



# Mains Factory

## Question No. 1

(A) Define Digital rape. Is it punishable in India? Refer to relevant legal provisions, if any.

(B) A instigates B to give false evidence. B doesn't give false evidence. Has A committed any offence? Discuss.

(C) Explain and illustrate the following: "What is in writing shall only be proved by the writing".

## Question No. 2

(A) "The use of sedition is like giving a saw to the carpenter to chop a bit of wood and he uses it to cut the entire forest itself". Comment.

(B) What is the evidentiary value of Confessional FIR?

(C) "The burden to prove the guilt of the accused is on the prosecution and never shifts". Comment stating the exceptions, if any, to this rule.

???



# INDIAN EVIDENCE ACT

**Time: 3 Hrs**

**M.M.:100**

## **Instructions:**

**(1) All question is compulsory. Answer to all Questions must be given in language either in Hindi or in English.**

**(2) Writing of all answers must be clear and legible. If the writing of Answer book written by any candidate is not clear then the valuation of such answer book may not be done.**

**Q.1) Difference between "Fact in issue" and "Relevant fact".**

**Q.2) Discuss the following statement-**

**'Relevancy and admissibility are neither co-extensive nor interchangeable terms'.**

**Q.3) What is distinction between relevancy and admissibility of fact? Illustrate**

**Q.4)** According to the prosecution, there was an enmity between N and his nephew S on account of a dispute in respect of agricultural land and the agricultural produce therefrom. On the date of occurrence, S fired a pistol shot at N. N raised the alarm on account of which, PWs 1 and 2 reached the spot and at that point of time, N fell down and S made good his escape. PWs 1 and 2 brought N to police station whereupon statement of N was recorded and treating the same as an FIR, the police started investigations and sent up S for trial. During the trial, PWs 1 and 2 stated as to what they had heard from the injured at the relevant time and according to PW-2 the injured had told him that S had fired upon him. The trial Court convicted S under section 307 and the High Court dismissed his appeal. Before the Supreme Court, the appellant-accused contended that the evidence of PW-2 was not admissible under section 6 of the Evidence Act, inasmuch as what the injured told the witness and the factum of alleged shooting by accused at the injured could not be said to have formed part of the same transaction as according to him, by the time he reached the scene of occurrence several people had gathered there. Answer with reference to sections of the Indian Evidence Act and case law, if any.

**Q.5)** Dead body of married women was found in very bad condition. A photograph of the dead body was published in the newspaper for identification purposes. On the basis of other evidence, charges were framed against the husband. During trial, prosecution tried to adduce evidence of Mr. X, who was familiar with the accused as well as his wife. In his statement the witness said, "A day after publication of photographs, I received a call from the accused, who said, people are saying that the photograph in the newspaper is of my wife..., please go and see.

"Examine the admissibility of this statement under section 8 of Evidence Act, 1872. Whether this statement may be admitted under Section 157 of Evidence Act as well?

**Q.6)** Discuss the provisions of Indian Evidence Act under which following fact are relevant: Shortly before Ram was pick-pocketed in the park, he showed a bundle of notes to his friend in the park.

**Q.7)** Whether pre-trial Test Identification Parade conducted before a Metropolitan Magistrate is evidence and its relevance in a case triable before the Sessions Court.



**Q.8)** "The conspiracy can be undoubtedly proved by such evidence direct or circumstantial. But the court must enquire whether the two persons are independently pursuing the same end or they have come together to the pursuit of the unlawful object. The former does not render them conspirators, but the latter does." Explain the law relating to relevancy enshrined under Section 10 of Evidence Act in the light of Kehar Singh and Ors. Vs The State (Delhi Administration).

**Q.9)** Discuss the scope of Section 11 of Evidence Act, 1872. Why it is called as residuary clause of relevancy? Whether a statement which is otherwise not relevant under any of the other provisions of Evidence Act, 1872 may be permitted to be adduced under Section 11?

**Q.10)** When right or custom is in question? What facts are relevant? Illustrate your answer.



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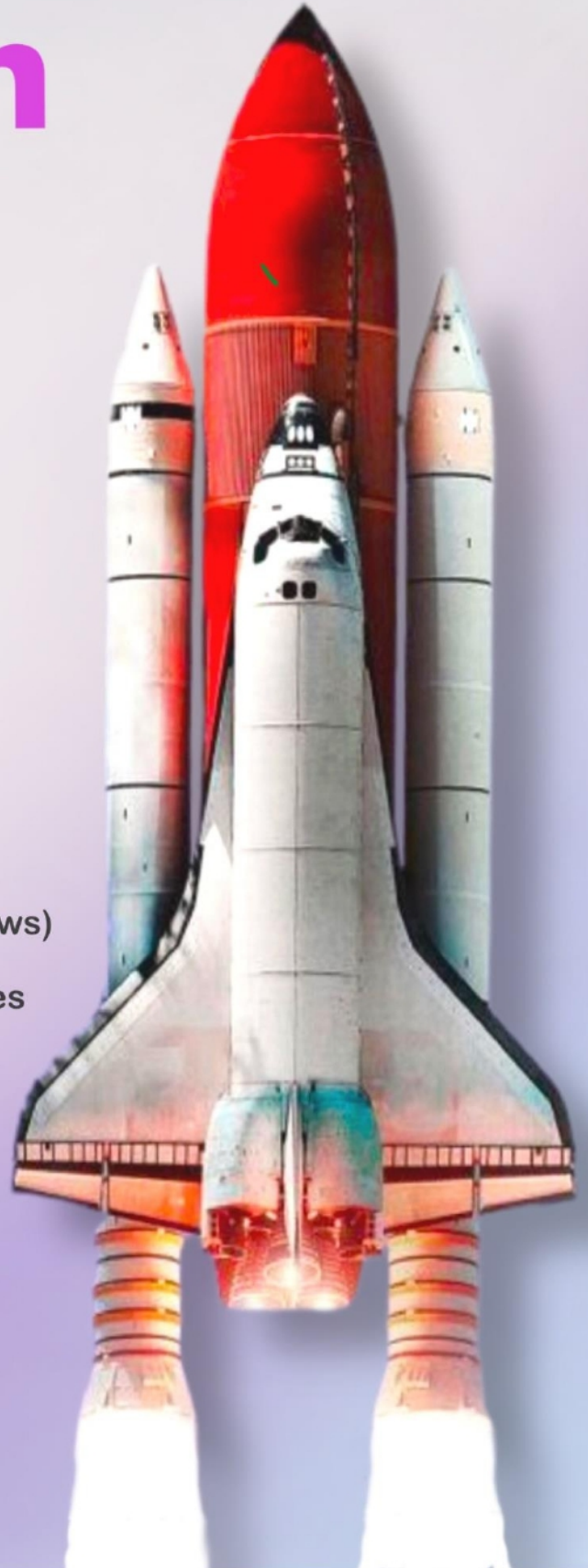
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## Free Mains Evaluation

### Free Mains Evaluation

*must withstand the test*  
Article 19(1)(a). Freedom of press means  
There can be no relationship in the press.  
articles or matters of public interest.  
to exercise the right of the  
the  
however, restrictions can be imposed on the  
but those restrictions must stand the test of  
*democratic organisation*  
In *Sennett Case* and *Union of*  
*India (1972)*, the Supreme Court  
the freedom of the press embodies the right of the



Ques 1

\* Rule of  
Convenience  
\* maxim  
vigilantibus  
non  
dormientibus  
jura subvertunt

Sec. 21(1), of Code of Civil procedure provides that, no objection as to place of suing will be allowed by an appellate or revisional court unless following conditions are satisfied:

Court of first Instance

1. The objection was taken at first instance in court
2. It was taken at earliest possible opportunity and in cases where issues are settled at or before settlement of issues; and
3. There has been consequent failure of justice

Ques 2.

\* provision  
rising  
Art. 16, 335,  
338, 340,  
341 & 342

Reservation of posts in government services is a broad and infamous subject. The basis of reservation was always to bring every class of people on equal footing majorly on financial and social aspects. (So the basis and limit of reservation should still be the financial status as discrimination on caste and class level has been decreased but financial gap has been increased from past recent years).

\* Indira Sawhney case  
\* Balaji vs State of Mysore  
9

Ques 3

No, a remand order cannot confer jurisdiction on the subordinate court when such court originally do not have such power. It is settled principle that no appellate court can confer jurisdiction on a subordinate court, however high appellate court may be as, jurisdiction of a court is determined by statute. In case of Venkatarma & Angathayammal it is held that

(1)



an appellate court remanding a case to an inferior court cannot confer jurisdiction on court if it inherently lacked the same.

Ques 4

A suit is of civil nature if the principal question therein relates to the determination of a civil right and its enforcement.

It is subject matter of suit which determines whether it is suit of civil nature or not.

In a suit in which right to property or to an office is contested whether it is of civil nature or not, what needs to be determined is whether it entirely depends on religious rites or ceremonies or not?

If its decision does not entirely depend on religious rites or ceremonies it is a suit of civil nature.

(i) Right to take out religious procession is a suit of civil nature

(ii) Right of Pandanashen lady to observe parda is a suit of civil nature

(iii) Right to franchise is a suit of civil nature

11/5  
3

Ques 5

Doctrine of res judicata applies between co-defendant only if plaintiff claimed any relief and he cannot get his relief without trying and deciding a case between the co-defendants. However it has been stated that requisite conditions should be fulfilled to apply principle of res judicata as between defendants and that are:





5  
10

According to sec-173(3) In case superior officer of police has been appointed under sec-158 and state government by order directs, then report shall be submitted through that officer. While orders of Magistrate are pending, such an officer may also direct officer in charge of police to make further investigation if required.

4 When the transfer of prop of owner w/c he is not the owner

(c) Doctrine of election with illustration. Section 35 of Transfer of Property Act discusses the doctrine of election. It states that when a person / transferor in same transaction confers benefit on owner of property and to transferee, the owner is put to election either to accept benefit of transfer or refuse it.

Its essentials are - that transfer should be in same transaction

- Benefit & burden must come from same transaction.
- benefit is directly given to owner

For example, Ashwini proposes to transfer property of Rohan ~~and~~ <sup>to</sup> Gurjansh and gives 10,000 to ~~husband~~ wife of Rohan. This is not case of direct benefit to Rohan thus Rohan has no duty to elect.

As stated benefit and transfer must be inseparable and interdependent







And in case person refuses to such transfer, he has to relinquish all the benefit so transferred and such benefits shall be reverted back to transferor or his representative

Such property is reverted back when

- transfer is gratuitous
- transfer has before election died or became incapable of fresh transfer
- In all cases where transfer is for consideration

Owner of property has choice either to elect by express mode or impliedly from contract.

Express election is final & conclusive in nature

In case where owner has full knowledge of circumstance and he being aware of his duty to elect accepts the benefit, it is implied that he has chosen in favour of transaction

But such owner has to signify his confirmation or dissent from transfer within 1 year after date of transfer.

There are certain exceptions to it -

§ This doctrine is based on equity. If two rights are endowed on a person under any instrument in a manner that one right is more preferable than other, he is bound to elect or choose only one of them.

This doctrine is based on maxim qui appropiat non reprobat which means one cannot appropriate

(d) missing 9.

Include  
Cooper v/s  
Cooper  
Landmark  
Case on  
election

Should  
mentioned  
top



# Remarks:-



- ① Answer not in Answer format rather on notes format.
- ② Don't copy things from Internet.  
The Answer on Internal & External aid was exact copy.
- ③ Missed out on lot of Questions.
- ④ Next time copies won't be evaluated if they are not in Answer format.
- ⑤ Always mention the Section no. on top & not at last.





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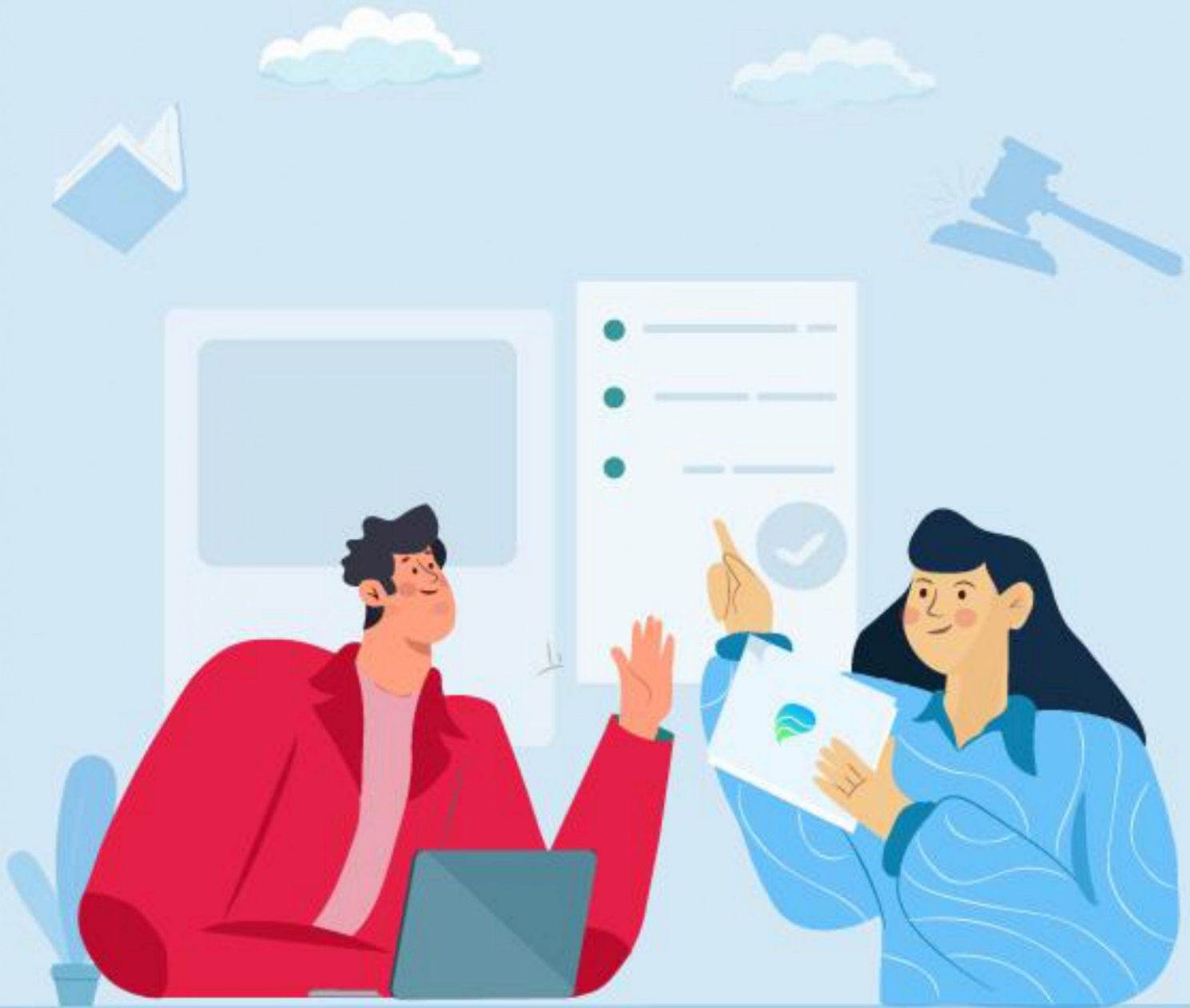


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