

# KERALA JUDICIAL SERVICE EXAMINATION - 2013

Duration : 3 Hours

Marks :100

## PAPER - I

**Frame sentences using the antonyms of the following words. (4 x 1.5= 6 marks)**

1. Affection
2. Adversity
3. Civil
4. Abundance

**Correct the mistake.**

(5 x 1 = 5 marks)

5. It is a three judges bench decision
6. Neither did I sing nor he sang
7. Komalam is elder than her sister
8. We should enjoy much
9. Who did you talk

**Rewrite the following sentences using the correct article wherever necessary.**

(5 x 1 = 5 marks)

10. Have you seen one legged man?
11. He is M.A
12. Wise always abstain from mischief
13. Blind and lame should be pitied upon
14. Man is only the creature that has developed power of speech

**Use the correct preposition wherever necessary.**

(6 x 1 = 6 marks)

15. They saw the fight among the two brothers
16. He agreed with my proposal
17. He was invited for a dinner

18. I rejoice on his success
19. Be true on your faith
20. Kumaran is repentant with his mischief

**Rewrite the following sentences correcting the mistakes.** (6 x 1 = 6 marks)

21. The priest said that God was everywhere
22. He worked hard so that he should pass
23. Rs.100/- are good sum
24. Is she not your sister?
25. I know to fly like a bird
26. She came back in time lest she should lose the bus

**Rearrange the following sentences in their proper order.** (3 x 2 = 6 marks)

27. These mere pieces of paper the value of the number of rupees bear what makes that is printed upon them
28. Implies a triumph over contempt and pleasure in the ill of another
29. Spread all over the world the human race is from the polar regions to the tropics

**Punctuate the following.** (1 x 2 = 2 marks)

30. When the boy saw it he was very frightened and began shouting Wolf Wolf Help Help as loudly as he could

**Change into indirect speech** (1 x 1 = 1 mark)

31. He said, "God rules and governs all things"

**Change into direct speech** (1 x 1 = 1 mark)

32. He proposed that they should wait for the award.

Fill in the blanks with the correct word.

(2 x 1 = 2 marks)

33. All possible means .....been tried

34. His means .....ample

35. Write a precis of the passage given below:

(1 x 15 = 15 marks)

In this regard I wish to digress a little to point out that the western attitude towards women's rights has been most unfortunate so as to create a tremendous social upheaval in the latter part of the 20<sup>th</sup> century not only in the West but in Asian and African countries as well.

We must not forget that man and woman are the two halves of humanity. The two sexes are not identical. But they are not antagonistic either. They are complementary. The tendency in the West had been to throw them into antagonism, to make them competitors, the one against the other in the battle of life, rivals for employment, rivals for wages, rivals for fame and power. "Rights of Women" have been made to oppose "Rights of Men". In the not too distant past there had been fierce discussion, hot war of pens and words, anger and bitterness, contemptuous sneers from the one side, passionate outcries from the other. And yet the sexes are not antagonistic. Neither can reach its highest creative excellence without the co-operation of the other. The two sexes should have been viewed as truly complementary, each supplying what the other lacked, each giving that in which the other was deficient and together made up the perfect whole. Physically, mentally and spiritually man and woman differ from each other and only in the blending of the two, could balance and equilibrium be found. But unfortunately a collision course had been set in motion and today women instead of being understood and respected for what they are, have become competitors in the minds of men. There is therefore an unconscious antipathy prevailing in the minds of certain men. As a result their attitudinal bias seems to imperceptibly affect them in dealing with women and their rights. Not only that, women themselves suffer from such bias. Where Women Police are expected to show sympathy and understanding towards those of their own gender taken into custody, the actuality sometimes seems otherwise. Some women police can be so brutal and unsympathetic towards females taken into custody. They could rush to conclusions with regards to the guilt of women suspects, taunt them with ugly and filthy words and comment adversely, sometimes far in excess of men.

Left to ourselves the eastern cultures Indian, Chinese or Japanese would have evolved a social system based on duties rather than rights. The stressing of rights lead to confrontation while the stressing of duties ensures co-operation. But the world being what it is today we have got to recognize social realities and try to remove causes which engender social upheaval and discontent while

**KERALA JUDICIAL SERVICE EXAMINATION - 2013**

Duration : 3 Hours

Marks :100

**PAPER - II**

**Part - I**

***Answer all the questions***

*(15 x 1 = 15 marks)*

1. Identify the correct statement.
  - A) An agent can never delegate
  - B) The authority of an agent shall be expressed
  - C) No consideration is necessary to create an agency
  - D) The agent is not responsible to the principal for the acts of the sub-agent.
  
2. In which of the following cases the defence that the transfer of immovable property was for valuable consideration and without notice or that the transfer was bonafide and for consideration is not available?
  - A) Transfer where a third person is entitled to maintenance from the profits
  - B) Transfer made with intent to defeat or delay the creditors of the transferor
  - C) Transfer pending the suit in which the right to the property is directly and specifically in question
  - D) The ownership of the property has passed to the buyer before payment of the whole purchase money and a charge is claimed by the buyer
  
3. A term which is not defined u/s.2 of the Limitation Act is
  - A) easement
  - B) acknowledgement
  - C) bond
  - D) prescribed period

4. Specific performance of a contract cannot be enforced
  - A) where the terms of the contract gives the plaintiff an unfair advantage over the defendant
  - B) in favour of a person who would be entitled to recover compensation for its breach
  - C) where the plaintiff has not been ready and willing to perform an essential term of the contract, the performance of which has been prevented by the defendant
  - D) when the consideration has been proved to be inadequate
  
5. Choose the wrong statement.
  - A) A right to the free passage of light to an open space cannot be acquired by prescription.
  - B) An easement cannot be acquired by virtue of a local custom
  - C) A right of way is a discontinuous easement
  - D) A right annexed to the house of a person to prevent another from building on his own land is a non-apparent easement
  
6. Under the Kerala Buildings (Lease and Rent Control) Act a landlord is entitled to evict the tenant if
  - A) the tenant uses the building in such a manner as to reduce its utility materially
  - B) the tenant has in his possession a building of his own
  - C) the tenant ceases to occupy the building for six months
  - D) the period of lease has expired and a ground for eviction u/s.11 (3) is available to him

7. Mark the odd one in relation to the Hindu Succession Act.
- A) Father
  - B) Mother
  - C) Son
  - D) Daughter
8. No succession certificate shall be granted in respect of
- A) promissory note
  - B) share in a company
  - C) debenture issued by a Local Authority
  - D) gold ornaments kept in a bank locker
9. A Muslim woman is entitled to a decree for dissolution of marriage if
- A) the whereabouts of the husband have not been known for three years
  - B) the husband without reasonable cause has failed to perform his marital obligations for three years
  - C) the husband has been sentenced to imprisonment for three years
  - D) the husband has been impotent for three years
10. A written statement pleading a set off shall be chargeable with
- A) one - half of the fee payable on the plaint
  - B) no fee
  - C) fee in the same manner as a plaint
  - D) one-tenth of the fee payable on the plaint

11. Choose the wrong statement.

- A) An industrial workman is entitled to free legal aid under the Legal Services Authorities Act only if his annual income is less than nine thousand rupees.
- B) The object of Lok Adalat is to secure that the operation of the legal system promotes justice on a basis of equal opportunity.
- C) A woman is entitled to free legal aid under the Legal Services Authorities Act even if she is the complainant in a case alleging commission of offence u/s.138 of the N.I Act.
- D) The Lok Adalat shall have the requisite powers to specify its own procedure.

12. In pursuance of any provision of the Kerala Panchayat Raj Act the Secretary of a Panchayat may enter and inspect any dwelling house

- A) between sunset and sunrise
- B) after giving the occupier at least 12 hours' notice
- C) after giving reasonable opportunity and facility to all the inmates to withdraw
- D) irrespective of the social and religious customs and usages of the occupants

13. The Court competent to try election petitions shall be the Munsiff's Court having jurisdiction over the place in which

- A) the election is held
- B) the elected candidate resides
- C) the office of the Municipality is located
- D) the office of the returning officer is situated.

14. Identify the correct statement.

- A) A legal representative of a deceased person who signs his name to a promissory note is liable only to the extent of the assets received by him as such legal representative.
- B) Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied
- C) A holder of a negotiable instrument who derives title from a holder in due course does not have the rights thereon of that holder in due course.
- D) A cheque may not be always payable on demand

15. Which of the following documents is compulsorily registrable?

- A) Certificate of sale granted to the purchaser of immovable property sold by public auction by a civil court
- B) Grant of immovable property by the Government
- C) Endorsement on a mortgage deed acknowledging payment of the mortgage-money
- D) A decree of a civil court on a compromise comprising immovable property other than the subject-matter of the suit

## Part - II

**Answer any 15 questions. Answers shall not exceed 120 words (1 page). If more than 15 questions are answered the first 15 answers alone will be evaluated.**

*(15 x 3 = 45 marks)*

- 16. A, B & C promised to perform a contract. A & B die. What is the rule regarding the liabilities of the promisors?
- 17. X agrees to sell his immovable property to Y for a consideration of ten lakh rupees and receives two lakh rupees as earnest money. Y commits breach of the contract. Y files a suit for refund of the earnest money. Discuss the law?

18. a) What are the rights of a transferee of a co-owner of an immovable property?
- b) A, B & C jointly purchase an immovable property. How are their rights in the property determined?
19. A gifted his immovable property to B. A thereafter executes and registers a deed cancelling the gift. B files a suit to set aside the cancellation deed. A contends that the gift is not valid. Discuss the law on these points.
20. A borrows one lakh rupees from B under a promissory note on 1.1.2007. On 31.12.2009 B dies. Thereafter A dishonestly removes the promissory note from the house of B. B's son C comes into possession of the promissory note on 1.1.2011. Two months thereafter C files a suit against A on the promissory note. A contends that the suit is barred by the law of limitation. How will you decide?
21. What is the effect of substitution or addition of a new plaintiff or defendant under the Limitation Act?
22. A suit for specific performance of an agreement for sale is decreed. The Court stipulates the period within which the plaintiff shall deposit in Court the balance sale consideration. The plaintiff files an application for extension of time and the defendant files an application for rescission of the contract. What is the law governing the situation?
23. Distinguish between perpetual injunction and mandatory injunction?
24. Write a note on the extent of easement and the mode of their enjoyment?
25. a) A has prescribed a right of way as an easement through the property of B. B blocked the way. Three years thereafter A files a suit for declaration and injunction, both perpetual and mandatory. What is the fate of the suit? Why?
- b) Distinguish between easement of necessity and quasi easement?
26. A & B are Hindus. Their marriage was solemnized under the Special Marriage Act. They have two sons and one daughter. B, the husband, dies. His father is alive. Who are the legal heirs and what is the share to which each of them is entitled? Discuss the law.

27. a) A executes a Will by which he bequeaths all his books in his library to his eldest son. In the last paragraph of the Will he bequeaths his house including his books in the library to his youngest son. Who shall take the books in the library, and why?
- b) A bequeaths his property X to B & C. By the same Will A bequeaths his property Y to be divided equally between B & C. B predeceased A. How do the bequeaths take effect? Discuss the law.
28. Along with the plaint the plaintiff produces an unregistered lease deed written on a plain paper. The period of lease is two years. The plaintiff wants to rely on it. What is the procedure to be followed by the Court?
29. A suit is filed for recovery of land with a building thereon. How is the market value to be determined under the Kerala Court Fees and Suits Valuation Act? What is the procedure to be followed with regard to the valuation of property?
30. Explain the provisions in the Negotiable Instruments Act regarding estoppel.
31. What are the rules governing payment and interest under the Negotiable Instruments Act?
32. What is the effect of non-registration of a compulsorily registrable document?
33. Write a note on prosecution for offences under the Kerala Panchayat Raj Act.
34. How court fee is levied in multifarious suits?
35. Write a note on institution, withdrawal and compromise of civil and criminal actions under the Kerala Municipality Act.

### Part - III

**Answer any 5 questions. Answers shall not exceed 250 words (2 pages). If more than 5 questions are answered the first 5 answers alone will be evaluated.** (5 x 8 = 40 marks)

36. Write an essay on persons who should perform contracts.
37. Compare and distinguish mortgage, sale and lease.

# KERALA JUDICIAL SERVICE EXAMINATION - 2013

Duration : 3 Hours

Marks :100

## PAPER - III

### Part - I

**Answer all the questions**

**(15 x 1 = 15 marks)**

1. Which of the following statements is wrong? Under IPC
  - A) the word Government denotes the Central Government or the Government of a State
  - B) the word person includes association or body of persons whether incorporated or not
  - C) when property is in the possession of a person's wife on account of that person it is in that person's possession.
  - D) a special law is a law applicable only to a particular part of India.
  
2. A was appointed executor to B's will. On B's death A dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed
  - A) no offence
  - B) criminal misappropriation
  - C) criminal breach of trust
  - D) theft
  
3. To which of the following the Indian Evidence Act does not apply?
  - A) Electronic record
  - B) Affidavit
  - C) Hearsay evidence
  - D) Subsequent conduct

4. A prosecutes B for adultery with C, A's wife. Though B denies that C is A's wife, the Court convicts B of adultery. Afterwards C is prosecuted for bigamy in marrying B during A's life time. C says that she never was A's wife. The judgment against B is
- A) relevant against C
  - B) irrelevant against C
  - C) operates as res judicata
  - D) operates as estoppel
5. Choose the wrong statement.
- A) If a bill of exchange is drawn in a set of three, all the three should be proved
  - B) If a contract is contained in a bill of exchange, the bill of exchange should be proved
  - C) If a contract is contained in several letters, all the letters must be proved
  - D) Oral evidence is admissible to prove payment which is evidenced by a receipt
6. Which of the following is not defined under the Abkari Act?
- A) Abkari
  - B) Abkari Officer
  - C) Abkari Inspector
  - D) Abkari Revenue

7. Under Section 144 of the Negotiable Instruments Act when cannot the Court declare that the summons has been duly served?
- A) When an acknowledgment purporting to be signed by the accused has been received
  - B) When an endorsement purporting to be signed by the postman that the accused has refused to take delivery has been received
  - C) When an endorsement purported to be made by a person authorized by the courier service that the witness has refused to take delivery of summons has been received
  - D) When a civil police officer's report that the summons was served on the accused has been received
8. Mark the odd one under Section 5 of the Protection of Women from Domestic Violence Act.
- A) Police officer
  - B) Protection officer
  - C) Magistrate
  - D) Sessions Judge
9. Identify the penal provision in the Protection of Women from Domestic Violence Act.
- A) Section 34
  - B) Section 32
  - C) Section 31
  - D) Section 30

10. Choose the correct statement.

- A) A juvenile in conflict with law may be arrested by police
- B) A juvenile in conflict with law shall not be arrested by police
- C) A juvenile in conflict with law may be arrested only by a member of the special juvenile police unit.
- D) A juvenile in conflict with law may be arrested only on the orders of a Principal Magistrate.

11. Under the Kerala Police Act ..... committed by a Police Officer may be taken cognizance of by a court without the previous sanction of the Government.

- A) the offence of dereliction of duty
- B) the offence of cowardice
- C) no offence
- D) the offence of taking bribe

12. Which statement is wrong.

- A) A person found guilty of an offence and dealt with under section 3 of the Probation of Offenders Act shall not suffer disqualification attached to conviction.
- B) If a person released under section 4 of the Probation of Offenders Act is subsequently sentenced for the original offence, he shall suffer disqualification, if any, attached to conviction.
- C) A person found guilty of an offence and dealt with under section 4 of the Probation of Offenders Act shall not suffer disqualification attached to conviction.
- D) Every Probation Officer appointed under the Probation of Offenders Act is a public servant under section 21 of the Indian Penal Code.

13. A person who abetted an offence under the Kerala Forest Act was punished with the punishment provided for that offence though the offence was not committed in consequence of the abetment. The order is
- A) irregular
  - B) a nullity
  - C) legal
  - D) illegal
14. The term 'offence' as defined in the Juvenile Justice (Care and Protection of Children) Act means
- A) an offence punishable under any of the provisions of the said Act
  - B) an offence punishable under the Indian Penal Code
  - C) an offence punishable under any central statute
  - D) an offence punishable under any law for the time being in force
15. Which among the following is not cannabis as defined in the NDPS Act?
- A) Ecgonine
  - B) Charas
  - C) Hashish
  - D) Ganja

### Part - II

**Answer any 15 questions. Answers shall not exceed 120 words (1 page). If more than 15 questions are answered the first 15 answers alone will be evaluated. (15 x 3 = 45 marks)**

16. Write a note on sentence of imprisonment for non-payment of fine.

17. Kumaran met Prabhakaran on the Banerji Road, Ernakulam. The former showed a pistol and demanded the latter to hand over his purse containing money. Prabhakaran surrendered his purse. Explain the offence committed by Kumaran.
18. A dictated his will to B. B intentionally wrote a different legatee from the legatee named by A. By representing to A that he had prepared the Will according to A's instructions, B induced A to sign the will. Explain the ingredients of the offence, if any, committed by B.
19. X beat Y on his right cheek causing him pain. What offence did Y commit? What would have been the offence if Y had lost a tooth in the incident? Explain the ingredients of both offences.
20. A prosecutes B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel arose and forming part of the correspondence in which it is contained are sought to be tendered in evidence. B objects to it on the ground that those letters do not contain any libel. Are those letters relevant? State reasons.
21. The accused stated to the investigating officer as under:

"I have concealed at the foot of a tree standing near the water tank at the place of occurrence the Malappuram knife with which I stabbed Soman with whom I had enmity for a long period. If I am taken there, I shall take out the knife" This statement is sought to be proved through the investigating officer. Comment.
22. When is character relevant under the Indian Evidence Act?
23. Write a note on examination of witnesses.
24. What is the procedure prescribed u/s.53 A of the Abkari Act for disposal of seized liquor and articles?
25. Explain domestic violence?

26. The husband physically assaulted the wife at her place of employment, as a result of which she sustained injuries. She was treated for injuries at a private hospital. She had to take leave for seven days. What are her remedies under the Protection of Women from Domestic Violence Act?
27. What are the presumptions in a trial for the offence under Section 138 of the Negotiable Instruments Act?
28. Compare and distinguish juvenile in conflict with law and child in need of care and protection.
29. What are the orders that may be passed regarding a juvenile who has been found to have committed an offence?
30. What are the powers of a Forest Officer under the Kerala Forest Act?
31. Mention seven offences u/s.27 of the Kerala Forest Act and the punishment thereof.
32. What is the procedure prescribed for releasing offenders on probation of good conduct?
33. What is the procedure prescribed in respect of an offender who fails to observe the conditions of the bond executed u/s.4 of the Probation of Offenders Act?
34. Mention seven offences u/s.118 of the Kerala Police Act.
35. What is the provision in the NDPS Act regarding bail?

### Part - III

**Answer any 5 questions. Answers shall not exceed 250 words (2 pages). If more than 5 questions are answered the first 5 answers alone will be evaluated.**  
(5 x 8 = 40 marks)

36. Write an essay on the offence of theft.
37. Write notes on
  - a) Cheating
  - b) Offences relating to marriage u/ss 493 to 498 A IPC

**KERALA JUDICIAL SERVICE EXAMINATION - 2013**

Duration : 3 Hours  
Marks :100

**PAPER - IV**

**Part - I**

***Answer all the questions***

***(15 x 1 = 15 marks)***

1. The authority empowered to fix scales of monthly allowances payable for the subsistence of judgment-debtors is
  - A) the court which passed the decree
  - B) the State Government
  - C) the Central Government
  - D) the High Court
  
2. Which of the following is not common to *res judicata* and *res sub judice*?
  - A) Issue must be directly and subsequently in issue
  - B) Does not affect the institution of the suits
  - C) Parties must be litigating under the same title
  - D) Applies only to the subsequently instituted suit
  
3. Mark the odd one.
  - A) Sale without fixing upset price
  - B) Sale conducted not in the presence of the Judge
  - C) Sale without attachment
  - D) Sale without proclamation

4. If an application to sue as an indigent person does not disclose any cause of action, the court shall
  - A) dismiss it
  - B) return it
  - C) reject it
  - D) allow amendment
  
5. In which of the following cases leave of the court is necessary?
  - A) To compromise a suit in which the plaintiff is a minor
  - B) To sue as the next friend of a minor
  - C) When a plaintiff opts to abandon the suit on his attaining majority
  - D) When a decree in favour of a minor is sought to be executed
  
6. A final decree effecting a partition of partnership assets is engrossed on
  - A) revenue stamp paper
  - B) court fee stamp paper
  - C) non-judicial stamp paper
  - D) plain paper
  
7. The time between which sale of immovable property shall be held in court auction is
  - A) 11.00 am and 12 noon
  - B) 1.45 pm and 3.15 pm
  - C) 2.15 pm and 3.30 pm
  - D) 2.00pm and 5.00 p.m

8. The ministerial officers of a civil court shall perform the duties imposed on them by
- A) the High Court
  - B) the State Government
  - C) the District Judge
  - D) the Presiding Officer of the Court
9. The offence which is triable only by a Judicial Magistrate of the First Class is the offence under section
- A) 312 IPC
  - B) 325 IPC
  - C) 354 A IPC
  - D) 380 IPC
10. In a complaint case the Magistrate takes cognizance of the offence when he
- A) issues process to the accused
  - B) decides to record the sworn statement of the complainant
  - C) records the plea of the accused
  - D) frames charge against the accused
11. What persons may not be charged jointly?
- A) Persons accused of the same offence committed in the course of the same transaction
  - B) Persons accused of an offence and persons accused of attempt to commit it.
  - C) Persons accused of different offences committed by them jointly within the period of 12 months
  - D) Persons accused of different offences committed in the course of the same transaction.

12. Choose the wrong statement.

- A) Warrant case includes a case relating to an offence punishable with imprisonment for a term of two years and above
- B) Police report means a report filed under section 173 (2) of the Cr.P.C
- C) Judicial proceeding includes any proceeding in the course of which evidence is or may be legally taken on oath
- D) Notification means a notification published in the official gazette.

13. Which is the document a copy of which may be given to a stranger to the proceedings without the orders of the court?

- A) Deposition of a witness
- B) Document exhibited in evidence
- C) Judgment
- D) Court charge

14. An accused detained in a hospital is not in a position to be moved and produced before the Magistrate. What shall the Magistrate do to extend the period of remand?

- A) He shall call for a report from the police and order extension of the remand
- B) He shall order extension of the remand when the accused is produced before the court after discharge from the hospital
- C) He shall call for a report from the doctor and order extension of the remand
- D) He shall see the accused at the hospital and order extension of the remand

15. In which of the following cases the court need not frame a formal charge?

- A) Sec.384 IPC
- B) Sec.338 IPC
- C) Sec.324 IPC
- D) Sec.332IPC

### Part - II

**Answer any 11 questions. Answers shall not exceed 160 words (1½ page). If more than 11 questions are answered the first 11 answers alone will be evaluated. (11 x 5 = 55 marks)**

16. Briefly explain the procedure in an application for passing a final decree in a partition suit?

17. Write notes on

- a) Admission and marking of documents in civil cases
- b) Return of documents in civil cases

18. a) What is the procedure to be followed in returning a plaint for presentation before the proper court?

- b) In the judgment after trial a court found that the suit was barred by the law of limitation. In view of that finding the court observed that the other issues did not arise for consideration. Comment.

19. a) Write a note on appointment of receivers, their duties and enforcement of their duties.

- b) An advocate appointed for local inspection files a report containing his inferences and conclusions only. Comment.

20. a) Write a note on denial in written statement of the allegations in the plaint.
- b) When a suit was taken up for trial, the defendant who was present in the court did not take part in the trial. The Munsiff recorded the evidence of the plaintiff and decreed the suit. The defendant filed an application under Or.9 r.13 of CPC. The Munsiff dismissed it *in limine* holding that the judgment was on merits. Comment.
21. What is the procedure prescribed in CPC for arrest and detention of judgment-debtor in execution of a money decree?
22. a) The purchaser of an immovable property in a court auction failed to deposit 25% of the bid amount. The court granted him adjournment to deposit the amount. Comment.
- b) An immovable property was sold in court auction in execution of a decree on 1.1.2012. The court confirmed the sale on 1.7.2012. The purchaser executed a sale deed in respect of the property in favour of a stranger on 1.2.2012. It is contended that on the date of execution of the sale deed the purchaser in court auction had no title as the sale was confirmed only on 1.7.2012. Decide.
23. a) The plaintiff moved an application for attachment before judgment of an immovable property. The Munsiff passed the following order:  
"Attach and report". Comment.
- b) The first order in an application for temporary injunction reads thus:  
"Issue injunction as prayed for, and notice". Comment.
24. What is the procedure to be followed by a Magistrate when an accused has absconded?
25. Describe the mode of recording confession?

26. Write notes on

- a) Forfeiture of bond under the Cr.P.C
- b) Disposal of property under sections 451 and 452 Cr.P.C

27. a) A Magistrate awarded a sentence of fine of ten thousand rupees and directed the accused to pay twenty thousand rupees as compensation to the victim. Comment and discuss the provision of law.

- b) A Magistrate awarded a sentence of fine of five thousand rupees and directed to undergo simple imprisonment for one month in default of payment of fine. Since the accused failed to remit the amount the Magistrate immediately sent the accused to jail. Comment.

28. Write notes on

- a) Power of the court to examine the accused
- b) Discharge of accused by Magistrate

29. a) A Magistrate forwarded for enquiry under section 202 Cr.P.C a complaint alleging the offence under section 376 IPC. Comment.

- b) A Magistrate started trial of a case involving the offence under section 323 IPC as a warrant case. In the course of the trial he converted it into a summons case. Discuss the legal provisions relating to it.

30. Write notes on

- a) Examination of witnesses by police
- b) Use in evidence of statements given to the police by witnesses

**Part - III**

**Answer both the questions**

**(15 x 2 = 30 marks)**

31. Write judgment

(Name of the court alone to be indicated. Other details in the cause title and appendix are not necessary)

**O.S.No.300/2013 (Filed on 20.5.2013)**

**Parties**

Plaintiff – Rajan

Defendant – Govindan

**Plaint**

The plaintiff is a businessman. He owns two jewellery shops and three textile shops in Kochi. His monthly income is ten lakh rupees. The defendant is doing some business. He is a good friend of the plaintiff. The defendant had a setback in his business in the year 2008. On 21.9.2008 he approached the plaintiff for a loan of fifteen lakh rupees. At that time that much amount was not readily available with the plaintiff at his house. Therefore he was unable to give fifteen lakh rupees as loan. However, he offered to lend five lakh rupees. The defendant borrowed the said amount from the plaintiff on that day and executed a promissory note. Although in the promissory note the rate of interest is shown as 12% per annum, it was orally agreed that the defendant would pay interest at the rate of 18% per annum if the liability was not discharged within one year. On 20.6.2011 the defendant came to the house of the plaintiff and requested for some more time to discharge the liability. On that day the defendant made an endorsement on the back of the promissory note that he would pay the amount of five lakh rupees with interest at the agreed rate at the earliest. But he failed to discharge the liability. On 7.4.2013 the plaintiff caused the issuance of a lawyer's notice demanding the principal amount with interest at the rate of 18 %. The defendant received the notice but did not discharge the liability. Nor did he send any reply. The plaintiff is entitled to a decree for Rs.9,51,000/-; the split up being (i) the principal amount – Rs.5,00,000/-, (ii) interest for five years from 21.9.2008 to the date of suit – Rs.4,50,000/- and (iii) notice charge – Rs.1,000/-. A decree may be granted to the plaintiff for Rs.9,51,000/- with interest thereon at 18 % per annum from the date of suit till realization and with costs.

### **Written statement**

All the allegations in the plaint except those which are expressly admitted hereunder are denied. The suit is not maintainable in law or on facts. The plaintiff was never a friend of the defendant. The former is a stranger to the latter. There has been no transaction between them. The plaintiff is not a businessman. He is a person without any avocation in life. The shops referred to in the plaint belong to his father. The defendant is doing business but he never had any set back in his business. The defendant did not approach the plaintiff on 21.9.2008 for any loan. Nor did the defendant borrow five lakh rupees from the plaintiff on that day. No promissory note was executed by the defendant in favour of the plaintiff on 21.9.2008. As there was no transaction between the parties, there was no occasion for the defendant to acknowledge any liability. He did not make any endorsement on the back of the alleged promissory note. The defendant received the suit notice. He could not issue reply notice since the suit notice was misplaced. The plaintiff is a greedy person. He is an expert in fabricating documents. It is understood that the plaintiff had filed many suits against many persons on the strength of concocted documents and suffered defeat in all courts. The claim of the plaintiff against the defendant is false and vexatious to the knowledge of the plaintiff and therefore he is liable to pay three thousand rupees to the defendant as compensatory costs. The suit document is not supported by consideration. The suit is barred by the law of limitation. The suit deserves to be dismissed with costs.

### **Evidence**

PW1 and DW1 are examined

Exts A1, A1 (a) & A2 are marked

**Ext.A1** – Promissory note dated 21.9.2008

I owe you Rs.5,00,000/- (Five lakh rupees only).

I shall pay you the same on demand with interest @12% per annum

**Ext.A1(a)** – Endorsement dated 20.6.2011 on the back of Ext.A1 .

I shall discharge my liability under this promissory note with interest at the agreed rate at the earliest.

**Ext.A2** – Suit notice - It contains almost all the allegations in the plaint

### **PW1 (Plaintiff)**

Filed affidavit in lieu of examination-in-chief reproducing the allegations in the plaint and denying the allegations in the written statement.

**Cross-examination**

The defendant is not a stranger to me. We are friends. I know him for the last about 20 years. I deny that I am speaking falsehood. I do not know the details of the business of the defendant. All that I know about his business is that he had a setback in 2008. The defendant told me so when he approached me for the loan. He came to me on 21.9.2008 and borrowed the amount on the same day. The amount of five lakh rupees was kept in my house. Usually I do not keep that much money in my house. It must be for some business purpose I had kept that much money in my house on that day. I have three Savings Bank accounts. I have not produced any document to prove my bank balance. The promissory note is in my handwriting. The defendant signed it in my presence. Ext.A1 (a) endorsement is also in my handwriting. That was also signed by the defendant in my presence. I have not stated in the plaint that Exts A1 and A1 (a) are written in my handwriting. There is no particular reason for not stating so. The rate of interest shown in Ext.A1 is only 12%. I have not fabricated any document so far. This is the second suit filed by me so far. The other suit was filed against one Hari and it was decreed. I deny that Exts A1 and A1 (a) do not contain the signature of the defendant.

**Re-examination** - Nil

**DW1 (Defendant)**

Proof affidavit filed. The contentions in the written statement are reiterated and the allegations in the plaint are denied in the proof affidavit.

**Cross-examination**

I do not know whether the plaintiff is a businessman or not. I do not know anything about his income. The jewellery shops and textile shops mentioned in the plaint were started by the plaintiff's father Kumaran 30 years ago. Kumaran died 10 years ago. The plaintiff is the only son of Kumaran. The plaintiff has no sisters. Plaintiff's mother predeceased Kumaran.

How do you know all these details (Q)

Plaintiff is a friend of mine (A).

In 2008 my business was dull. I did not borrow any money from the plaintiff. The signature in Ext.A1 is mine. The signature in Ext.A1 (a) is also mine. I do not remember how I happened to sign Exts. A1 & A1 (a). Nothing had been written in Exts A1 & A1 (a) when I signed them. The plaintiff got those documents signed by me when I was busy with some other work. I have not taken such a contention in the written statement. I do not remember on which days my signatures were taken in Exts A1 & A1 (a). I signed those papers not on the same day. I have contended in the written statement that I did not borrow five lakh rupees and did not execute promissory note on 21.9.2008. I did not state in the written statement that I did not borrow the amount or sign the document on any other date.

Did you orally agree to pay 18 % interest (Q)

I did not borrow any money to pay interest (A)

I did receive the notice issued by the plaintiff. I gave the said notice to my advocate for the purpose of sending reply. I am not sure whether my lawyer issued reply notice. I have not seen any other document fabricated by the plaintiff. People in the locality say that he is an expert in fabricating documents. I have no idea whether the plaintiff had filed any other suit against anybody. I put it to you that you borrowed five lakh rupees from the plaintiff on 21.9.2008 and executed Ext.A1 promissory note (Q) I deny (A). I deny that I acknowledged the liability on 20.6.2011 by making Ext.A1 (a) endorsement on the back of Ext.A1.

**Re-examination** - Nil

32. a) Remand report submitted by the Investigating Officer in Crime No.2/2013 of Ernakulam North Police Station

This case was registered on the basis of the first information statement recorded by HC 3280 at the District Hospital, Ernakulam at 7.00 pm on 1.1.2013. On getting information from the Hospital the Head Constable met the complainant Sukumari and recorded her statement at ward No.7 of the hospital. The Head Constable came back to the police station and registered the case. The complainant alleged that on 30.12.2012 at about 8.30 pm she was going to her house along a public road, when the accused uttered obscene words and assaulted her with an iron rod which is a deadly weapon. Sukumari sustained a lacerated wound on her forehead and fracture of her right radius. The accused absconded after the incident. He was arrested by me today. He is involved in two other criminal cases. Two witnesses questioned by me have stated that they saw the incident. If the accused is released on bail, there is every chance of his influencing or threatening the witnesses. He may be remanded to judicial custody for 15 days.

Sd/-

SHO

Write an order allowing the bail application moved by the counsel for the accused.