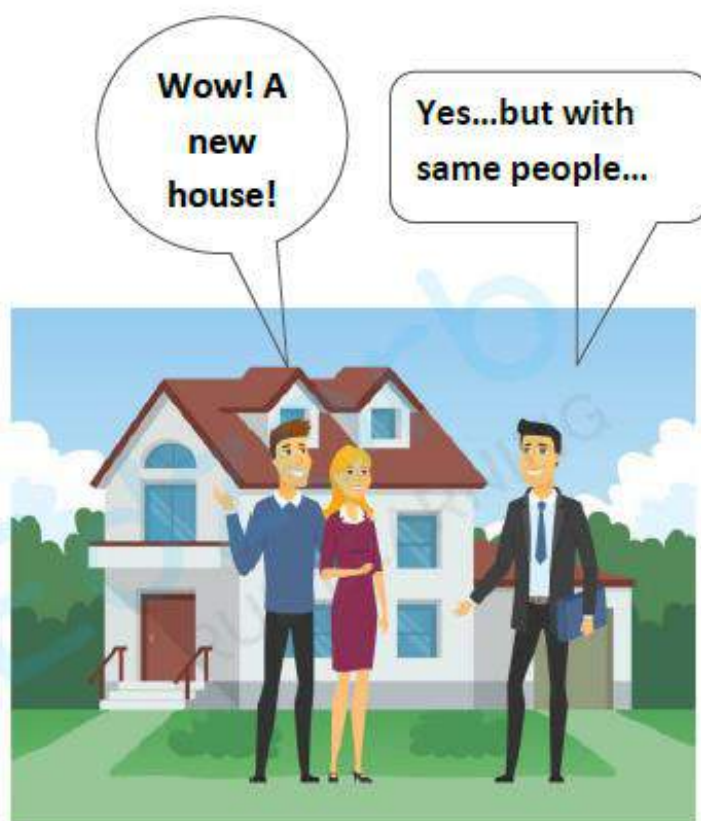
- a) Remains the same.***
- b) Does change.***
- c) Subject to contract between the partners.***
- d) Both (a) and (c).***

Ans: D



Section 17 (a) of IPA Rights and duties of partners

- Where a change occurs in the constitution of a firm,
- the mutual rights and duties of the partners in the reconstituted firm **remain the same**
- as they were immediately before the change,
- subject to the contract between the parties.



Reference: Mulla on The Indian Partnership Act; 10th Ed; 2012; Page No. 183

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Q.146) Mr. MW was the manager of business which was running under the name and style of MW and Co. The suit was filed by the creditors against MW. Whether the suit is maintainable?

- a) Yes***
- b) No***
- c) Depends***
- d) None of the above***

Ans: A



Section 28: Holding out:

A person is held liable as a partner by holding out if such conditions are fulfilled:

- I. **Representation:** He represented himself or knowingly allowed himself to be **represented as a partner**, the representation may be by word or conduct.



- II. **Knowledge of representation and acting on good faith:** The third party on such representation gave credit to the firm.



Mr. Raj is liable as Rakesh gave credit believing Mr. Raj to be partner of the firm.

Bevan Vs National Bank Ltd.

(1906) 23 T.L.R. 65.

Facts: Mr. MW was the manager of one Mr. B's business. The business was carried on in the name and style of MW and Co. The firm was sued for recovery of money.

Held: MW was also liable because by permitting his name to be used in the title of the firm he made a representation that he was a partner and responsible to those who had given credit to the firm on the faith of that representation.

Reference: Indian Partnership Act, 1932, Section 28

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Q.147) When a public notice of the retirement of a partner is not given:

a) All the partners are liable for an act done by any of them which would have been an act of the firm if done before the retirement.

b) Retired partner is not liable for the wrongful acts or acts of insolvency committed by the continuing partners, after his retirement,

c) Both (a) and (b) are correct.

d) Both (a) and (b) are incorrect.

Ans: C



Section 32 (3):

Until the public notice of retirement is given, the **retired partner continues to be liable** to partners for any act of the firm.

Why are you making her liable, she has retired?

I didn't get any notice and she is a face of your firm for me. Firm liability = her liability.



The girl will be liable as no public notice was given



Jawaladull R Pillani Vs Bansilal Motilal

(1929) 56 IA 174

- **Held:** Before this Act the law was that besides public notice to the general public actual notice should be given to old customers.
- This has been superseded by **sub-section (3)** which makes a public notice sufficient even as to old customers.

Did you Know?

However, the retired partner is not liable for the act of insolvency committed by partner after his retirement.



Reference: Indian Partnership Act, 1932, Section 32

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Q.148) A suit for possession of an immovable property, under section 6 of Specific Relief Act can be filed within

a) 1 year of dispossession

b) 6 months of dispossession

c) 3 years of dispossession

d) 12 years of dispossession

Ans: B

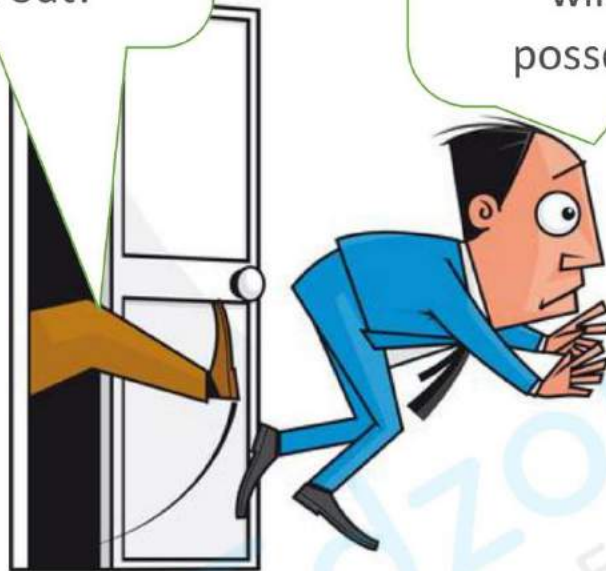


Section 6: Suit by person dispossessed of immovable property:

If any person is dispossessed without his consent of immovable property **otherwise than in due course of law**, he may, by suit, recover possession thereof.

You have lived here for long, now I am the landlord and will live here. Get out!

Don't worry Mr. Landlord, I will file suit under Sec. 6 SRA and will take the possession back



But Mr. Tenant, you have to come before me within 6 months as per Section 6 (2) of SRA



Section 6 and Article 64 of Schedule to the Limitation Act

Section 6	Article 64
Similarity	
Deals with recovery of possession on the basis of previous possession rather than title.	
Difference	
Limitation Period: 6 months.	Limitation Period- 12 years.
No right of appeal against the order.	Appeal can be filed.

Reference: Contract and Specific Relief by Avtar Singh, 12th Ed., 2017, Page no. 849.

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Q.149) Mistake contemplated under section 26 is

a) mutual mistake

b) bilateral mistake

c) mistake in framing of the instrument

d) all the above.

Ans: A



Rectification of instrument: 'Rectification of instrument,' means correcting the errors.



Its ok, we can always rectify the contract under sec. 26

Hey we added on extra zero to the contract price.



Grounds for rectification of contract:

- **Fraud:** **Section 17** of the ICA 1872 defines “Fraud” means and includes any acts committed by a party to a contract, with intent to deceive another party.

Its ok to conceal facts in contract for profit-



- **Mutual mistake:** The term “mutual mistake” arises when the parties misunderstand each other.



Section 18 and Section 26 of SRA

- Under **Section 18**, the suit is always for specific performance of contract, and **it is defendant** who claims variation or rectification of the contract; however, under **Section 26**, both, that is, **the plaintiff or defendant** can claim variation (that is, rectification) of an instrument, and the suit can be any suit based on an instrument.
- **Section 26** is broader than **Section 18** of Specific Relief Act.

Reference: Contract and Specific Relief by Avtar Singh, 12th Ed., 2017, Page no. 920.

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Q.150) Ashish hired a famous painter to make a painting for him. However, the painter died before the completion of project. Whether the LRs can enforce specific performance of contract that he will complete the project on behalf of his father.

a) Yes, specific performance can be enforced under Section 12

b) Yes, specific performance can be enforced under Section 14

c) No, specific performance can't be enforced under Section 14

d) No, specific performance can't be enforced under Section 12

Ans: C

Section 14: Contracts which are not specifically enforceable:

- 1 Contract determinable in nature
- 2 Parties have taken substituted performance
- 3 Contract dependent on personal qualification
- 4 Contract involves continuous duty that cannot be supervised

Contract which is determinable in nature: The term determinable is where the parties can immediately revert to their original position, thereby making such enforcement futile.



A and B contract for partnership without providing a defined duration, the partnership cannot be enforced as it could easily be dissolved at once.



Substituted Performance: Where the party to the contract has enforced performance from the third party and has taken expenses from the defaulting party.



Contract dependent on the personal qualification of the parties:

The contract which requires personal skills and learning cannot be enforced.



Contract to make painting

Continuous duty: The court won't enforce contract which requires continuous supervision from court.

Joseph Vs National Magazine Co Ltd.

[1958]

- A writer refused to have his name published as the author which had been re-edited and altered by a magazine expressing other opinions in a different style.
- He was not entitled to specific performance of his contract as that would require supervision by the court of editing the article though he would be entitled to damages.

Reference: Contract and Specific Relief by Avtar Singh, 12th Ed., 2017, Page no. 871

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Q.151) The objection as to maintainability of suit of declaration without further relief

a) Must be taken at the earliest stage

b) Can be taken at any step of the proceedings

c) Can be taken for the first time in appeal

d) All the above.

Ans: A



Mst. Rukhmabai Vs Lala Laxminarayan & Ors
AIR 1960 SC 335

- The court may not be able to know about the further relief on its own, rather it is the ***duty of the defendant to raise that objection at the earliest possible opportunity.***
- If the defendant does not raise the aforesaid objection, then, the court may go on to pass the declaratory decree in favour of the plaintiff and thereafter in appeal the defendant will not be allowed to raise that aforesaid objection.

Your honour, she did not take further claim, please set aside the order passed in declaration suit

You cannot sleep and take such objections at appellate stage



Reference: Mst. Rukhmabai Vs Lala Laxminarayan & Ors

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Q.152) Section 31 in its application is

- a) restricted to contracts only**
- b) based on protective or preventive justice**
- c) restricted to the parties to the contract**
- d) mandatory in nature.**

Ans: B

Cancellation of instrument: Jurisprudentially, cancellation means “to destroy the force, effectiveness or validity of an order, a decision, to bring to nothingness.”



Section 31: Cancellation of instrument:



Deccan Paper Mills Co. Ltd. Vs Regency Mahavir Properties 2020 SCC OnLine SC 655

- The principle under **Section 31** is that void document though not necessary to be set aside may, if left outstanding, be a source of potential mischief.
- The jurisdiction under **S. 31** is, therefore, ***a protective or a preventive one.***
- **Section 31** embodies the principle by which he is allowed to anticipate the danger and institute a suit to cancel the document and to deliver it up to him. The principle of the relief is the same as in quia timet actions.

Reference: Contract and Specific Relief by Avtar Singh, 12th Ed., 2017, Page no. 926

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Q.153) Aniket filed a suit against Charu for possession of property under Section 6 of Specific Relief Act. Charu pleaded that she is the owner of house and has a right to dispossess tenant. Whether the plea of Charu is relevant.

a) Yes, as title is relevant

b) No, title is irrelevant

c) Discretion of the court

d) None of the above

Ans: B

Section 6: Suit by person dispossessed of immovable property:

Ramesh Chand Koiri Vs Chandan Koiri

2018 SCC OnLine Cal 6471

The possession of the plaintiff over the immovable property on the date of dispossession is the condition precedent to invoke jurisdiction of Section 6.

Investigation into the title favouring such possession is irrelevant in the proceeding of such nature.

Go, file the suit, I won't give it only because you have the title of the house

I am the owner of the house, give it back.



Reference: Contract and Specific Relief by Avtar Singh, 12th Ed., 2017, Page no. 849.

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Q.154) As per Section 39 of CrPC, every person, aware of the commission of, or of intention of any other person to commit an offence punishable under which of the following section of IPC:

I. Section 121-126

II. Section 161-165A

III. Section 448-450

IV. Section 489A-489E

Codes:

a) I, II & III

b) II, III & IV

c) I, II & IV

d) I, III & IV

Ans: C

Section 39: Public to give information of certain offences:

(1) Every person, aware of the commission of, or of the intention of **any other person to commit, any offence punishable under any of the following sections of IPC:**





- The person shall, in the absence of any reasonable excuse, forthwith **give information** to the nearest Magistrate or police officer of such commission or intention.
- If a person claims a reasonable excuse, the burden of proving the same lies on the person so aware.

(2) For the purposes of this section,

The term **“offence”** includes any act committed at any place out of India which would constitute an offence if committed in India.



The murder committed on London bridge falls under this section.

Reference: Code of Criminal Procedure, S.39

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150



Q.155) Additional Chief Judicial Magistrate is appointed by:

a) Chief Judicial Magistrate

b) High Court

c) State Govt.

d) State Govt. in consultation with High Court

Ans: B



Section 12: Chief Judicial Magistrate (CJM) and Additional Chief Judicial Magistrate (Addn. CJM) etc.:

(1) CJM:



- In every district (not being a metropolitan area)
- The High Court shall appoint a JMJC to be CJM.

High Court



Appoint



JMJC as CJM
(Shall)



JMJC as Addn
CJM (May)



JMJC as SDM
(May)

(2) Additional CJM (Clause 2):

- Appointment: High Court
- Who? JMIC is appointed as Addn. CJM.
- Powers: All or any of a CJM under this code/law for time being in force.



Sub Divisional Magistrate (SDM) (Clause 3):

(a) Appointment: HC designate JMIC as SDM

(b) Exercise power or control over the work: Judicial

magistrate (other than Additional CJM) in sub division.

Reference: Code of Criminal Procedure, S.12

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Q.156) Under Section 164, who may record the confession or the statement?

a) Any senior police officer

b) Judicial magistrate which has the jurisdiction

c) Executive magistrate

d) Judicial magistrate, irrespective of jurisdiction

Ans: D



Section 164 of CrPC deals with **Recording of confessions and statements**

Section 164 (1) states - **Any Metropolitan Magistrate or Judicial Magistrate** may, whether or not he has jurisdiction in the case,

- record any confession or statement made to him during an investigation or;
- at any time before the commencement of the inquiry or trial
- In case the Magistrate doesn't possess jurisdiction, the **she forwards** the recorded statement/confession to the Magistrate who is authorised to try the case.



In the words of **Justice Stephen**, a **“confession”** is an *admission made at any time by a person charged with a crime stating or suggesting the inference that he committed that crime.*



Duty of Magistrate to tell while recording confession



Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 158
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Q.157) 'A ' faced trial for cheating 'Z' by dishonestly inducing him to lend money by knowingly pledging fake diamonds. 'Z ' died during trial and was survived by a son 'X'. 'X' moved an application in the Trial Court to compound the offence. Which of the following is the correct legal proposition?

- a) X is not competent to compound the offence*
- b) On the death of complainant 'Z ', the trial proceedings shall abate*
- c) Court cannot entertain such an application after death of the complainant*
- d) 'X ' can compound the offence with the consent of the Court*





Section 320: Compounding of offences:

Compoundable and Non-Compoundable Offences:

Compoundable offences: These are those offences where, the complainant enter into a compromise, and agrees to have the charges dropped against the accused.





Here, the offence is compounded between the parties.

Non-Compoundable offences: Other than compoundable offences.



- Offences which are of serious nature like rape, murder etc. are non-compoundable.
- These offences cannot be compounded even with the permission of the court.



Section 320 CrPC: Compounding of offences.

The provisions gives the number of offences which are compoundable. The offences are divided in two lists:

- Compoundable without the permission of the court.
- Compoundable only with the permission of the court.

Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	The person cheated.
---	-----	---------------------

Cheating as compoundable offence

Deva Ram Vs State of Rajasthan and another

Offence under **Section 420** of the IPC is compoundable with the permission of the court by the person who is cheated.

Read more: <https://indiankanoon.org/doc/191146299/>

Hence, in the present case, LRs of A, 'X' can compound the offence but only with the consent of the court.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 804.

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Q.158) The power of the Supreme Court to transfer cases and appeals from one High Court to another High Court can be exercised under Cr. P.C. on an application of the following:

- a) Solicitor-General of India***
- b) Attorney-General of India***
- c) A party interested***
- d) Either (b) or (c) both***

Ans: D



Section 406 CrPC - Power of Supreme Court to transfer cases and appeals.

Supreme Court may direct for the transfer of any **case** or **appeal**:

FROM	TO
One High Court	Another High Court
Any other Court than High Court	Another Criminal Court of equal or superior jurisdiction subordinate to another High Court.

Who can make application Section 406 (2):



Attorney General of India- KK Venugopal (2017)



Any Interested Party

Hazara Singh Vs State of Punjab AIR 1965 SC 720

The words "party interested" occurring in section 406 are not defined in the Code. They are of a wide import and can mean person interested.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 655.

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Q.159) A committed the offence of theft on 02.02.2012. The prosecution was instituted on 02.01.2014. However, the magistrate took cognizance on 02.12.2015. The case is

a) Outside the limitation period prescribed under Section 468

b) Within the limitation period prescribed under Section 468

c) Within the limitation period prescribed under Section 467.

d) None of the above

Ans: B

General Rule: There is no limitation period in criminal law.

Exception: **Section 468** provides the period of limitation for taking the cognizance of an offence by the Magistrate. The period of limitation which is prescribed is:

The period of limitation shall be –

Limitation Period	Offence
Six months	Fine only
One year	Less than one year
three years	One year to three years
No limitation	More than three years

**Japani Sahoo Vs Chandra Sekhar Mohanty
(2007) 7 SCC 394**

The **relevant date**, for the purpose of computing the period of limitation under **Section 468** is the date of filing of the complaint or the date of institution of prosecution and not the date on which a Magistrate takes Cognizance.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 505.

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Q.160) The accused was arrested for stalking. During the trial, accused filed an application for plea bargaining. The court allowed him the same. The accused was punished in accordance with section 265A of the Code. The sentence passed is _____?

- a) In consonance with law***
- b) Must be decided by the appellate court***
- c) Is not in consonance with the law***
- d) None of the above***

Ans: C

Section 265A: Application of the Chapter:

- (1) This Chapter shall apply in respect of an accused against whom:



Police report u/**S.173** received alleging that the offence appears to have been committed by the accused.

Magistrate has taken cognizance of an offence on complaint.



The offence in both the clauses are **other than an offence for which the punishment of:**



• **Death.**

• **Imprisonment for life.**





- Imprisonment for a term **exceeding seven years**, has been provided under the law for the time being in force.

The section does not apply to:



Offences against children > 14 yrs

Socio economic offences



Offences against women



- **Socio economic offence:** These offences are determined by Central Government, by notification under the law for the time being in force.



Hence, the order of the court is not in consonance with the law as plea bargaining cannot be accepted in cases of offences against women.

Reference: Code of Criminal procedure, S.265A

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Q.161) When any person causes police officer to arrest another person groundlessly, the magistrate may award compensation of amount not exceeding _____:

a) Rs.500

b) Rs.1000

c) Rs.5000

d) At the discretion of the judge.

Ans: B






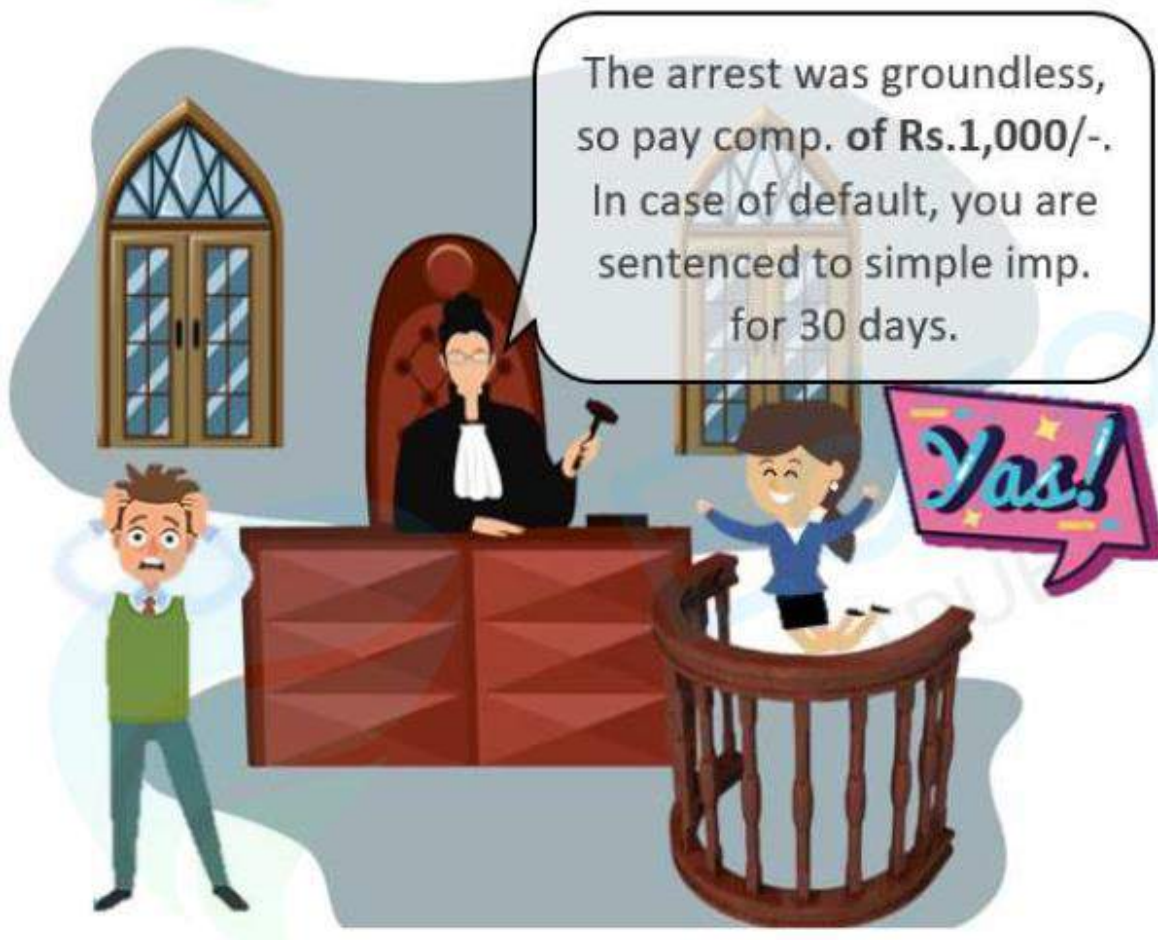


Section 358: Compensation to persons groundlessly arrested:

(1) Whenever any person causes a police officer to arrest another person,

- If it appears to the **Magistrate that there was no sufficient ground for causing such arrest,**
- Magistrate may **award such compensation:**

 Amount	<ul style="list-style-type: none">• Not exceeding Rs.1,000/-.
 To be paid by	<ul style="list-style-type: none">• Person causing such arrest
 For	<ul style="list-style-type: none">• Loss of time and expense in the matter



Section 358 and Principle of Natural Justice:

Mrs. Shameem Vs Boopathi

28 February, 2008, Madras High Court

Held:

- The principle of natural justice must be read into all provisions of law require that an opportunity of showing cause and trying to satisfy the Magistrate that there was sufficient ground for causing the arrest.
- Otherwise, Section may be struck down on ground of Art. 14 & 19 of Constitution of India.

Reference: Code of Criminal procedure,

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Q.162) Which of the following section provides that the Court shall not alter or review its judgment once it is signed:

a) Section 363

b) Section 364

c) Section 365

d) None of the above

Ans: D



Section 362: Court not to alter judgment:

- Save as otherwise provided by this Code or by any other law for the time being in force,
- **No Court shall alter or review** the same once it has signed its judgment or final order disposing a case.



Exception: To correct a clerical or arithmetical error.



Section 363	Copy of judgment to be given to the accused and other persons
Section 364	Judgment when to be translated
Section 365	Court of Session to send copy of finding and sentence to District Magistrate

Reference: Code of Criminal procedure,

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Q.163) In which of the following case, the Apex Court held that freedom of speech and expression and the freedom to practice any profession over the medium of internet enjoys constitutional protection under Article 19(1)(a) and Article 19(1)(g) and also provided principles which must be followed while exercising power under Section 144 of the Code:

- a) Anuradha Bhasin Vs Union of India***
- b) Ghulam Nabi Azad Vs Union of India***
- c) Both A and B***
- d) Neither A nor B***

Ans: C

Section 144: Power to issue order in urgent cases of nuisance or apprehended danger:

(1) Order in urgent cases of nuisance or danger:

- In cases where, in the opinion of a DM, SDM or any EM specially empowered by the State Government in this behalf,
- There is sufficient ground for proceeding under this section and **immediate prevention or speedy remedy is desirable.**

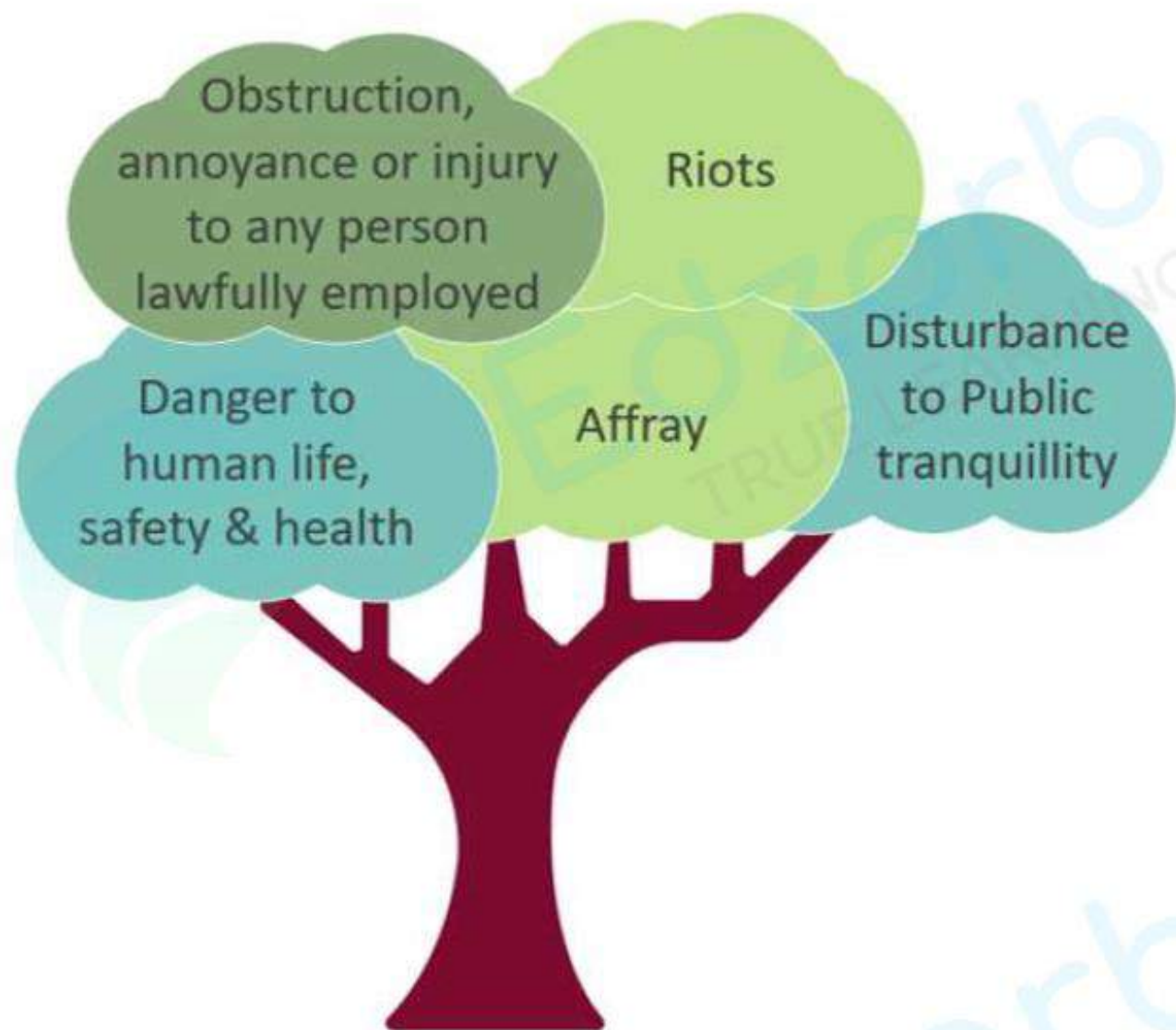


Riots



Such Magistrate may, by a written order:

- **Stating:** Material facts of the case
 - **Served:** As provided by section 134
 - **Order:** Direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management.
-
- **Purpose of the order:** If such Magistrate considers that such direction is likely to prevent, or tends to prevent:



Internet shutdown and Section 144 CrPC:

**Gaurav Sureshbhai Vyas
Vs State of Gujarat
15.09.2015**



Facts of the case:

- On Aug. 2015, the State of Gujarat blocked Internet access on mobile phones for one week after widespread public protests via order under **S.144 CrPC**.
- Petition challenging the order as violative of **A.14, 19 & 21**.



Decision of the case:



- The internet was not blocked as a whole, as people still had access to Broadband and WIFI services.
- The court clearly differentiated between **sections 69A** of the IT Act and **Section 144** of CrPC:

Section 69A	Section 144
<ul style="list-style-type: none">• It is used to block specific sites.	<ul style="list-style-type: none">• It is used to give directions to a person who is responsible for extending the internet access.

- The contention of the petitioner was rejected and order was upheld.

Food for Thought!

The judgment received criticism from many. Do you stand by the judgment of the Hon'ble Court?



**Anuradha Bhasin Vs Union of India &
Ghulam Nabi Azad Vs Union of India
WP(c) 1031/19, 1164/19**

Held:

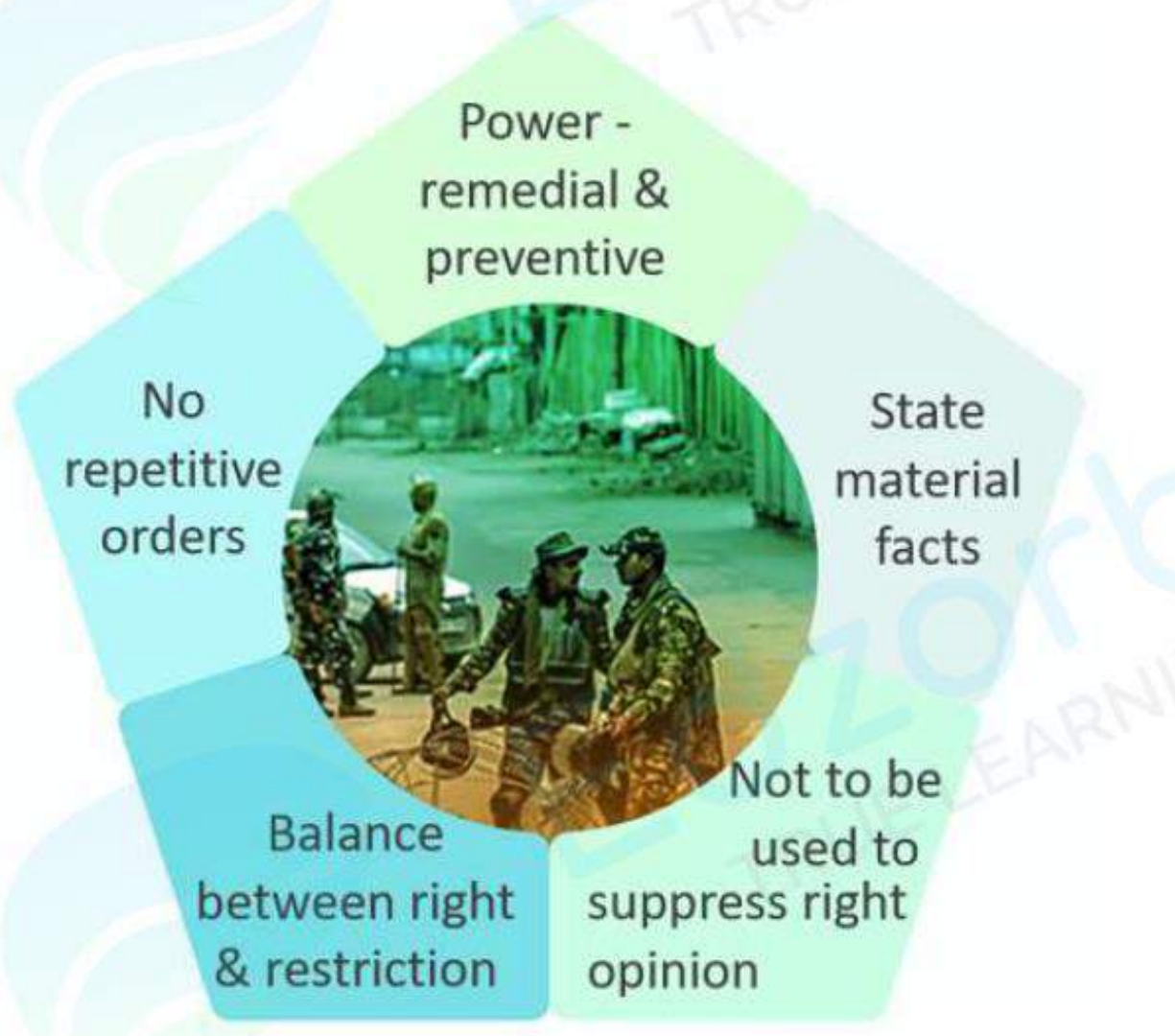
- Freedom of speech and expression and the freedom to practice any profession **over the medium of internet enjoys constitutional protection** under Article 19(1)(a) and Article 19(1)(g), subject to the restrictions provided under Article 19(2).
- Occurrence of "**Public Emergency**" or "**interests of public safety**" are pre-requisites for shutdown of internet.
- An order suspending internet **services indefinitely** is impermissible.
- Any order suspending internet issued must adhere to the **principle of proportionality** and must not extend beyond necessary duration.
- Any order suspending internet is **subject to judicial review**.



Anuradha Bhasin Vs Union of India
Ghulam Nabi Azad Vs Union of India
WP(C) 1031/19, 1164/19

Held:

Principles to be followed while exercising power u/S.144:



Reference: Code of Criminal Procedure
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1



Q.164) The power to determine the language of a subordinate Court is with

a) High Court

b) State Government

c) Central Government

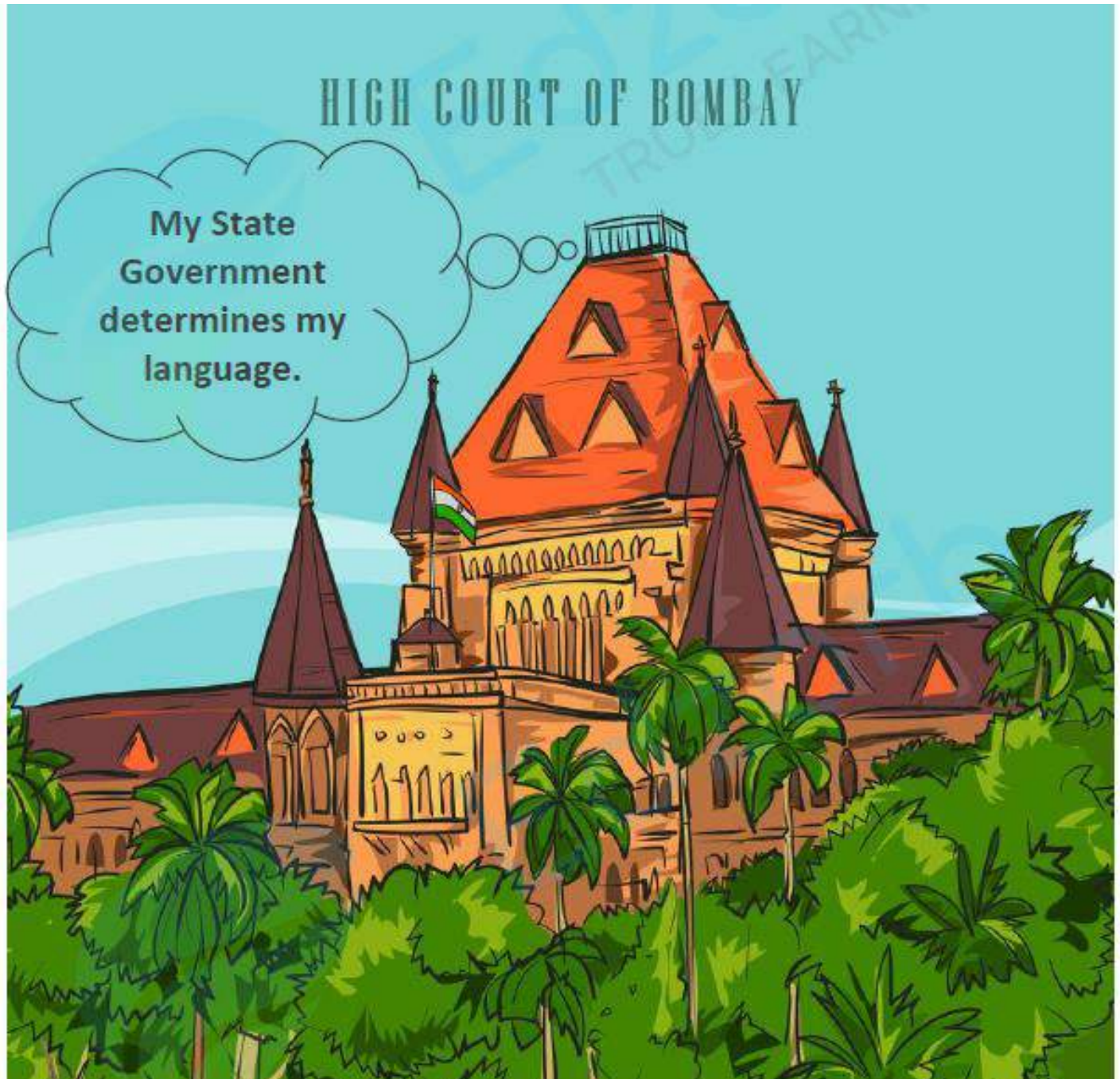
d) State Government with the concurrence of the High Court

Ans: B



Section 272 CrPC - Language of Courts.

The **State Government** may determine what shall be, for purposes of this Code, **the language of each Court** within the State other than the High Court.



Read more about:

<https://economictimes.indiatimes.com/news/politics-and-nation/court-language-is-english-says-supreme-court/articleshow/50080870.cms?from=mdr>

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 380

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Q.165) If accused cannot understand the proceeding, though he is not of unsound mind, the court may_____

a) Stop the proceeding and send the person to medical practitioner

b) Proceed further

c) Proceed further only after taking approval from the High Court

d) Refer the case to the High Court.

Ans: B

Section 318:

Procedure where accused does not understand proceedings:

- If the accused, though **not of unsound mind**,
- Accused **cannot be made to understand** the proceedings,
- **Court may proceed** with the inquiry or trial
- If such **proceedings result in a conviction**, then For **Court other than High Court** forward the proceedings to the High Court **with a report of the circumstances of the case.**
- High Court shall pass thereon such order as it thinks fit.



What robbery?
I don't understand
what's going on...

Okay Noted!
Let's proceed with the trial



Convicted.

Section 318:
Procedure where
accused does not
understand



Proceedings
Forwarded to High
Court for its order

Reference: Code of Criminal Procedure Code, 1973 s 318

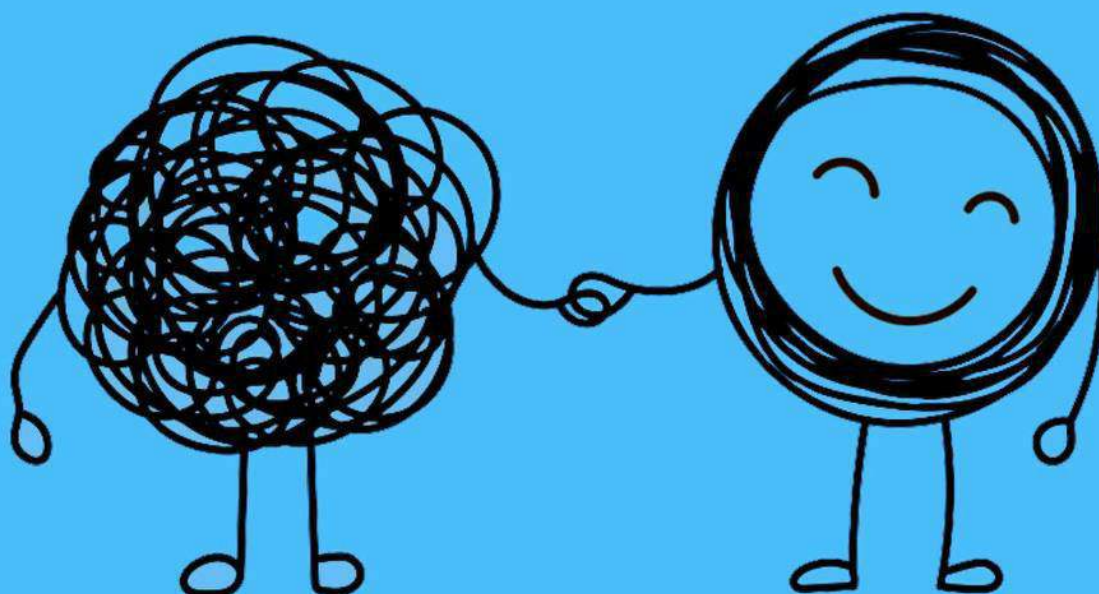
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Q.166) Two people conspired together to commit theft. While they were escaping after the commission of crime, the police arrest one of the accused and court started trial against him. During trial, court came to know from the evidences that there was another offender. The court wants to proceed against him. Whether the court can proceed against another accused in the same trial by adding him.

a) No, the court has to start another trial

b) No, the court cannot add as specifically restricted by Sec.319

c) Yes, the court can add the accused under Sec.319

d) Yes

Ans: C

Section 319

Power to proceed against other persons appearing to be guilty of offence.

- Where in the course of inquiry or trial of an offence, it **appears from the evidence** that **any person not being the accused has committed any offence** for which such person could be **tried together** with the accused, the Court may proceed against such person for the offence which he appears to have committed.





The CCTV footage clearly shows you had an accomplice with you!!

- From the evidences, it got clear that Jagga could be tried together with Nambiar.



**Can launch an investigation
against Jagga:**



Hardeep Singh Vs. State of Punjab

[AIR 2014SC 1400]

- Doctrine *judex damnatur cum nocens absolvitur* → Judge is condemned when guilty is acquitted.
- **Object** - **Real culprit should not get away unpunished**
 - This is a part of fair trial.
- The word **evidence** in S. 319 CrPC has to be **broadly understood and not literally**:
 - Includes materials which have come before court in course of inquiry.
 - Statement made in examination-in-chief constitutes evidence.

Reference: Code of Criminal Procedure, 1973 s 319

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Q.167) Which of the following combinations are correctly matched?

1.Made by a Court - investigation

2.Object is to collect evidence - Inquiry

3.Ordinary second stage of a criminal case - Inquiry

4.It is not a judicial proceeding- Investigation

Select the correct answer with the help of the code given below:

Code:

a) 1 and 2

b) 2 and 3

c) 3 and 4

d) 2 and 4

Ans: C

Section 2(g)

CrPC

Inquiry

- **"Inquiry"** means every inquiry, other than a **trial**, conducted under this Code by a **Magistrate or Court**.

INQUIRY



TRIAL



Section 2(h)

CrPC

Investigation

- **"Investigation"** includes all the proceedings under this Code for the **collection of evidence** conducted by a **police officer** or by any person (other than a Magistrate) who is **authorised by a Magistrate** in this behalf.



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CATEGORIES	INVESTIGATION	INQUIRY
Conducted by	a Police Officer or a private person.	a Magistrate.
Nature	It is always non-judicial in nature	It can be either judicial or non-judicial
Aim	Collection of evidence to present in a trial.	Check the veracity and determine the truth of any crime which has been reported.
For an instance	Arrest u/s 41, recording FIR u/s 154, conducting search & seizure u/s 165	Proceedings for maintenance of public order and tranquility u/s 131 or the inquiry by Magistrate into the cause of death of a person dying under suspicious circumstances u/s 174

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 53, 124

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Q.168) Ankita gets married to Raman. They both get divorced. Ankita remarries Rahul. Ankita files a case of maintenance against Raman. Whether Ankita can claim maintenance?

- a) Yes***
- b) No***
- c) Discretion of judge***
- d) None of the above***

Ans: B



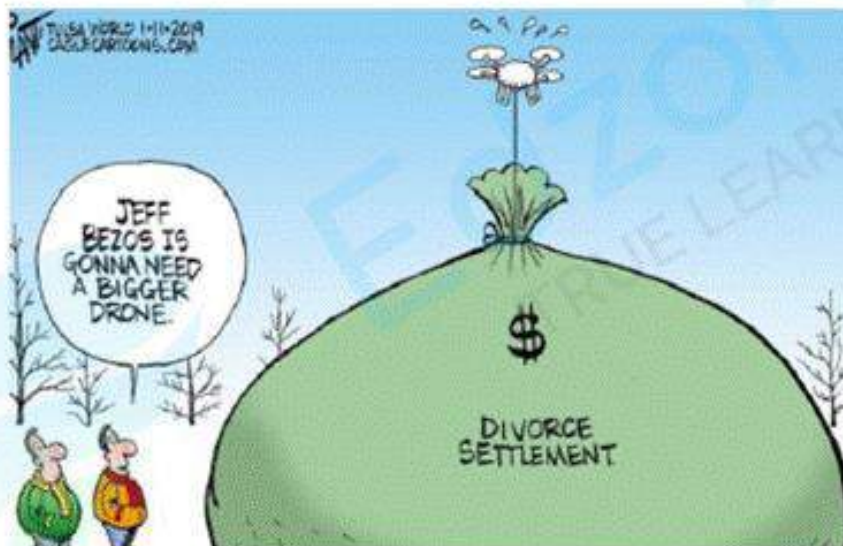
Divorce



Section 125 Explanation Clause (b) of CrPC - Term “**wife**” includes a woman who has been divorced by, or has obtained a divorce from, her husband and has **not remarried**.

If wife has remarried after the divorce, the husband is **not liable to pay maintenance** as the wife shall be maintained by her new spouse.

The **most expensive** celebrity divorce ever, is divorce of Amazon CEO, Jeff Bezos and MacKenzie Bezos. He paid out **\$38bn** in divorce settlement.



Ravindran Nair Vs Sakunthala Amma 1978 CriLJ 1049

A **divorced spouse** cannot be characterised as a wife living separately by mutual consent. She is a person who lives separately from her former husband by virtue of a change in status consequent upon the dissolution of the marriage.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 807.

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Q.169) In which case Supreme Court held that only a legally wedded wife can claim maintenance under Section 125 of Criminal Procedure Code?

a) Savitaben Somabhai Bhatia v. State of Gujarat

b) S. K. Butt v. State of U. P.

c) Rajeev Choudhary v. State

d) Janak Singh v. State of UP

Ans: A



Savitaben Somabhai Bhatia Vs State of Gujarat 2005 (2) R.C.R. (Criminal) 190

Only woman who is **legally wedded wife** is entitled to get maintenance u/s 125 CrPC. The scope of maintenance can't be enlarged to women who is treated as wife but not legally married.



A Live-in partner can seek maintenance:

<https://www.thehindu.com/news/national/sc-live-in-partner-can-seek-maintenance/article25384012.ece>

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 804 - 807.

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Q.170) Amu goes to the police officer to lodge an FIR against robbery. However, Police considers him mad and sends him away without registering the FIR. Amu goes to magistrate and files an application to direct police to investigate the case. The magistrate can pass directions under which of the following section

a) Section 155

b) Section 176

c) Section 156

d) Section 149

Ans: C

Police officer' s power to investigate cognizable case.

- Officer in charge of a police station
- **Without the order of a Magistrate**
- **Investigate** any **cognizable case**
- A case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

Section 156(3)

- Any Magistrate empowered under **Section 190** may order such an investigation as above- mentioned.



Go Away! We have more important work than registering your F.I.R!!!



Police not registering FIR:

- If the police station is not registering his FIR under **Section 154**, then person can **approach Superintendent** of Police under **Section 154(3)** CrPC. by an application in writing.
- If that is also not yielding results, aggrieved person can **file an application** under **Section 156 (3)**
- The magistrate before taking cognizance can order the police officer to conduct investigation.



Mohd. Yousuf Vs Smt. Afaq Jahan

2006(1) SC 10

- By ordering investigation under **Section 156(3)** of the Code, Magistrate enables the police to start investigation.
- Magistrate **directs the police to register an FIR.**

Sakiri Vasu Vs State of U.P.

(2008) 2 SCC 409

Doctrine of Implied Power:

- When a power is given to an authority to do something it includes such **incidental or implied powers which would ensure the proper doing of that thing.**

Reference: Code of Criminal Procedure, 1973 s 156

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Q.171) 'G', a 17 years old girl, was married to 'H'. H during the subsistence of the said marriage entered into another marriage with 'P'. The court may take cognizance for the offence of bigamy, if the complaint is brought by

a) her father, mother, brother, sister, son or daughter or by her father's or mother's brother or sister

b) any other person related to her by blood, marriage or adoption, with the leave of the court

c) some other person on her behalf, with leave of Court, but where there is a guardian appointed in her respect, then only after such guardian has been heard

d) all of the above

Ans: D

Section 494 IPC: Marrying again during lifetime of husband or wife.

Section 198 CrPC: Prosecution for offences against **marriage**.

This section is an **exception** to the general rule that any person having knowledge of commission of an offence, may set the law in motion.

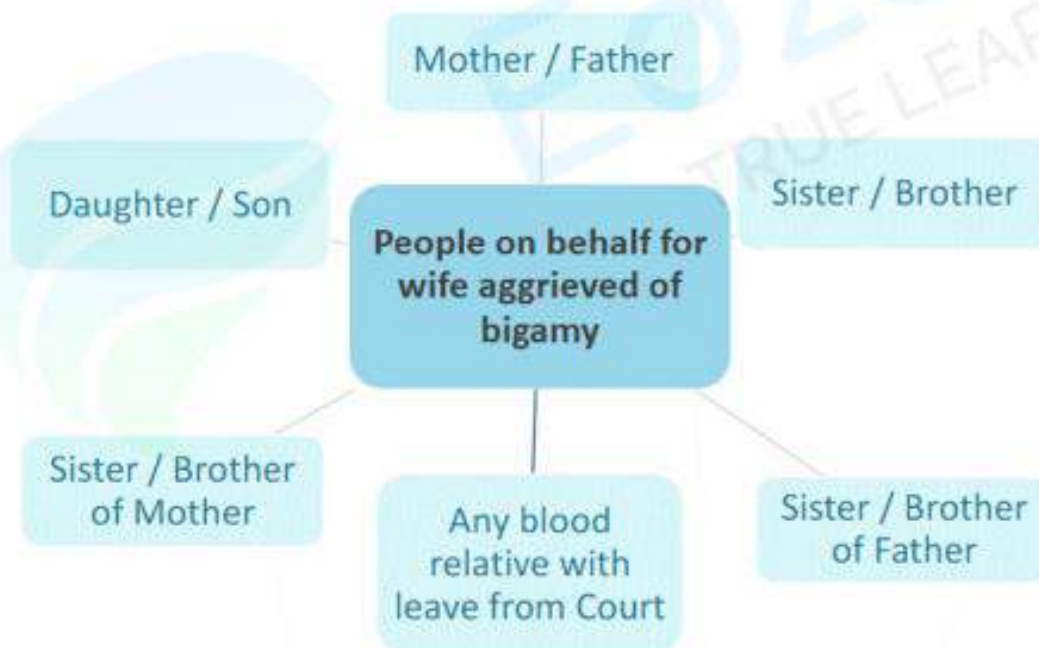
Cognizance to be taken only on a complaint made by an **Aggrieved Person**.

Exceptions when others can make a complaint -

Below **18** years, **lunatic**, **sick** and unable, woman who cannot appear in public because of local customs.

Member of **Armed Forces** unable to get a holiday.

Wife aggrieved of **Bigamy**.



Ashwin Nanubhai Vyas Vs State Of Maharashtra
1967 AIR 98

Where after filing a complaint charging the accused under **Section 493** and **496** IPC, the aggrieved spouse dies, her **mother** can be substituted to carry on the prosecution.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 1-6.

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Q.172) "If the complainant is absent on the day fixed for the hearing of the case, the Magistrate may in his discretion, discharge the accused in certain circumstances."

In which one of the following circumstances the accused cannot be discharged?

- a) When the charge has been framed***
- b) When the offence is compoundable***
- c) When the offence is non-cognizable***
- d) When the proceeding has been instituted on complaint***

Ans: A



Section 249: Absence of complainant:

- When the proceedings have been instituted upon complaint, and on any day fixed for the hearing of the case,



The complainant is absent



The offence may be lawfully compounded



The offence is not a cognizable offence



- The Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, **at any time before the charge has been framed, discharge the accused.**



Raju Prasad Sarma Vs Haladhar Sarma

(High Court of Gauhati)

CR No. 166 Of 2007

Facts:

- The offence u/S. 403/424 and 477 A, IPC, are not cognizable offence.
- In addition to this, the offence under Sections 403/420/424, IPC, is compoundable whereas the offence under Section 477 A, IPC, is a non-compoundable offence.

Held:

- In a non-cognizable and non-compoundable offence, the Magistrate is not empowered to discharge an accused in exercise of power under Section 249, and
- The Court is to proceed with a case of that nature even in the absence of the complainant.



Q.173) A complaint was filed under Section 200. An FIR was also registered with the SHO and the police was investigating the matter. Here, the magistrate took the cognizance of the complaint. After knowing about police investigation, the magistrate must

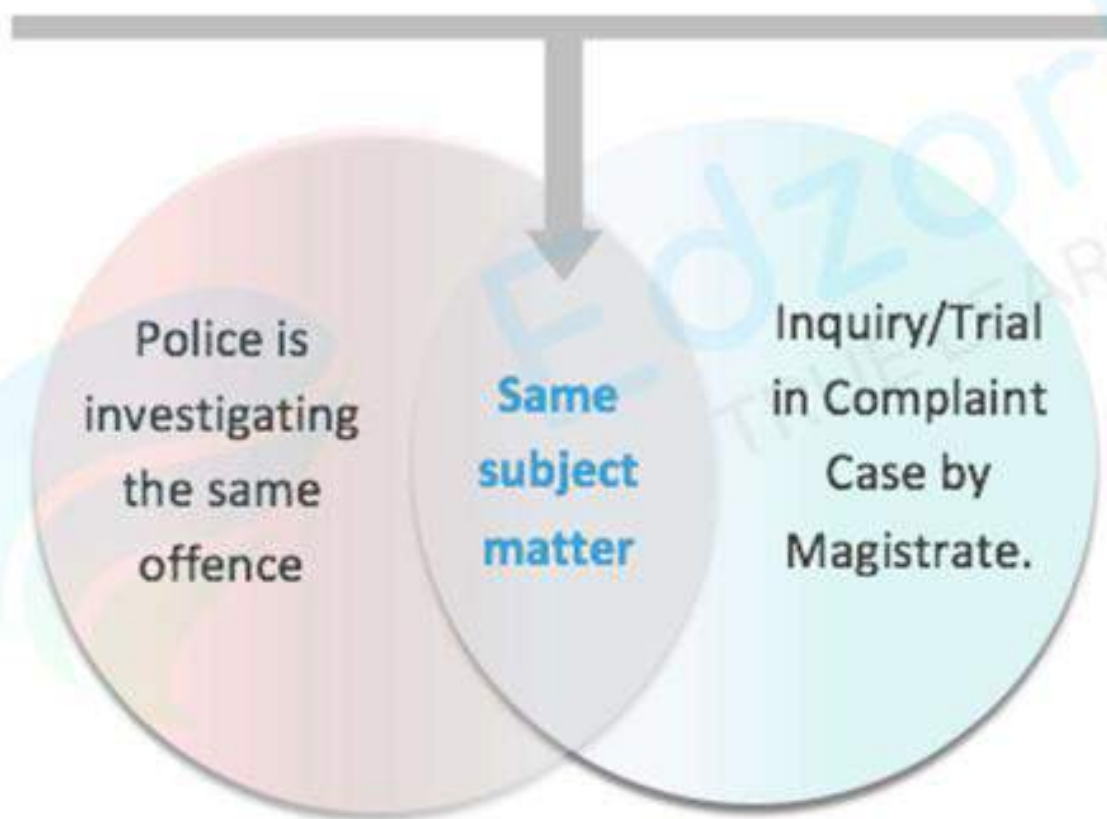
- a) Quash the proceedings on complaint***
- b) Stay the proceeding and wait for police report***
- c) Stay the proceeding and call for police report***
- d) Proceed with the complaint case.***

Ans: C



Section 210(1)

- When there is a **complaint case**
- And inquiry or trial by Magistrate is taking place
- During such inquiry or trial, it is made to appear, that an **investigation by the police is in progress in relation the same offence**
- Then, the Magistrate shall:
 - **Stay** the proceedings of such inquiry or trial and
 - **Call for a report** on the matter from the police officer conducting the investigation.



R.K. Khanna Vs State

(2004) SCC (Cri) 1024

Facts:

- A complaint was filed under **Section 200**.
- An FIR was also registered with the SHO and the police was investigating the same matter.
- Here, the Magistrate took cognizance of the complaint and further issued summons against the accused on the basis of complaint.

High Court held:

- Error on part of the Magistrate to issue summons.
- The Magistrate **should have put a STAY** on the proceeding according to **Section 210**

Reason:

- An ongoing police investigation on the same matter as the complaint.
- The police case > Complaint case.



greater than

Conducting
investigation

Conducting
inquiry/issuing summons



Same
subject
matter



Police investigation shall
prevail over Magistrate's
Inquiry/Trial

Magistrate will have to:

- Stay the Inquiry/Trial +
- Call for the Police report

Reference: Code of Criminal Procedure, 1973 s 210

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Q.174) Which of the following is not correct regarding provisions of bail in case of nonbailable offences ?

a) Bail may be granted, if the Court concerned comes to the conclusion that prosecution has failed to establish a prima-facie case

b) Bail may be granted, if the Court is satisfied that inspite of existence of a prima-facie case there is need to release such person on bail in view of facts and circumstances of case

c) Bail cannot be granted to an accused who may be required for being identified by witness during investigation

d) If the offence is punishable with death, imprisonment for life or imprisonment for 7 years or more, no person can be released on bail without giving an opportunity of hearing to the public prosecutor

Ans: C



Test Identification Parade: Test identification is a process by which the identity of the persons, things or animals concerned in the offence under investigation or trial is established, through a test parade.

Section 437 CrPC - When **bail** may be taken in case of **non-bailable offence**.



Requirement of person for TIP cannot be ground to refuse bail

Madan Mohan Singh Vs State Of U.P.
1986 CriLJ 1441

The bail cannot be rejected merely on the ground that the accused is needed for Test Identification Parade.

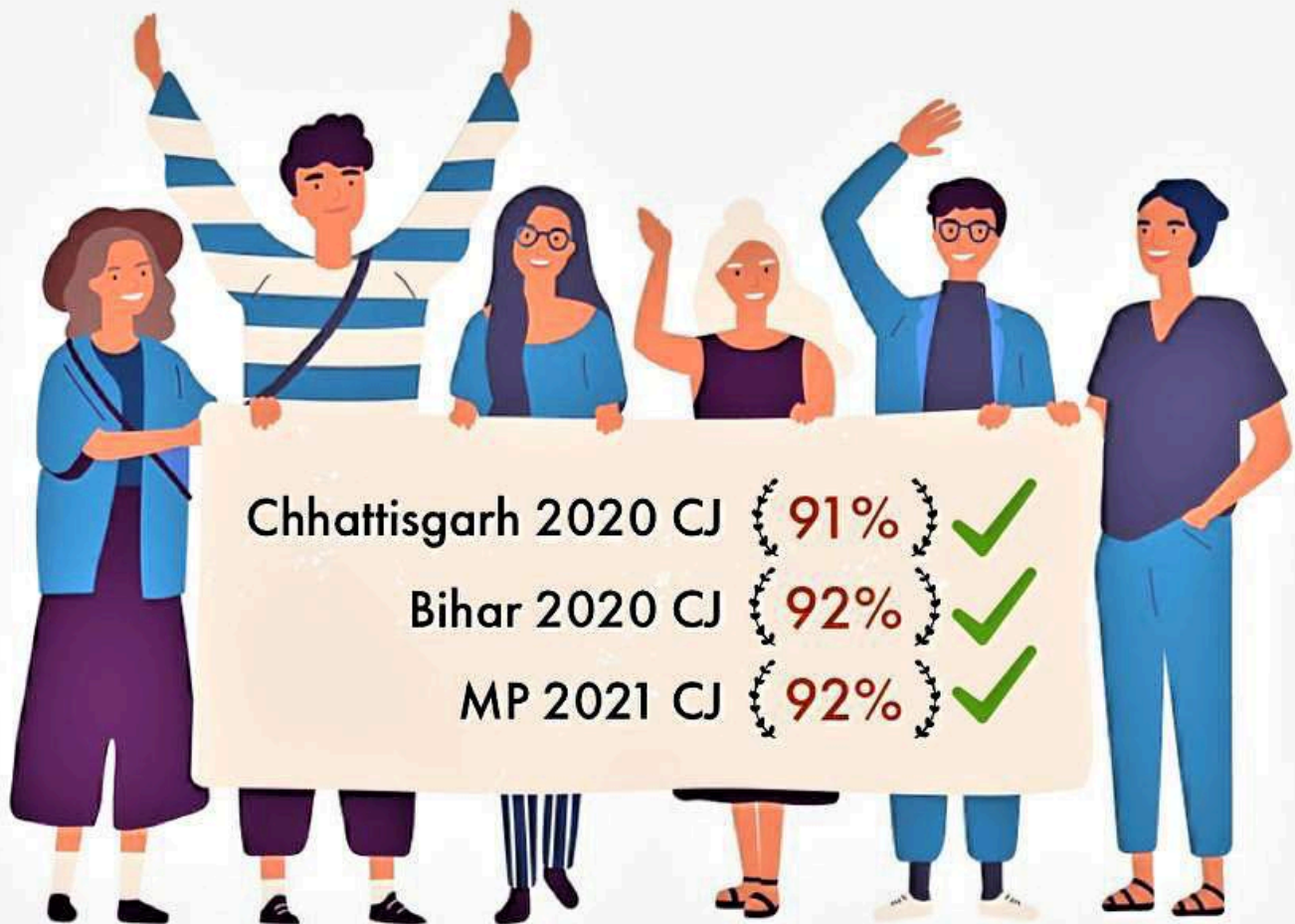
Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 289.

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Q.175) The Supreme court in the case of Lalita Kumari case held that in cognizable offence, registration of FIR is mandatory. However, a preliminary inquiry can be made in:

I. Matrimonial dispute

II. Commercial offences

III. Medical negligence offences

Codes:

a) I & II

b) II & III

c) III & I

d) All of the above

Ans: D

Section 154(1):

Information in cognizable cases:

- Every information relating to the commission of a cognizable offence.
- **If given orally** to an officer in charge of a police station, shall be **reduced to writing** by officer in charge or under the direction of such officer.
- Be **read over to the informant**

Mam, there had been a murder in Savvanna...

Go on...



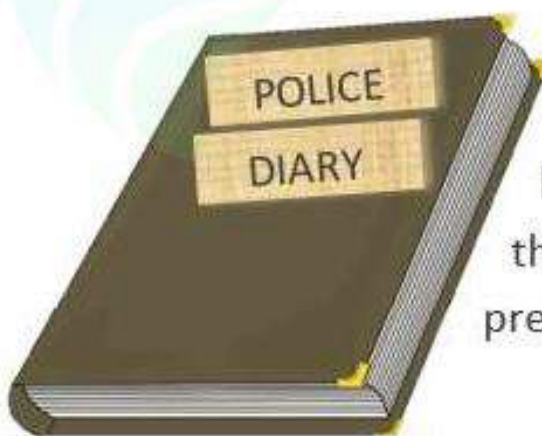
Officer-in-charge
Police Station



- Every such information (given in writing or reduced to writing), **shall be signed by the person giving it.**



Hmm...so this is what you have told about the murder. You will have to sign here sir.



- Substance thereof shall **be entered in a book** to be kept by such officer in such form as the State Government may prescribe in this behalf.

Food for Thought!

- **Section 172** of CrPC deals with Case Diary
- **Diary of proceedings in investigation**



Proviso:

- If the **information** is **given by the woman against whom** an **offence** under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code, 1860 is alleged to have been **committed or attempted**.
- Then such information shall be recorded by a **woman police officer or any woman officer**.



Lalita Kumari Vs Government of U.P.

(2014) 2 SCC 1

Guidelines:

- **Cognizable offence – Registration of FIR is mandatory.** No preliminary inquiry is permissible in such a situation.
- Information received does not disclose a cognizable offence but indicates the necessity for an inquiry.
- In **cases where preliminary inquiry ends** in closing the complaint, copy of such closure (disclosing reasons) must be supplied to the first informant forthwith and not later than one week.
- The **police officer cannot avoid his duty of registering** offence if cognizable offence is disclosed.
Action against such police officer.
- The scope of **preliminary inquiry to ascertain** whether the information reveals any **cognizable offence**.
- The **category of cases** in which preliminary inquiry may be made are as under:
 - a) Matrimonial disputes/family disputes
 - b) Commercial offences
 - c) Medical negligence cases
 - d) Corruption cases

Reference: Code of Criminal Procedure

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2



Q.176) In which of the recent case, the Apex Court held that right to protest cannot be anytime and everywhere.

a) Kaniz Fatma Vs Comm. of Police

b) Joginder Vs State of Haryana

c) Both A and B

d) None of the above.

Ans: A



Kaniz Fatima v. Comm. of Police

RP [C] Diary No(s). 24552/2020



Right to protest cannot be anytime & everywhere



A.19 of Constitution of India

The right to protest cannot be anytime and everywhere. There may be some spontaneous protests but in case of prolonged dissent or protest, it cannot be continued occupation of public place affecting rights of others.



Bench: Sanjay Kishan Kaul,J., Aniruddha Bose,J. & Krishna Murari,J.



Joginder v. State of Haryana

SLP (C) No. 1829/2021



**Illegal occupation of the Govt. land/
panchayat land cannot claim regularization**



**Rule 12(4) of the Punjab Village Common
Lands (Regulation) Rules, 1964**

Regularization of the illegal occupation of the
Land can only be as per the policy of the
State Government and the conditions
stipulated in the Rules.



Bench: DY Chandrachud, J. & MR Shah, J.



Q.177) Recruitment of candidate in excess of notified vacancies is _____?

a) Valid

b) Legal

c) Unconstitutional

d) None of the above

Ans: C



**Gajanan Bansode v. State Of
Maharashtra**
CA No. 104/2021



**Recruitment of candidates in excess of
notified vacancies would be unconstitutional**



A.14 & 16(1) of Constitution of India

**Recruitment of candidates in excess of the
notified vacancies, will be violative of
Articles 14 & 16 (1) of the Constitution of
India.**



Bench: L. Nageswara Rao,J., Indu
Malhotra,J., & Vineet Saran,J.



**Boloram Bordoloi v. Lakhimi Gaolia
Bank**

C.A. No. 4394/2010



**DISCIPLINARY
HEARING**

**No detailed reasons are required to be
recorded in the order imposing punishment**



Art.136 of Constitution of India

Detailed reasons are not required to be
recorded by the Disciplinary Authority in an
order imposing punishment by accepting the
findings recorded by the Enquiry Officer.



Bench: Ashok Bhushan,J., R. Subhash
Reddy,J., & MR Shah,J.



Q.178) In the recent case of MC Mehta Vs Union of India, directions were passed to address the problem of Air pollution. Which judge was on the bench?

- a) Justice Arun Mishra***
- b) Justice Surya Kant***
- c) Justice B R Gavai***
- d) None of the above***

Ans: A



MC Mehta v. Union of India

W.P. (C) No. 13029/1985



Directions passed to address the problem of Air pollution



Art. 21 of Constitution of India

Punjab, Haryana and U.P. government asked to prepare a comprehensive plan to prevent stubble burning. Delhi government asked to install Smog towers. Ordered to use anti-smog guns at construction site.



Bench: Arun Mishra, J. & Deepak Gupta, J.

Reference: https://main.sci.gov.in/supremecourt/1985/63998/63998_1985_31_26_24489_Judgement_02-Nov-2020.pdf



Q.179) Who delivered the landmark judgment of Anuradha Bhasin Vs Union of India wherein the Apex Court held that indefinite suspension of internet is not permissible.

- a) Justice Arun Mishra***
- b) Justice Surya Kant***
- c) Justice Deepak Gupta***
- d) None of the above***

Ans: B



Anuradha Bhasin v. Union of India

W.P. (C) 1031/2019



**Freedoms of speech & expression
are constitutionally protected**



**Art.19(1)(a) of Constitution of India,
S. 144 CrPC**

Governments are requested to respect freedom of press at all times. Power under Section 144 cannot be used as a tool to prevent the legitimate expression of opinion. Indefinite suspension of internet is not permissible.



Bench: N V Ramana, J. Surya Kant, J. & B R Gavai, J.

Reference: <https://main.sci.gov.in/supremecourt>

2019/28817/28817-2019-2-1501-19350-Judgement-10-Jan-2020.pdf



Q.180) The recent judgment Devender Dwivedi Vs Union of India deals with _____?

- a) Successive Bail Applications***
- b) Freedom of Speech and Expression***
- c) GST provisions***
- d) Right to privacy***

Ans: C

Devendra Dwivedi v. Union of India

W.P. CrI. No .272/2020



HC can entertain challenges to the constitutional validity of the statute



**Art.226 of Constitution of India,
S.482 of CrPC**

Constitutional challenge to GST provisions can be addressed before HC. Even the grievance in regards to conduct of investigation can be addressed under Art.226 or u/S.482 of CrPC.



**Bench: DY Chandrachud,J., Indira Banerjee,
J.& Sanjiv Khanna,J.**



Q.181) In the case of Prathvi Raj Chauhan vs Union of India, Supreme Court upheld constitutional Validity of _____?

- a) 102nd Constitutional Amendment Act***
- b) SC and ST (Prevention of Atrocities) Amendment Act***
- c) Arbitration and Conciliation Amendment Act***
- d) None of the above***

Ans: B

Prathvi Raj Chauhan v. UOI

W.P. [C] NO. 1015/2018



Constitutional validity of SC and ST [Prevention of Atrocities] Amendment Act 2018 Upheld



S.18 & 18A of SC & ST Act, S. 438 CrPC

The amendment provides for requirement of preliminary enquiry for registration of FIR, but prior approval for making an arrest is not required. Section 438 CrPC is also not applicable if offence is committed under the act unless no prima facie case is made out in the FIR.



Bench: Arun Mishra,J., Vineet Saran,J. & Ravindra Bhat,J.

Reference: <https://main.sci.gov.in/supremecourt>

2018/31176/31176_2018_3_1501_20551_Judgement_10-Feb-2020.pdf



Q.182) In Gujarat Mazdoor Sabha Vs State, the Supreme Court held that:

a) Covid is a public emergency

b) Covid is not a public emergency

c) Extending work hours without overtime pay is against Factories Act

d) Both B and C

Ans: D



Gujarat Mazdoor Sabha v. State

W.P.C. No.708 / 2020



Covid 19 not a “Public Emergency” – Extending work hours without overtime pay is against Factories Act



S.59, S.5 of Factories Act

The notification for overtime without pay is against S. 59 which mandates payment at double rate for exceeding hours. Moreover, pandemic is not a ‘public emergency’ u/s 5 threatening security of the country.



Bench: DY Chandrachud, J. KM Joseph, J. & Indu Malhotra, J.





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Q.183) National Judicial Appointments Commission Act, 2014 came into force

- a) On April 13, 2015
- b) On December 31, 2014
- c) Is not in force yet
- d) On January 31, 2015

Ans: A

National Judicial Appointment Act, 2014:

National Judicial Appointments Commission (NJAC) was a proposed body which would have been responsible for the appointment and transfer of judges to the higher judiciary in India.

Territorial Extent	India
Assented	15 August 2014
Enforced	13 April 2015
Repealed	16 October 2015

What the Apex Court Says



- SC invites suggestions from the bar to further improve the appointment process
- Court hearing on November 3 to improve the collegium system

It (the judgment)... ignored the will of Parliament & half of the assemblies and the cumulative views of the people to have greater transparency and accountability

MUKUL ROHATGI, ATTORNEY GENERAL

SC rules NJAC as violative of the basic structure of the Constitution as it affects the independence of the judiciary

REVIVES THE EARLIER COLLEGIUM SYSTEM OF JUDGES APPOINTING JUDGES

Government moves quickly to deny any tug of war between judiciary, executive

Says no review of the ruling to be sought

Leaves it open for Parliament to correct deficiencies in the struck down law and introduce a fresh bill later



Supreme Court Advocates-on-Record Assn. Vs Union of India (2016) 5 SCC 1

- **Independence of judiciary** is part of basic structure.
- Primacy of the judiciary in the matters of appointment and transfer of Judges is part of the basic structure.
- Constitution (**99th Amendment**) Act, 2014 violates the basic structure of Constitution.
- Hence, it is **struck down as void**.
- **National Judicial Appointments Commission Act**, 2014 is **also ultra vires** the Constitution

Reference: Constitution of India art 124A

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Q.184) N. V. Ramana is the ___ CJI of India

a) 47

b) 48

c) 46

d) 49

Ans: B



Way to the top

A brief profile of **Justice N.V. Ramana**

Aug. 27, 1957: Born in an agricultural family in Ponnavaaram village in Krishna district of Andhra Pradesh

Feb. 10, 1983: Enrolled as an advocate

June 27, 2000: Appointed permanent judge of the Andhra Pradesh High Court

March 10-May 20, 2013: Functioned as Acting Chief Justice of the Andhra Pradesh High Court

Sept. 2, 2013: Elevated as the Chief Justice of the Delhi High Court

Feb. 17, 2014: Elevated as a judge of the Supreme Court



■ He has practised in the High Court of Andhra Pradesh, Central and Andhra Pradesh Administrative Tribunals and the Supreme Court in civil, criminal, constitutional, labour, service and election matters

■ Justice Ramana specialises in constitutional, criminal, service and inter-State river laws



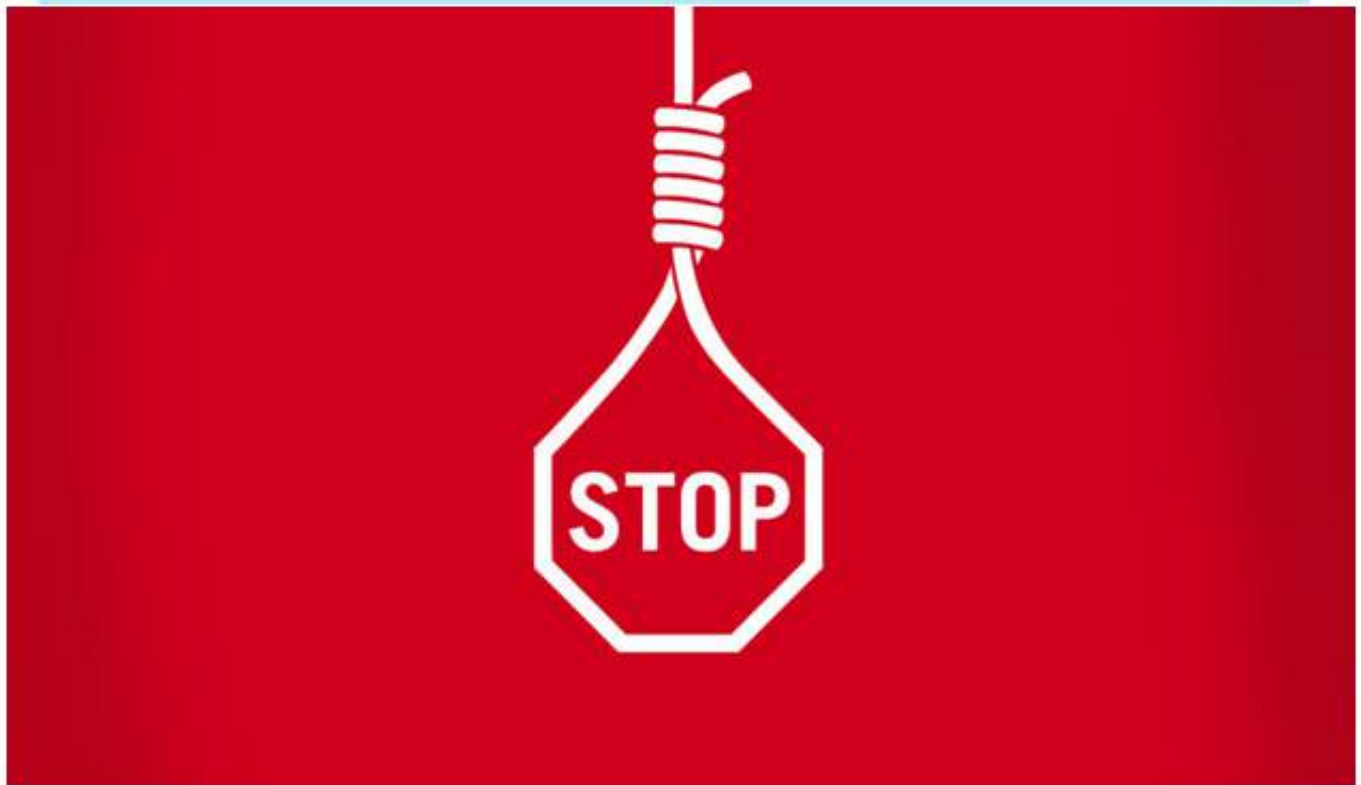
Q.185) Which Supreme Court has declared that the death penalty is unconstitutional.

- a) Supreme Court of Burundi***
- b) Supreme Court of Cambodia***
- c) Supreme Court of Cameroon***
- d) Constitutional Court of Malawi***

Ans: D



"The essence of the right to life is life itself-the sanctity of life. The right to life is the mother of all rights. Without the right to life other rights do not exist. The death penalty not only negates, it abolishes the right." **Malawi Supreme Court**



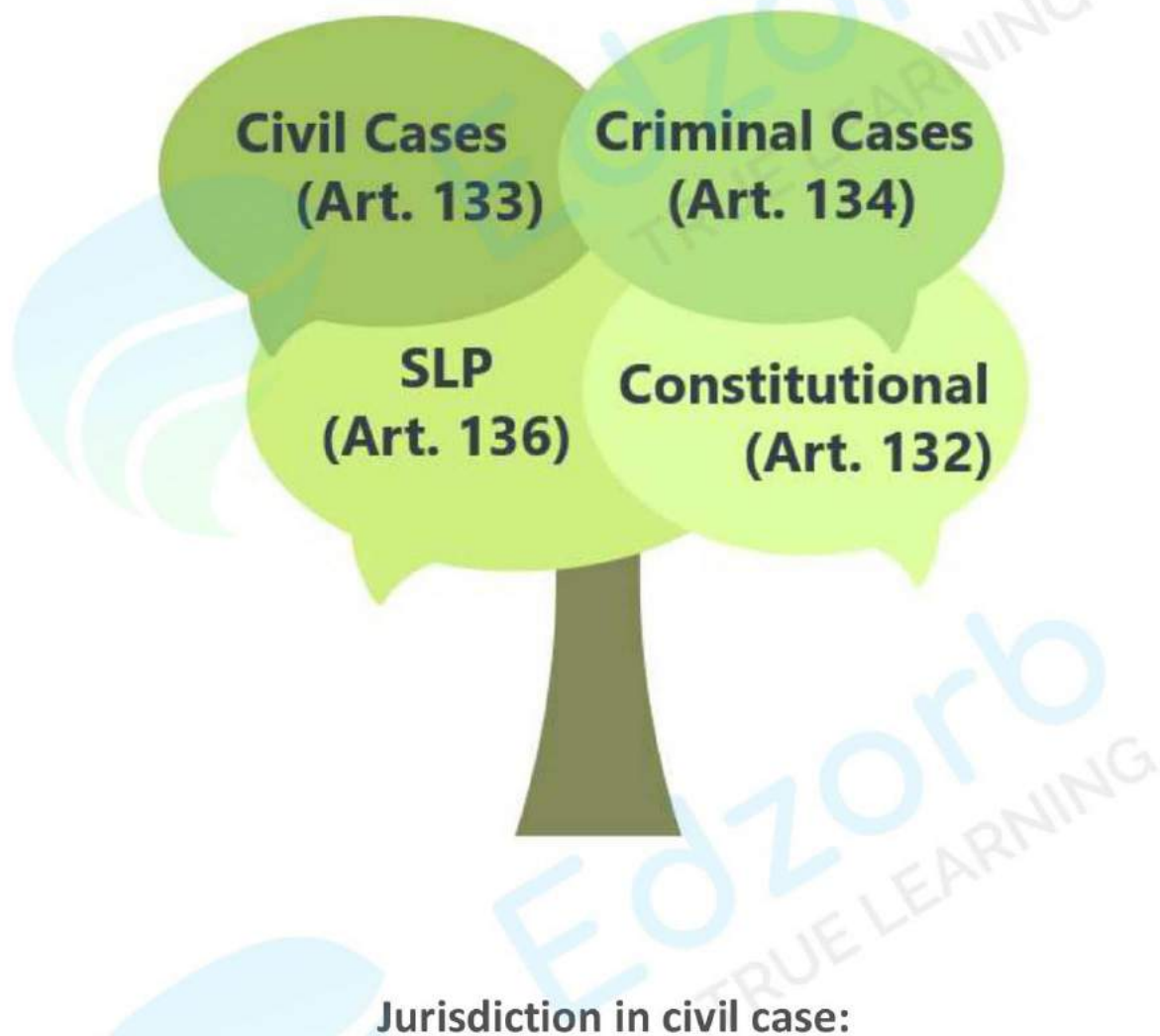
Q.186) Appellate jurisdiction of the Supreme Court in appeals from High Courts in regard to civil matters, pertains only to a:

- a) Substantial question of law*
- b) Question of law*
- c) Question of fact*
- d) Mixed question of fact and law*



Ans: A

Appellate Jurisdiction of Supreme Court:



Jurisdiction in civil case:

An appeal lies to the Supreme Court from any judgment in a civil case pronounced by High Court if:

- The High Court certifies that the case involves a **substantial question of law of general importance**, and

- In its opinion the said question needs to be decided by the Supreme Court.

Nazir Mohamed Vs J. Kamala And Ors

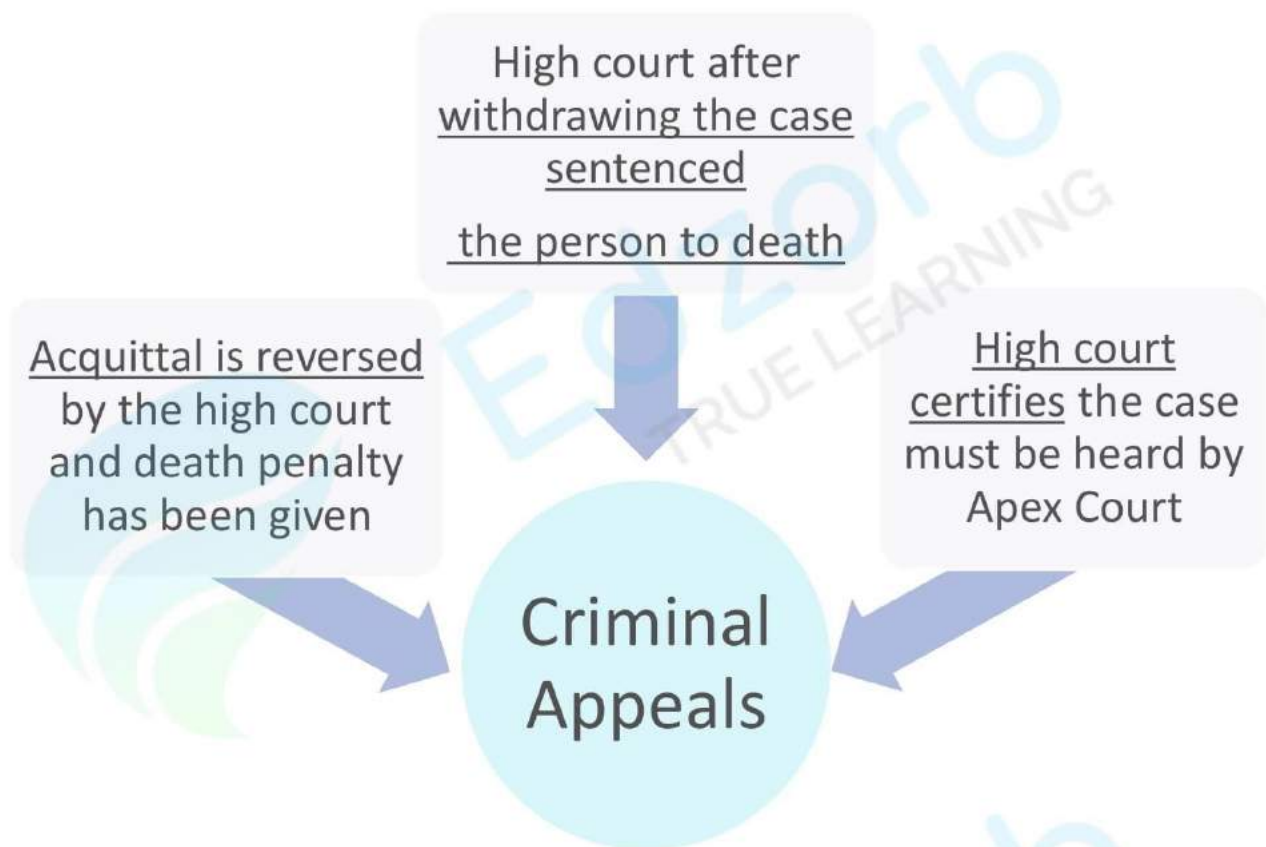
27th August, 2020, SC

Substantial question of law: To be “substantial”, a question of law must be debatable, not previously settled by the law of the land or any binding precedent, and must have a material bearing on the decision of the case and/or the rights of the parties before it, if answered either way.

Appeal in Criminal Cases (Article 134)

An appeal lies to the Supreme Court from any judgment in a criminal case pronounced by High Court if:





Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 231.

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Q.187) Which one of the following statements is not correct? The Supreme Court of India may review its earlier decision:

a) If there is mistake or error apparent on the face of record

b) If the circumstances of a substantial and compelling character make it necessary to do so

c) If it is satisfied of its error and its harmful effect on the general interest of public

d) If a new interpretation of a statutory provision is brought to its knowledge

Ans: C

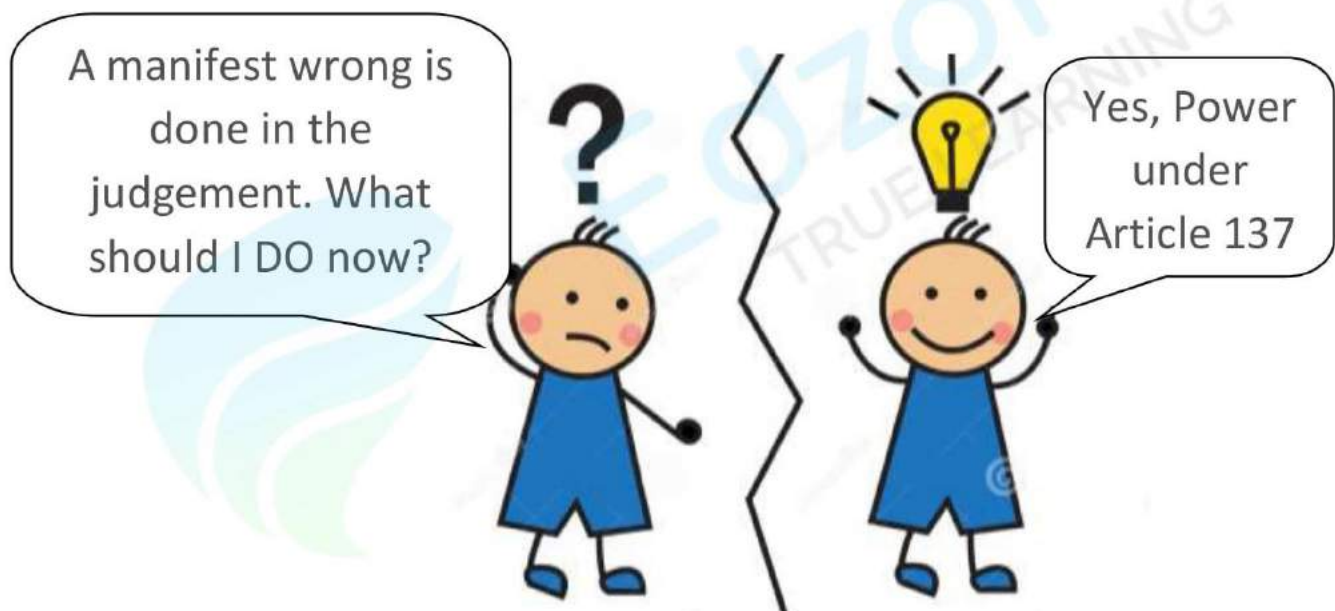
Article 137:

It grants the Supreme Court **the power to review** any of its judgments or orders.

Scope of Power of review:

Northern India Caterers (India) Vs Lt. Governor of Delhi, 1979, SC

- A review of a judgment should not be merely for the purpose of a rehearing and a fresh decision in the case.
- Normally, the principle is that a judgment pronounced by the Court is final and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.



Recent Reviews

Subhash Kashinath Mahajan Vs The State of Maharashtra, 20 March, 2018, SC

- To do away with the bar on grant of anticipatory bails in cases of atrocities under the SC/ST Prevention of Atrocities Act, 1989 and further laid down guidelines for the purpose of making arrests under the Act.
- In *view of the resultant public outcry, the Centre approached the Supreme Court seeking review of its decision in Subhash Kashinath Mahajan which is still pending in the Court.*

Did you Know?

As per the **Supreme Court Rules, 2013**, a review Petition must be filed within 30 days.



Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 289

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Q.188) What be the minimum number of member present in the house before it can transact any business?

a) More than majority of its total members

b) One-tenth of total members excluding the Presiding Officer

c) One-tenth of total members including the Presiding Officer

d) One-half of its members

Ans: C





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TRUE LEARNING

QUORUM

- **Minimum** number of members to be **present** in the House before it can transact any business.



$\frac{1}{10}$

of the total number of members in each House (including Presiding Officer)



Atleast
55 Lok Sabha — Rajya Sabha 25

If there is **no quorum**

Presiding Officer

Either

Adjourn the House

Suspend the meeting
(until there is a quorum)



VOTING

All matters at any sitting are decided by

Majority of votes

present and voting



Members

Excluding



Presiding Officer.



Special Majority

Impeachment of President

Removal of Presiding Officers

Amendment of Constitution



Does not vote in the first instance

Exercises a **casting vote** in the case of an **equality** of votes.

Proceedings of a House are to be **valid** irrespective of

unauthorised voting or **participation** or any **vacancy** in its membership.

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Q.189) In which case it was held that the principle of equal pay for equal work is also applicable to casual workers employed on daily wage basis?

a) Charanlal Sahu v. Union of India

b) Dr. K.R. Lakshman v. State of Tamil Nadu

c) Deepak Sibal v. Punjab University

d) Dhirendra Chamoli v. State of U.P.

Ans: D

Dhirendra Chamoli And Anr. Vs State of U.P.

(1986) 1 SCC 637



Dhirendra Chamoli
and another



Class 4 employees of
Nehru Yuvak Kendras

Challenging: The petitioners are performing same work as Class 4 employees but are paid lesser amount of wages.

Contention of state: *Their wages were written in contract, they agreed to it.*

Held: The petitioners will be given the same amount as others because:

- **Article 14:** cannot provide an escape to the Central Government to avoid the mandate of equality enshrined in **Article 14** of the Constitution.
- **Article 39:** There is a concept of equal pay for equal work and state cannot deviate from it.



CRICKET

Women's pay contracts vs men's pay contracts



Women: Grade A

15lakh

per annum

MITHALI RAJ

Men: Grade A

1cr

per annum

VIRAT KOHLI



(BCCI annual contracts were started for women in 2015; figures exclusive of match fee and endorsements)

No equal pay for equal work in India. People are discriminated.

Reference: Dhirendra Chamoli VS State of UP

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Q.190) Which of the following is not a Fundamental Duty?

a) To abide by the Constitution

b) To amass property

c) To develop scientific temper, humanism and tolerance

d) To defend country

Ans: B





FUNDAMENTAL DUTIES

Sardar Swaran Singh Committee recommendations
42ND CONSTITUTIONAL AMENDMENT ACT 1976

Part IVA : consists of only 1 Article, i.e, Article 51A (fundamental duties of citizens)

ARTICLE 51 A it shall be the duty of every citizen of India:

1

(a) **Abide** by the Constitution



Respect

• Institutions



• National Flag

• National Anthem



2

(b) **Cherish and follow the noble ideals** that inspired the national struggle for freedom



3

(c) to uphold and protect the
Sovereignty **Unity** and
Integrity of India



4

(d) to **defend the country** and
render national service
when called upon to do so

5

(e) **promote harmony**

spirit of **common brotherhood** amongst all
transcending **religious**, **linguistic** and **regional** diversities

renounce practices derogatory to the dignity of women



6

(f) to **value** and **preserve** the **rich heritage**
of the country's **composite culture**



7 (g) **Protect and improve** the **natural environment** including **forests, lakes, rivers** and **wildlife** and to have compassion for living creatures



8 (h) to **develop scientific temper, humanism** and the **spirit of inquiry and reform**

9 (i) to **safeguard public property** and to abjure violence;



10 (j) to strive towards excellence in all spheres of **individual and collective activity** so that the **nation** constantly **raises to higher levels of endeavour and achievement**



11 (k) Provide opportunities for **education to his child or ward** between the age of **6-14 years**.

This duty was added by 86th Constitutional Amendment Act, 2002.



Did you Know?

Fundamental duties are moral obligations and not legally enforceable.



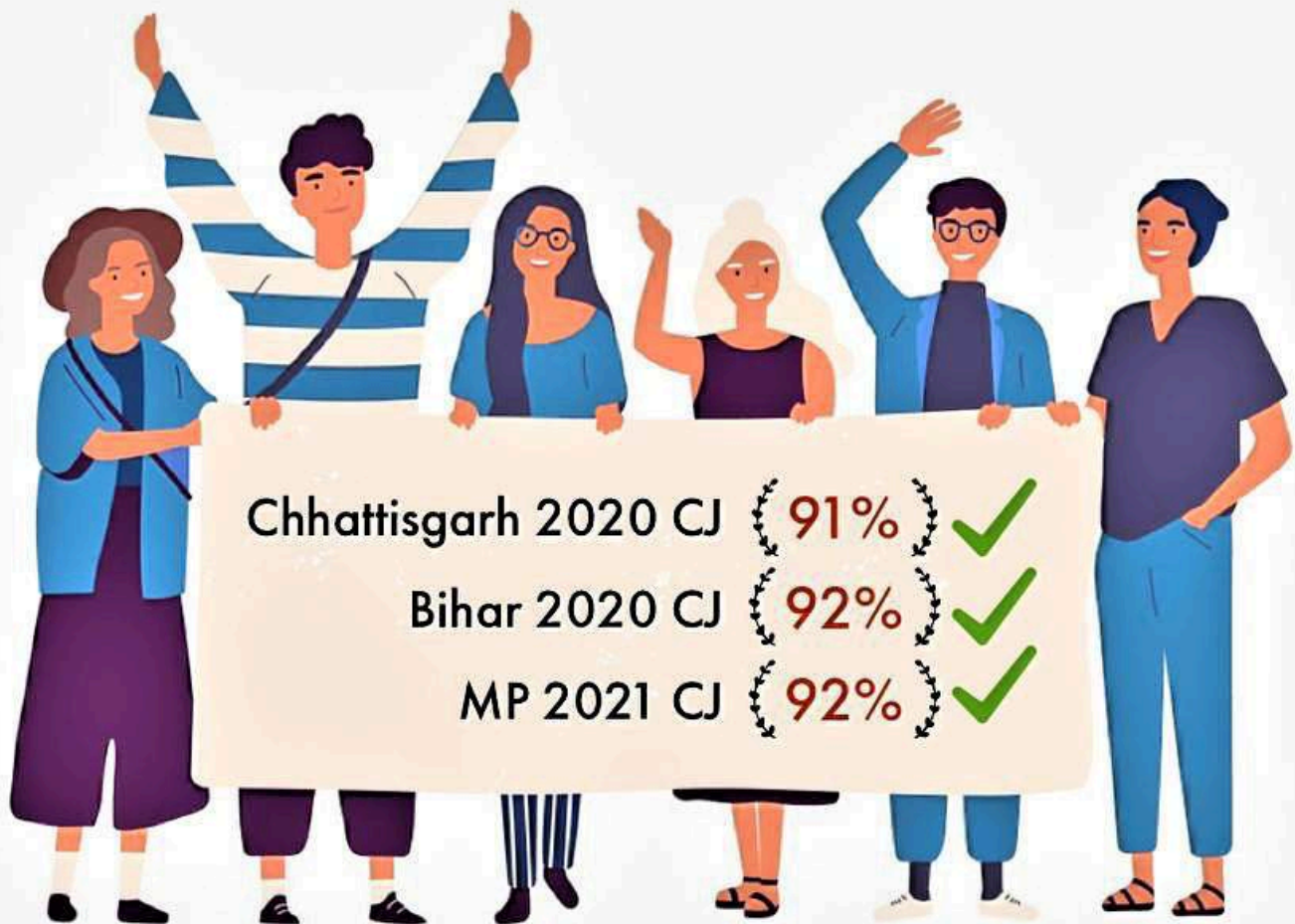
Reference: The Constitutional Law of India

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Q.191) Which of the following is the result of 42nd Amendment Act:

I. Education was shifted from state list to concurrent list

II. Free legal aid was added as new DPSP

III. Made president bound by advice of Cabinet Ministers

IV. Provided that the laws made for the implementation of Directive Principles can be declared invalid on the ground violation of Fundamental Rights.

Codes:

a) I, II, III

b) I, II & IV

c) II, III & IV

d) All of the above

Ans: A



FORTY-SECOND AMENDMENT ACT, 1976

(recommendations of **Swaran Singh Committee**.)

'Mini-Constitution'



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FOCUS LEARNING

1. Added three new words- **SOCIALIST, SECULAR AND INTEGRITY** in the Preamble.

2. Added **FUNDAMENTAL DUTIES** by the citizens (new **Part IV A**).



3. Made the president bound by the advise of the cabinet. ✓

4. Provided for administrative tribunals and tribunals for other matters (Added **Part XIV A**).

5. Froze seats in the Lok Sabha & state legislative assemblies on the basis of 1971 census till 2001.



6. Made the constitutional amendments beyond judicial scrutiny.

7. Curtailed the power of judicial review and writ jurisdiction of the **S.C. and H.C.**



8. Raised the tenure of Lok Sabha and state legislative assemblies from 5 to 6 years.

9. Provided that the laws made for the implementation of Directive Principles cannot be declared invalid by the courts on the ground of violation of some Fundamental Rights.



10. Empowered the Parliament to make laws to deal with anti-national activities and such laws are to take precedence over Fundamental Rights.

11. Added **3 new Directive Principles**



Equal justice



Free-legal aid



Protect environment, forests and wild life



Participation of workers in the management of industries

12. Facilitated the proclamation of national emergency in a part of territory of India.



13. Extended the one-time duration of the President's rule in a state from 6 months to one year.



14. Empowered the Centre to deploy its armed forces in any state to deal with a grave situation of law and order.

15. Shifted **5** subjects from **State list** → **Concurrent list**



Administration of justice
Constitution and organisation of all courts except S.C & H.C



Education



Forests
Protect wild animals & birds



Q.192) Which of the writ cannot be issued against a private body?

a) Certiorari

b) Prohibition

c) Both A and B

d) None of the above

Ans: C

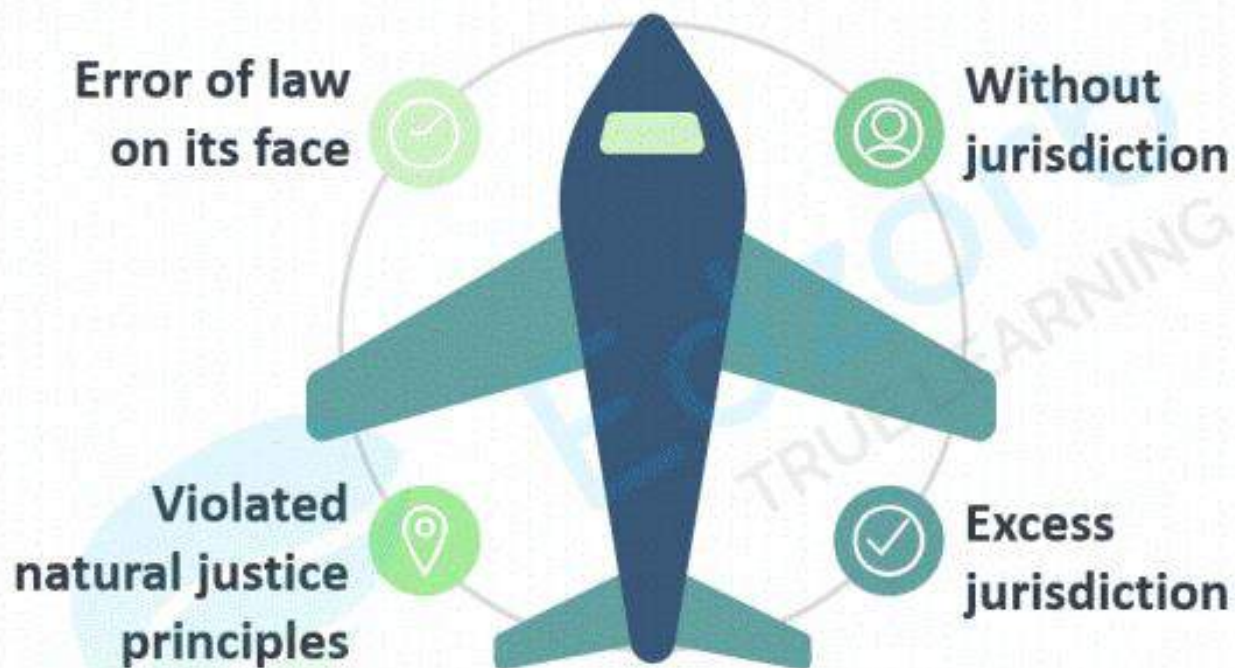


Writ of Certiorari:

- It means 'to be certified'.
- To **direct inferior courts, tribunals or authorities** to transmit to the court the record of proceedings disposed of or pending therein for scrutiny, and, if necessary, for quashing the same.

Writ of Certiorari under Article 226:

Certiorari under **Article 226** is issued for correcting gross error of jurisdiction i.e. when a subordinate court is found to have acted



Rengali Hydro Electric Project Vs Sri Giridhari Sahu

- The jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the court exercising it is not entitled to act as an appellate court.
- The findings of fact reached by the inferior court or tribunal as a result of the appreciation of evidence can be reopened or questioned in writ proceedings, if:
 - The tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding.
 - A finding of fact is based on no evidence.

Read more: <https://indiankanoon.org/doc/2558060/>

Did you Know?

Like **Prohibition, Certiorari** is also **not available** against legislative bodies and private individuals or bodies.



Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1428.
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Q.193) Consider the following statements regarding Attorney General of India. Which of the following is false?

a) Is the First law officer in India

b) Is not debarred from private law practice

c) Can be full time Counsel of the Government


d) Both a & b

Ans: C


**ARTICLE
76**

ATTORNEY GENERAL OF INDIA

Highest Law Officer in the Country



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TRUE LEARNING



President
Appoints Attorney Gen.
Determines remuneration

- Appear in SC--HC for govt.
- Not a government servant
- Not a full time counsel for government
- Not debarred from private legal practice

Qualifications

Qualified to be appointed as a — **Judge of S C**

Judge of HC - 5 years Advocate of HC- 10 years

✓ Can speak, take part in proceedings

Parliament

- (Both House)
- Joint sitting
- Committee
- Without a right to vote

✓ Holds office during the pleasure of the president.

CONSTITUTION

donot specify

- Term
- Removal Proceedurre

DUTIES AND FUNCTIONS

- Advice to the Government on legal matters
- Functions conferred by the Constitution/ Law.
- Other duties (legal) assigned by president.

RIGHTS AND LIMITATIONS

- Should not advise / brief against GOI
- Should not accept appointment as Director (company or corporation) without permission of GOI

Removal

- By President at any time.
- Resignation to the president.
- Conventionally resigns when Govt. resigns or replaced.

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Q.194) Which of the following is true regarding Parliament?

I. Act of Parliament applies to scheduled areas as well

II. Can make extra-territorial legislation

III. It is Provided under Part XI

IV. Originally State list had 66 subjects

a) I, II & III

b) II, III and IV

c) I, III & IV

d) All of the above

Ans: B

1. Territorial Extent of Central & State Legislation

PARLIAMENT

- Make laws for the whole or any part of the territory of **India**.
- Make 'extra-territorial legislation'.

STATE LEGISLATURE

- Make laws for the whole or any part of the **state**.



Constitution places certain

RESTRICTIONS

President can make regulations for Union Territories



Governor

Can direct

Act of Parliament

- Does not apply to a **scheduled area**
- Apply with specified **modifications**

2. Distribution of Legislative Subjects

Seventh Schedule



UNION LIST

100 subjects
(originally 97)

STATE LIST

61 subjects
(originally 66)

CONCURRENT LIST

52 subjects
(originally 47)

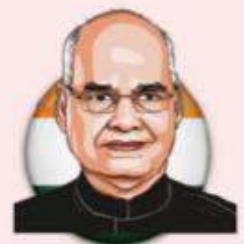
In case of a conflict,
Central law prevails

3. Parliamentary Legislation in the State Field

Parliament can make laws : under **State List** under the following circumstances:



- When Rajya Sabha Passes a **RESOLUTION** — $\frac{2}{3}$ Members (Present and voting)
- During a **NATIONAL EMERGENCY**
- When States Make a **REQUEST**
- To Implement **INTERNATIONAL AGREEMENTS**
- During **PRESIDENT'S RULE**



4. Centre's Control Over State Legislation



Governor—can reserve certain types of **bills**

- Passed by the state legislature for the **consideration of the President**
- **President** enjoys **ABSOLUTE VETO** over them.



President

Bills on certain matters

STATE LIST

- can be introduced in state legislature only with previous sanction of **President**.

Can direct the states to **reserve**

Passed by State legislature

Money bills

Financial bills

During a
**FINANCIAL
EMERGENCY**



Q.195) “The preamble to an Act sets out the main objective which the legislation is intended to achieve”?

- a) Justice Krishna Iyer**
- b) Justice Khanna**
- c) Justice Subba Rao**
- d) Justice P.N. Bhagwati**

Ans: C



THE CONSTITUTION OF INDIA



PREAMBLE

"**WE, THE PEOPLE OF INDIA**, having solemnly resolved to constitute India into a **SOVERIGN SOCIALISTIC SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens:

JUSTICE , Social, Economic & Political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION**".

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I.C. Golak Nath And Ors. Vs State of Punjab And Anr.

AIR 1967 SC 1643


- **Fundamental Rights** are given a transcendental position in the constitution and are **not amenable** to the Parliamentary restriction as stated in **Article 13**.
- A place of permanence is given to the Fundamental Rights in the Constitution.
- In order to amend Fundamental Rights, a new Constituent Assembly is necessary.
- **Article 368** provides the procedure to **amend the Constitution** but does not confer power on **Parliament** to amend the Constitution.




Chief Justice **Subba Rao** - *"The preamble to an Act sets out the main objectives which the legislation is intended to achieve".*



Chief Justice **Sikri** - *"It seems to me that the preamble of our Constitution is of extreme importance and the constitution should be read and interpreted in the light of the grand and noble vision expressed in the preamble."*



Justice **K.K. Mathew** - *"Democracy was an essential feature and that election disputes must be decided on the basis of law and facts by the judiciary."*



Justice **Hidayatullah** - *"The Preamble is very soul of the Constitution - eternal and unalterable"*

Reference: The Constitutional Law of India by M.P. Jain, 6th Edn., 2012, Page no.1754

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Q.196) Rights under Article 19 are:

a) Available to all person in India

b) Available only to citizens of India

c) Are available to persons of foreign origin

d) Both (2) and (3) above

Ans: B

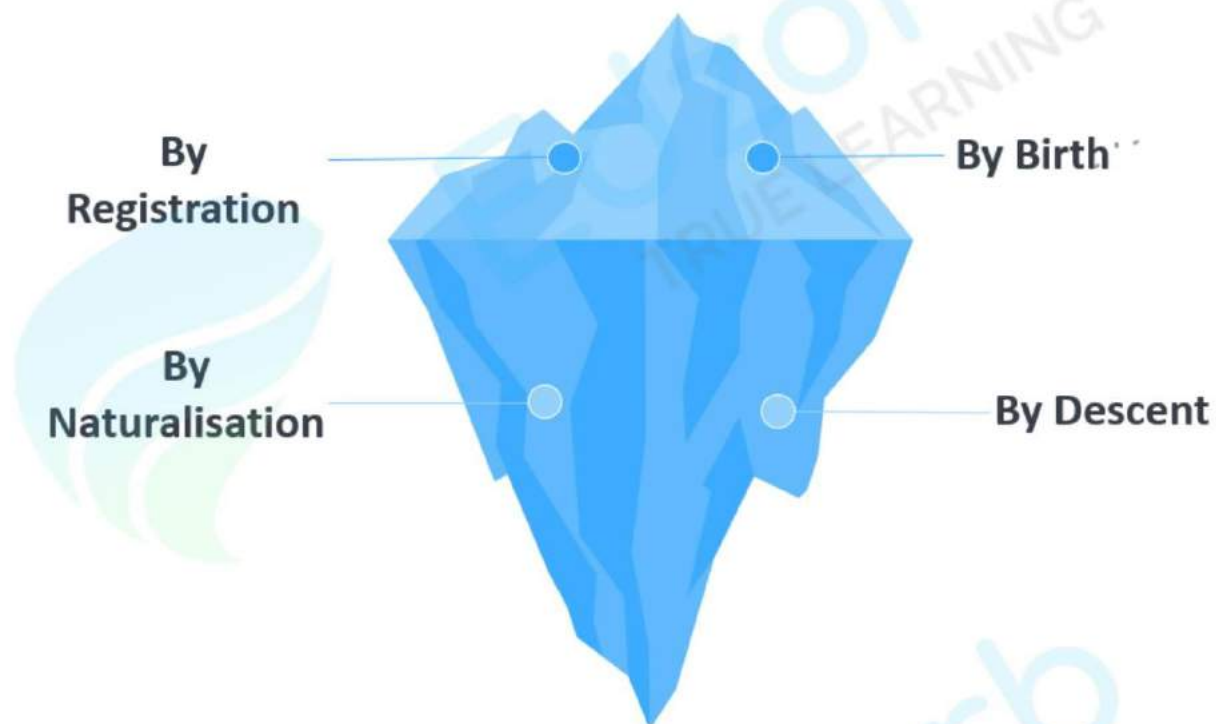


Article 19: Article 19 of the Constitution of India: Rights to citizens

- To freedom of speech and expression; **(clause a)**
- To assemble peaceably and without arms; **(clause b)**
- To form associations or unions; **(clause c)**
- To move freely throughout the territory of India; **(clause d)**
- To reside and settle in any part of the territory of India; **(clause e)**
- To practise any profession, or to carry on any occupation, trade or business. **(clause g)**



How to acquire Citizenship as per Citizenship Act:



Food for Thought!

Are you in favour of Citizenship Amendment Act, 2019?



Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1071
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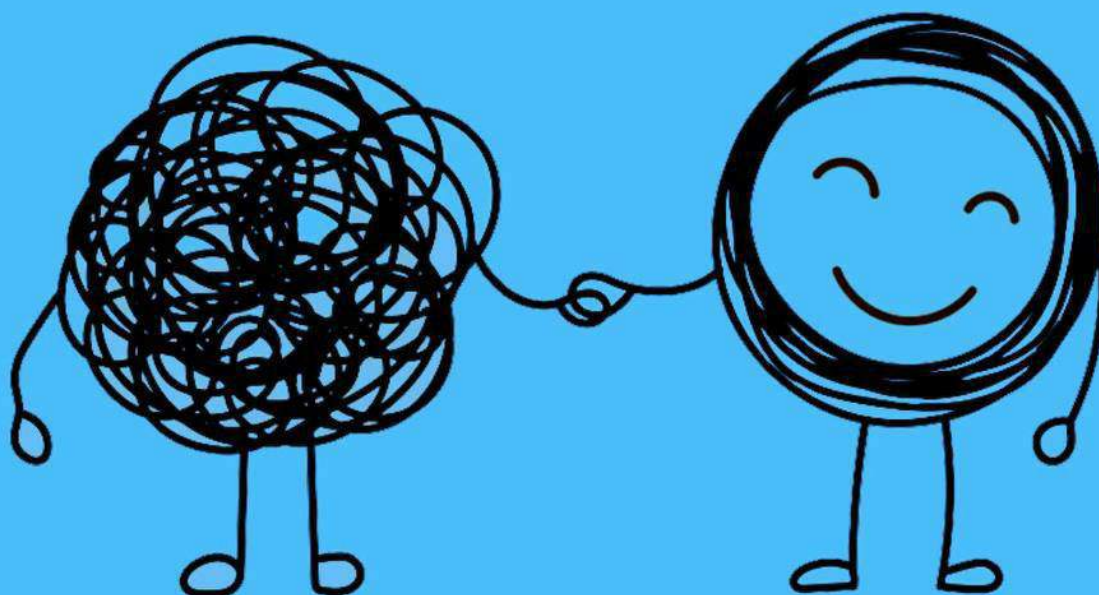




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Q.197) Who gave the idea for constituent assembly for India for the first time?

a) MN Roy

b) Jawaharlal Nehru

c) Indian National Congress

d) Mahatama Gandhi

Ans: A





MAKING OF THE CONSTITUTION






Demand for a Constituent Assembly

- 1934** — **M. N. Roy** — Idea of a Constituent Assembly for India for first time
- 1935** — **Indian National Congress** — Officially demanded a Constituent Assembly to frame the Constitution
- 1938** — **Jawaharlal Nehru** — Constitution of free India must be framed, **without outside interference** by a Constituent Assembly (**Adult franchise**)
(On behalf the INC)
- 1940** — **'August Offer'** — The demand was finally accepted in principle by the **British Government**.
- 1942** — **Stafford Cripps** — Came to India with a **DRAFT PROPOSAL** of the British Government on the framing of an independent Constitution
CRIPPS PROPOSALS — rejected by **Muslim League**
-  **CABINET MISSION** — **Rejected** the idea of **two Constituent Assemblies**
Put forth a scheme which more or less satisfied the Muslim League.

COMPOSITION OF THE CONSTITUENT ASSEMBLY

Constituent Assembly: constituted in November 1946 under the scheme formulated by Cabinet Mission Plan.

- 1 Total strength**
389
 - 296** — **BRITISH INDIA**
 - 292** — From 11 governors
 - 4** — From 4 chief commissioners
 - 93** — **PRINCELY STATES**
- 2**  **Seats to be allotted in proportion to their respective population.**
Roughly, one seat was to be allotted for every million population. 
- 3** **Seats allocated- BRITISH PROVINCE: divided among 3 principal communities— MUSLIMS, SIKHS & GENERAL** (all except Muslims and Sikhs).
- 4** **Representatives of each community were to be elected by members of that community [Provincial Legislative Assembly]**
VOTING: Proportional representation by means of single transferable vote. 
- 5** **Representatives of PRINCELY STATES** : nominated by heads of the princely states.



Q.198) Third Schedule of Constitution deals with:

a) Article 80

b) Article 75

c) Article 31-B

d) None of the above

Ans: B



SCHEDULES of the Constitution

Schedule	Subject Matter	Articles Covered
1 First Schedule	Names of the States/ Union territories (territorial jurisdiction)	1 and 4
2 Second Schedule	Emoluments, allowances, privileges	59, 65, 75, 97, 125, 148, 158, 164, 186 & 221
3 Third Schedule	Forms of Oaths or Affirmations	75, 84, 99, 124, 146, 173, 188 and 219
4 Fourth Schedule	Seats in the Rajya Sabha states & UTs	4 and 80
5 Fifth Schedule	Scheduled areas & tribes	244
6 Sixth Schedule	Tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.	244 and 275
7 Seventh Schedule	Division of powers between the Union and the States (Union List, State List, Concurrent List)	246
8 Eighth Schedule	Languages recognized by the Constitution.	344 and 351
9 Ninth Schedule	State legislatures dealing with land reforms & abolition of zamindari system & of the Parliament dealing with other matters.	31-B
10 Tenth Schedule	Disqualification- Members of Parliament & State Legislatures on the ground of defection.	102 and 191
11 Eleventh Schedule	Specifies the powers, authority and responsibilities of Panchayats.	243-G
12 Twelfth Schedule	Specifies the powers, authority & responsibilities of Municipalities.	243-W



Q.199) The Apex Court declared the right to marry as a fundamental right in the case

- a) Lata Singh v. UOI*
- b) Navtej Johar v. UOI*
- c) Bijoe Emmanuel v. State of Kerala*
- d) Romesh Thappar v Union of India*

Ans: A

- Under **Art. 21**, No person shall be deprived of his life and personal liberty except according to procedure established by law.
- The **right to marry** the person of one's choice comes under the component of right of life **under Art. 21**.



- The right to marry is a **universal right**.

- It is available to **everyone irrespective** of any race, sex, religion etc.

**THE UNIVERSAL DECLARATION OF
HUMAN RIGHTS**

Adopted by the General Assembly of the United Nations in 1948, the Universal Declaration states fundamental rights and freedoms to which all human beings are entitled.

We are all born free and equal.
Everyone is entitled to these rights no matter your race, religion, sex, language, or nationality.
Everyone has the right to life, freedom, and safety.

You have the responsibility to respect the rights of others.

No one can take away any of your rights.

FACING HISTORY AND OURSELVES

Article 16 of the UDHR, 1948

- The same right to enter into marriage.
- The same right freely to choose a spouse and to enter into marriage only with their free and full consent.
- The same rights and responsibilities during marriage and at its dissolution.
- The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children's interests which should be paramount.
- The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment.

Other laws that lay down a person's right to marry in India

- The Prohibition of Child Marriage Act, 2006
- The Guardians and Wards Act, 1890
- The Majority Act, 1875
- The Family Courts Act, 1984
- The Protection of Women from Domestic Violence Act, 2005

Rachna! Though with lot of restriction on women, I feel whether I have the right to marry of my choice or not?

Yes Rekha, you have all the rights to do so as per our constitution and no one dares to question on that.



Lata Singh Vs State of UP

AIR 2006 SC 2522

- Once a person becomes major, she or he can marry whoever she/he likes to marry.
- If the parents do not approve, they can cut off the social relation with son or daughter.
- They cannot give threats or commit any act of violence and cannot harass the person which may be punishable.

Reference: Constitution of India, Universal Law Publication, Edition 2017

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Q.200) Subordinate court is included in:

a) Part V; Article 232-236

b) Part IV; Article 233-236

c) Part VI; Article 233-237

d) Part VII; Article 233-238

Ans: C



SUBORDINATE COURT



Part VI

CONSTITUTIONAL PROVISIONS

Article 223-237

Appointment

District Judge

Governor Consult HC

Other judges

Governor Consult SPSC HC

Qualifications

Not to be in service
(Centre/ State govt.)

Advocate — 7 years

Recommended by

HC

Control over Subordinate Court

High Court

Interpretation

Judicial Service

District Judge

Posts

Other judicial posts

STRUCTURE

High Court

Civil Side

District and Sessions Judge's Court

Criminal Side

Subordinate Judge's Court

Chief Judicial Magistrate's Court

Munsiff's Court

Judicial Magistrate's Court

JURISDICTION & POWERS

District

District Judge

Civil cases

- Judicial
- Supervisory
- Administrative

Criminal cases

- Life Imprisonment
- Death sentence

(To be confirmed by H.C)

Ass. Session Judge

- Imprisonment (upto 10 years)

Subordinate Judge

Civil cases

Unlimited Jurisdiction

Chief Judicial Magistrate

Criminal cases

Imprisonment

Death sentence

Term- 7 years

Fine: Authorized by law

Munsiff

Civil cases

Limited Jurisdiction

Judicial Magistrate

Criminal cases

Imprisonment

Class 1: upto 3 years

Fine: <10,000

Class 2: 1 year < 5000

City

Chief Judges

Civil cases

Metropolitan Magistrates

Criminal cases

Class 1: 3 years

Fine: <10,000

Panchayat

Panchayat Courts

Petty

Civil cases

Criminal cases



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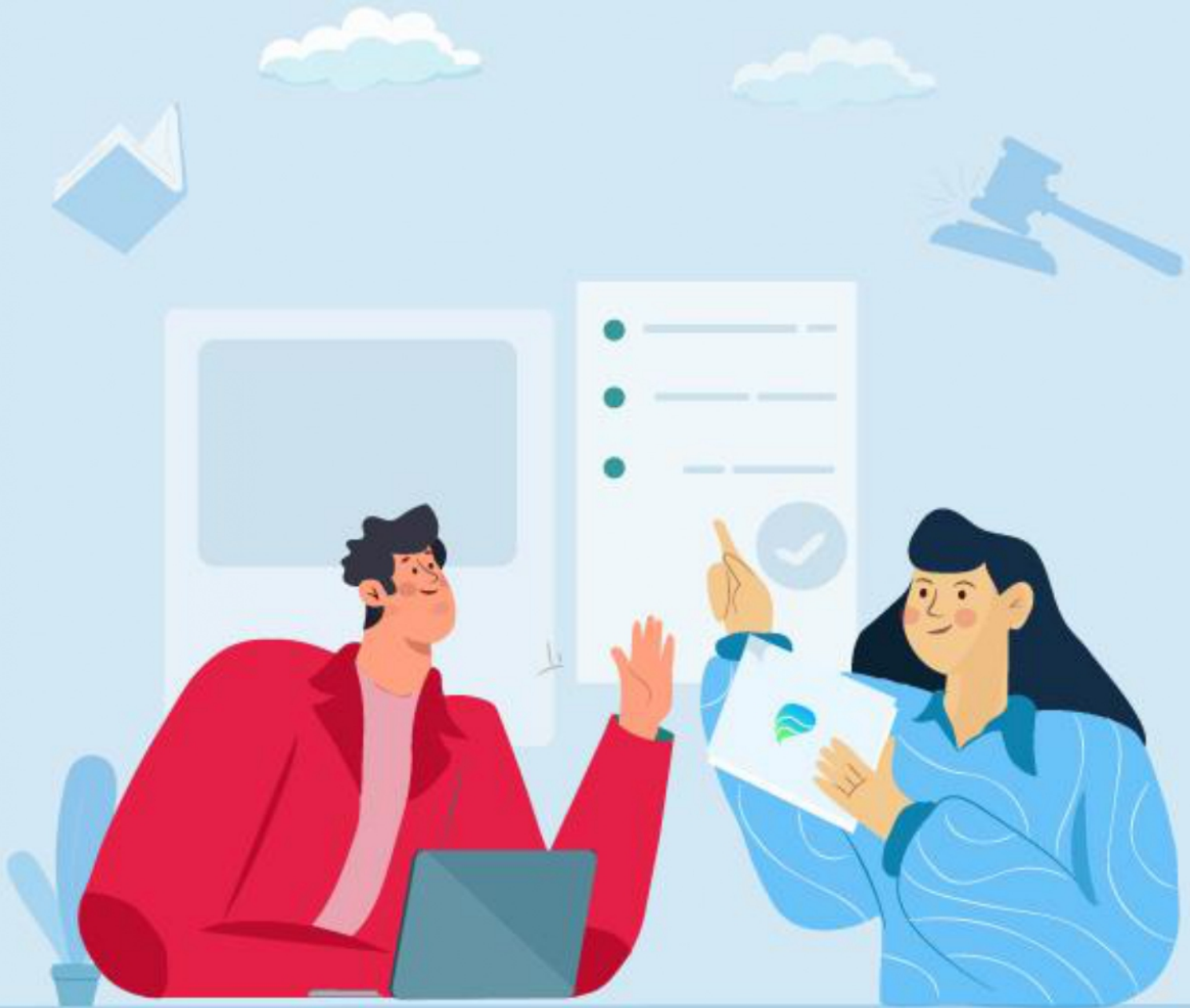


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