

HIGH COURT OF KERALA
KERALA STATE HIGHER JUDICIAL SERVICE EXAMINATION - 2015
(WRITTEN EXAMINATION)

PAPER - I

Date of Examination: 12-03-2016

Roll Number:

Maximum Marks: 150

Duration: 3 Hours (10 a.m. to 1 p.m.)

INSTRUCTIONS TO THE CANDIDATES

1. Candidates should write their Roll Number in their Question Booklets at the space provided for the purpose.
2. Candidates should not open their Question Booklets before 10 a.m.
3. **This Question Booklet has three parts:- Part -A, Part-B and Part-C.** In **Part -A**, there are 18 Objective Type Multiple Choice questions carrying 2 marks each. All the questions are to be answered. In **Part-B**, there are 18 descriptive type questions (answers not to exceed 100 words) carrying 7 marks each. Of these 18 questions, 12 questions are to be answered (the first 12 answers alone will be evaluated if more than 12 questions are answered). The only question in **Part-C** (Judgement Writing) carrying 30 marks is compulsory.
4. After opening the Question Booklet at 10 a.m., ensure that it has three parts - **Part -A, Part -B and Part -C**, that there are 18 Objective Type Multiple Choice questions in Part -A, that there are 18 descriptive type questions in Part -B and that there is One question in Part -C. If there are any missing or illegibly printed questions, the matter should be brought to the notice of the Invigilator immediately and the Question Booklet should be got replaced.
5. Answers to the questions in Part -A of the Question Booklet should be marked in the OMR Answer Sheet bearing Serial (A) which will be evaluated using OMR software.
6. Answers to the questions in **Part-B** of the Question Booklet should be written in the Answer Book bearing Serial (B). It should be tied separately using the piece of twine provided.
7. Answer to the question in **Part-C** of the Question Booklet should be written in the Answer Book bearing Serial (C). It should be tied separately using the piece of twine provided.
8. The candidate may choose the Part to be answered first. But, the answers to the questions in each Part of the Question Booklet should be written only in the OMR Answer Sheet/Answer Book meant for the respective Part. **If the candidates write answers to the questions in a particular Part of the Question Booklet in the Answer Book meant for a different Part, those answers will not be evaluated.**
9. The candidates should use: only **BLACK/BLUE INK ballpoint** pen: for filling the various entries and marking answers in the Serial (A) OMR Answer Sheet. But, the candidates may use **BLACK/BLUE INK fountain pen/Ballpoint pen** for filling the various entries and writing answers in the Serial (B) and Serial (C) Answer Books. Use of pencil, Gel pen or sketch pen and use of any colour ink other than black/blue is not permitted.
10. No candidate will be allowed to leave the examination hall without handing over the OMR Answer Sheet bearing Serial (A) and the separately tied answer books bearing Serial (B) and Serial (C) to the Invigilator. Candidates can take the Question Booklet with them.
11. Answer Key to the questions in **Part -A** of the Question Booklet will be published in the website www.hckrecruitment.nic.in after the examination.
12. Strict compliance of instructions is essential. Any malpractice or attempt to commit any kind of malpractice in the examination will result in summary disqualification of the candidate.

PART - A

[In this Part there are 18 Objective Type Multiple Choice questions carrying 2 marks each. All the questions are to be answered. Answers to the questions in this Part should be marked in the OMR Answer Sheet bearing Serial (A). Answers marked elsewhere will not be valued.]

1. Auction sale of judgment debtor's immovable property was held in execution of a money decree. There was no attachment preceding the sale. Which of the following statements is true?
 - A) The sale is void.
 - B) The sale is liable to be set aside under Rule 90 of Order XXI C.P.C.
 - C) The sale is not invalid.
 - D) The sale is not liable to be confirmed.

2. When leave is granted to the mortgagee under Rule 72-A of Order XXI of the Code of Civil Procedure, the court has to (mention which is the most appropriate statement to fill up the gap)
 - A) issue a precept.
 - B) fix a reserve price.
 - C) fix the upset price.
 - D) decide whether the property could be sold in lots.

3. When execution of the decree for eviction was attempted, a stranger obstructed the Amin. The stranger filed an application before Court stating that he has independent title to the property. Decree holder applied for issue of fresh warrant for delivery with police aid.

Which of the following statements is correct?

- A) The executing court can hold that the remedy of the obstructionist is to move an application for redelivery and that the application filed by him is not maintainable.
- B) The executing court could issue a fresh warrant for delivery with police aid, without adjudicating upon the application filed by the obstructionist.
- C) The decree holder need not file an application for removal of obstruction.
- D) The executing court is bound to consider the application filed by the obstructionist and decide his right, title and interest in respect of the property.

4. Which of the following statements with regard to the Code of Civil Procedure (Amendment) Acts of 1999 and 2002 (Acts 46 of 1999 and 22 of 2002 respectively) is correct?
- A) Amendment Act of 1999 came into force in 12-5-2000 and 2002 Act came into force on 1-7- 2002.
 - B) Both the Acts came into force on 1-7-2002.
 - C) Both the Acts came into force on 1-11-2002.
 - D) Amendment Act of 1999 was repealed by the Amendment Act of 2002
5. Which of the following statements is incorrect under Rule 2 of Order II of the Code of Civil Procedure?
- A) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action.
 - B) The plaintiff is not entitled to relinquish any portion of his claim in order to bring the suit within the jurisdiction of a Court.
 - C) Where the plaintiff omits to sue in respect of any portion of his claim, he shall not afterwards sue in respect of the portion so omitted.
 - D) Where the plaintiff intentionally relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so relinquished.
6. Which of the following statements is untrue with regard to death of a party to the suit and abatement of the suit?
- A) The death of a plaintiff or defendant shall not cause the suit to abate if the right to sue does not survive.
 - B) The suit shall not abate if one of the legal representatives of the deceased party is in the party array.
 - C) Where within the time limited by law no application is made to implead the legal representatives of the deceased party, the suit shall abate as against the deceased party.
 - D) The plaintiff has to file the application for impleading the legal representatives of the deceased defendant.

7. The court shall reject an application for permission to sue as an indigent person, on any one of the grounds mentioned in Rule 5 of Order XXXIII of the Code of Civil Procedure.

Which one of the following grounds thereof is untrue?

- A) Where it is not framed and presented in the manner prescribed by rules 2 and 3.
 - B) Where the allegations made by the applicant do not show a cause of action.
 - C) Where any other person has entered into an agreement with the applicant to finance the litigation.
 - D) Where the applicant has, within two years next before the presentation of the application, disposed of any property fraudulently or in order to be able to apply for permission to sue as an indigent person.
8. In 1980, a Hindu purchased an item of immovable property with his own funds. He is the senior most male member of the family consisting of his brothers, sisters and the children of all of them. A's son transferred his alleged fractional interest in the property to a stranger. The stranger- purchaser filed a suit for partition.

Which of the following statements is untrue?

- A) A's son had only a chance of being an heir apparent succeeding to an estate and therefore the purchaser has not acquired any valid rights.
 - B) There cannot be a joint family after the commencement of Kerala Joint Hindu Family System (Abolition) Act. Therefore A's son had no right to transfer.
 - C) A's son acquired a right by birth in the property and therefore he could make a valid transfer.
 - D) A's son would acquire right in the property only on A dying intestate. Therefore the transferee does not get any right.
9. The mortgagor binds himself to repay the mortgage -money on a certain date, and transfers the mortgaged property absolutely to the mortgagee but subject to a proviso that he will re-transfer it to the mortgagor upon payment of the mortgage-money as agreed.

The transaction is called –

- A) Mortgage by conditional sale.
- B) English mortgage.
- C) Simple mortgage.
- D) Anomalous mortgage.

10. 'Exchange' within the meaning of Section 118 of the Transfer of Property Act is a transaction when two persons mutually transfer the ownership of one thing for the ownership of another.

Which of the following statements is untrue, with regard to 'Exchange'?

- A) When neither thing being money only.
- B) When either thing is money.
- C) When both things being money only.
- D) When both things being movable property.

11. Which one of the following statements is untrue?

- A) The surety is discharged by any contract between the creditor and the principal debtor, by which the principal debtor is released.
- B) Any variance, made without the surety's consent, in the terms of the contract between the principal debtor and the creditor, discharges the surety as to the transactions subsequent to the variance.
- C) Where there are co-sureties, a release by the creditor of one of them would discharge the others.
- D) Where a contract to give time to the principal debtor is made by the creditor with a third person, and not with the principal debtor, the surety is not discharged.

12. Which one of the following statements is untrue?

- A) Consideration is necessary to create an agency.
- B) The authority of an agent may be expressed or implied.
- C) Any person who is of the age of majority according to the law to which he is subject, and who is of sound mind, may employ an agent.
- D) An agent, having an authority to do an act, has authority to do every lawful thing which is necessary in order to do such act.

13. Which one of the following statements is untrue in respect of a suit for possession filed under Section 6 of the Specific Relief Act?

- A) suit is based on previous possession and not on title.
- B) No suit under Section 6 shall be brought after the expiry of three months from the date of dispossession.
- C) No appeal shall lie from any order or decree passed in any suit under Section 6.
- D) Nothing in Section 6 shall bar any person from suing to establish his title to such property and to recover possession thereof.

14. Which one of the following reliefs the court shall decline to grant, when the conduct of the plaintiff has been such as to disentitle him to the assistance of the court?

- A) Partition.
- B) Decree for money.
- C) Injunction.
- D) Recovery of possession based on title.

15. The plaintiff in a suit for perpetual injunction under Section 38 of the Specific Relief Act, or mandatory injunction under Section 39 of the said Act, may claim damages either in addition to, or in substitution for such injunction and the court may, if it thinks fit, award such damages.

This statement regarding the claim for damages is :-

- A) Correct.
- B) Incorrect.
- C) Correct, only in respect of a suit for perpetual injunction.
- D) Correct, only in respect of a suit for mandatory injunction.

16. In which of the following cases leave of the court is necessary?

- A) when a decree in favour of a minor is sought to be executed.
- B) when a plaintiff opts to abandon the suit on his attaining majority.
- C) to sue as the next friend of a minor.
- D) to compromise the suit in which the plaintiff is a minor.

17. Choose the correct answer with respect to a suit under Section 6 of the Specific Relief Act.

- A) no suit can be filed against the true owner.
- B) no suit can be filed against the Government without notice under Section 80 of the Code of Civil Procedure.
- C) no suit can be filed against the Government without the leave of the Court.
- D) no suit can be filed against the Government.

18. A promissory note was executed in favour of the plaintiff on 1-1-2012. What is the last date for filing the suit for realization of money under the promissory note?
- A) 1-1-2015
 - B) 1-1-2013
 - C) 31-12-2014
 - D) 31-12-2012

PART - B

[In this Part, there are 18 descriptive type questions (answers not to exceed 100 words) carrying 7 marks each. Of these 18 questions, 12 questions are to be answered (the first 12 answers alone will be evaluated if more than 12 questions are answered). Answers to the questions in this Part should be written in the Answer Book bearing Serial (B). Answers written elsewhere will not be valued.]

1. Discuss the legal effect of private transfer or delivery of the property attached. Which is the provision of law dealing with the subject? What is the nature of the amendment brought out with effect from 1-7-2002 to such provision of law?
2. Discuss the principles and procedure with respect to :
 - (a) abandonment of suit and withdrawal of suit.
 - (b) whether transposition of defendants as plaintiffs is possible in case the suit is abandoned or withdrawn.
 - (c) limitation for any fresh suit instituted after withdrawal of suit.
3. Discuss the procedure to be followed :
 - (a) when a suit is instituted by a next friend of a minor.
 - (b) when a suit is instituted against a minor.
 - (c) when a suit instituted by or against a minor is compromised.
 - (d) consequences of a suit being instituted by or on behalf of a minor without a next friend.

4. Discuss the circumstances in which the court may grant compensatory costs under Section 35 A and compensation under Section 95 of the Code of Civil Procedure.
5. Discuss the following:
 - (a) the circumstances in which the court which passed a decree may send it for execution to another court.
 - (b) the procedure to be followed by the transferee court.
 - (c) the powers of the court in executing the transferred decree.
6. Discuss in detail:
 - (a) the legal principles in the matter of ordering interest while granting a decree for payment of money?
 - (b) the periods for which the court may grant interest and at what rate for each period.
 - (c) What is meant by "commercial transaction" in the matter of granting such interest from the date of decree to the date of payment?
7. Discuss the principles and procedure with respect to attachment of decrees in execution.
8. The endorsements on the certified copy of the judgment in a civil suit are shown below. What is the last date for filing First Appeal before the District Court? Give reasons and discuss the principles of law. (make the computation as if there is no holiday from the date of judgment to the last date for filing appeal.)

Date of judgment	: 10-12-2015
Date of copy application	: 15-12-2015
Date of calling for stamp papers	: 16-12-2015
Date of production of stamp papers	: 19-12-2015
Date when copy was ready	: 8- 1- 2016
Date notified to receive copy	: 13-1-2016
Date when copy was delivered	: 15-2-2016

9. What is the dictum laid down by the Supreme Court in Mary Roy's case? Discuss the law on the subject.

10. Discuss the description of the suit, the period of limitation, the time from which the period begins to run and the nature and character of the suit in the following cases:
- (a) a suit coming under Article 64 of the Limitation Act.
 - (b) a suit coming under Article 65 of the Limitation Act.
 - (c) a suit under Section 6 of the Specific Relief Act.
11. Discuss the scope and ambit of the amendment of Section 6 of the Hindu Succession Act by Act 39 of 2005. What was the position of law before the said amendment?
12. What are the rights which cannot be transferred? Discuss with reference to the provisions of the Transfer of Property Act.
13. Discuss the rules of succession in the case of a female Hindu dying intestate. What are the special provisions respecting persons governed by marumakkathayam and aliyasanthana laws?
14. Distinguish between 'lis pendens' and 'fraudulent transfer'. Discuss with reference to the provisions of the Transfer of Property Act.
15. Can the court direct specific performance of a part of a contract? Discuss the principles of law.
16. Write short notes on :
- (a) acquisition of easement by prescription.
 - (b) continuous and discontinuous easement.
 - (c) apparent and non apparent easement.
 - (d) rights which cannot be acquired by prescription.
 - (e) customary easement.
17. Discuss the following:
- (a) the conditions to be satisfied for invoking the principles of constructive res judicata.
 - (b) the conditions for invoking res judicata among co-defendants.
18. Write short notes on: (with reference to the Limitation Act)
- (a) acknowledgment of liability
 - (b) effect of payment on account of debt.
 - (c) continuing breach of contract and continuing tort.

PART - C

[The only question (Judgment Writing) carrying 30 marks in this Part is compulsory. Answer to the question in this Part should be written in the Answer Book bearing Serial (C). Answer written elsewhere will not be valued.]

1. Write a judgment disposing of the appeal filed by the plaintiff challenging the order of the trial court. The facts and materials are given below. The judgment shall be in the proper form. The facts of the case, the provisions of law on the subject, the decision on all the contentions raised by the parties, and the precedents, if any, shall find a place in the judgment.

Facts of the case:

1. 'A' instituted a suit against 'B' on 1-10-2015 for realisation of money. Alongwith the suit, the plaintiff filed an application for attachment before judgment of an item of immovable property which belonged to the defendant. On 15-10-2015, the trial court passed an order of attachment before judgment . The attachment was effected on 16-10-2015.
2. 'C', who was not a party to the suit, filed an application for lifting the order of attachment before judgment. 'C' contended that the defendant transferred the property to him six months before the date of institution of the suit. According to 'C', he is a bonafide purchaser. 'C' also contended that the application for attachment before judgment was filed making a false statement that the property belonged to the defendant at the time of making the application and the defendant was about to dispose of the property.
3. 'A', the plaintiff, filed a counter in the application filed by 'C' and contended that the sale deed in favour of 'C' is a fraudulent transfer and it does not bind the plaintiff, who is a creditor of the defendant.
4. The parties adduced oral and documentary evidence in the application for lifting the attachment. The trial court allowed the application filed by 'C' for lifting the order of attachment before judgment, on the ground that on the date of institution of the suit, the property did not belong to the defendant. However, the trial court did not consider the contention raised by the plaintiff that the transfer made by the defendant in favour of 'C' is a fraudulent transfer.
5. The plaintiff filed an appeal challenging the order by which the trial court allowed the application filed by 'C' to lift the order of attachment.

HIGH COURT OF KERALA
KERALA STATE HIGHER JUDICIAL SERVICE EXAMINATION-2015
(WRITTEN EXAMINATION)

PAPER - II

Date of Examination: 13-03-2016

Roll Number:

Maximum Marks: 150

Duration: 3 Hours (10 a.m. to 1 p.m.)

INSTRUCTIONS TO THE CANDIDATES

1. Candidates should write their Roll Number in their Question Booklets at the space provided for the purpose.
2. Candidates should not open their Question Booklets before 10 a.m.
3. **This Question Booklet has three parts:- Part -X, Part-Y and Part-Z.** In **Part -X**, there are 18 Objective Type Multiple Choice questions carrying 2 marks each. All the questions are to be answered. In **Part-Y**, there are 18 descriptive type questions (answers not to exceed 100 words) carrying 7 marks each. Of these 18 questions, 12 questions are to be answered (the first 12 answers alone will be evaluated if more than 12 questions are answered). The only question in **Part-Z** (Judgement Writing) carrying 30 marks is compulsory.
4. After opening the Question Booklet at 10 a.m., ensure that it has three parts - **Part -X, Part -Y and Part -Z**, that there are 18 Objective Multiple Choice Type questions in Part -X, that there are 18 descriptive type questions in Part -Y and that there is One question in Part -Z. If there are any missing or illegibly printed questions, the matter should be brought to the notice of the Invigilator immediately and the Question Booklet should be got replaced.
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6. Answers to the questions in **Part-Y** of the Question Booklet should be written in the Answer Book bearing Serial (**Y**). It should be tied separately using the piece of twine provided.
7. Answer to the question in **Part-Z** of the Question Booklet should be written in the Answer Book bearing Serial (**Z**). It should be tied separately using the piece of twine provided.
8. The candidate may choose the Part to be answered first. But, the answers to the questions in each Part of the Question Booklet should be written only in the OMR Answer Sheet/Answer Book meant for the respective Part. **If the candidates write answers to the questions in a particular Part of the Question Booklet in the Answer Book meant for a different Part, those answers will not be evaluated.**
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PART - X

[In this Part there are 18 Objective Type Multiple Choice questions carrying 2 marks each. All the questions are to be answered. Answers to the questions in this Part should be marked in the OMR Answer Sheet bearing Serial (X). Answers marked elsewhere will not be valued.]

1. Which among the following is correct?
 - A) Indian Penal Code has extra territorial application.
 - B) Indian Penal Code has no extra territorial application.
 - C) Only some of the provisions have extra territorial application.
 - D) None of the above.

2. Which among the following Sections casts burden of proof on the person who claims exception?
 - A) Section 101
 - B) Section 125
 - C) Section 105
 - D) Section 117

3. Which among the following remedies is available to a Sessions Judge when the committal is found to be illegal?
 - A) Sessions Judge can quash the proceedings and remand the case to JFMC concerned.
 - B) Prefer a reference to High Court.
 - C) Write to the High Court on administrative side to return the proceedings to the JFMC concerned.
 - D) None of the above.

4. Which among the following statement is correct?
 - A) When the accused had pleaded guilty, there is no appeal either against conviction or sentence.
 - B) When the accused has pleaded guilty, he has a right of appeal both against conviction and sentence.
 - C) When accused pleaded guilty, he can appeal against extent of legality of sentence.
 - D) None of the above.

10. Choose the correct statement.

- A) Both Magistrate and Sessions Court can exercise the power under Sec.319 during the stage of investigation.
- B) Any Judicial Magistrate can exercise the power under Sec.319 during investigation and enquiry.
- C) Only the Sessions Court can exercise the power under Sec.319 at the stage of enquiry.
- D) Both the Sessions Court and Magistrate Court can exercise the power at the stage of enquiry or trial.

11. The provision for disposal of property after trial in Cr.P.C. is

- A) Sec. 451
- B) Sec. 457
- C) Sec. 445
- D) Sec.452

12. Which of the following statement is correct?

- A) The Magistrate taking cognizance on a private complaint can dispense with the examination of the complainant if he is not in station.
- B) Magistrate can dispense with the examination of the complainant under Sec.200 if the complainant is a minor.
- C) Magistrate can dispense with the examination of the complainant under Sec.200 if the complainant is a pardanashin lady.
- D) Magistrate can dispense with the examination of the complainant under Sec.200 if the complainant is a public officer.

13. 'A' was prosecuted for offence under Sec. 279 and 339 of I.P.C.. He was found guilty and convicted and sentenced for those offences. Later 'B', the victim died as a result of the injury suffered in the accident. Prosecution was launched against 'A' for the offence under Sec. 304A. Which of the following is correct?

- A) 'A' can be prosecuted for the offence under Sec. 304A.
- B) 'A' cannot be prosecuted for the offence under Sec. 304A.
- C) 'A' can be prosecuted only after setting aside the earlier conviction and sentence.
- D) None of the above.

14. Which among the following Section makes preparation of offence under I.P.C.

- A) Sec. 122
- B) Sec. 124A
- C) Sec. 137
- D) None of the above

15. An attempt to commit an offence is made punishable also under the
- A) Indian Evidence Act
 - B) Code of Criminal Procedure
 - C) Information Technology Act
 - D) None of the above
16. 'Coin' is defined under
- A) Indian Penal Code
 - B) Coins and Currency Notes Act
 - C) Indian Evidence Act
 - D) None of the above
17. Human Right Courts are constituted under
- A) Sec. 28 of Protection of Human Rights Act.
 - B) Sec. 34 of Protection of Human Rights Act.
 - C) Sec. 30 of Protection of Human Rights Act.
 - D) None of the above
18. Association for the purpose of habitually committing decoity is punishable under
- A) Sec.395 I.P.C.
 - B) Sec.398 I.P.C.
 - C) Sec.400 I.P.C.
 - D) None of the above

PART - Y

[In this Part, there are 18 descriptive type questions (answers not to exceed 100 words) carrying 7 marks each. Of these 18 questions, 12 questions are to be answered (the first 12 answers alone will be evaluated if more than 12 questions are answered). Answers to the questions in this Part should be written in the Answer Book bearing Serial (Y). Answers written elsewhere will not be valued.]

1. What is the object and purpose of granting pardon? Who is competent to grant pardon and when can pardon be granted? Discuss with reference to relevant provisions of law.
2. Explain the following terms:
 - (a) Consent in I.P.C.
 - (b) Rioting
 - (c) Falsus in uno, Falsus in omnibus.
3. (a) Along with a letter addressed to Sessions Judge about illegality of a judgment of JFCM, the complainant also enclosed a copy of the judgment. Being convinced about the illegality, the Sessions Judge initiated suo motu revision and set aside the judgment of lower court.

Discuss the legality of the act of Sessions Judge.

 - (b) What are the options available to a Magistrate on receipt of a complaint and when can a Magistrate said to have taken cognizance on a private complaint?
 - (c) What are the exclusions in computing the period of limitation for taking cognizance of offence for which a period of limitation is fixed by the Code?
4. (a) Can a police report under Sec. 173(2) be treated as a complaint by the court?
 - (b) What is meant by ex post facto law?
 - (c) During trial, Sessions Court found that the Magistrate has not followed the procedure for recording a confession of an accused, and refused to accept it in evidence. Is not sessions court right?
5. (a) 'A' and 'B' are neighbours. One day hearing the cries of 'A', 'B' rushed to the house of 'A' and found 'A' lying in a pool of blood. 'A' told 'B' that 'C' had stabbed him. Later 'A' died. Has the statement made by 'A' to 'B' any evidentiary value?
 - (b) Which are the statements in Cr.P.C. which can be used for both corroboration and contradiction?

6. Distinguish between;
 - (a) Robbery and decoity.
 - (b) Theft and criminal misappropriation.

7. (a) What is meant by transfer of malice?
 - (b) What are the principle governing grant of anticipatory bail?

8. (a) What are public documents?
 - (b) What are the modes of proving a person's handwriting or signature?

9. (a) Can the evidence taken in the absence of an accused as he was absconding, be used against him later when he is subsequently apprehended and tried for the offence?
 - (b) What is the procedure to be followed in case of absconding accused?

10. (a) What is the law of evidence relating to presumption of ownership?
 - (b) What is the 30 year old rule relating to documents?

11. (a) What are the ingredients of a charge? Explain.
 - (b) What is the consequence of alteration of a charge?

12. (a) What are the conditions to apply presumption under Sec.113A of the Indian Evidence Act?
 - (b) When can a convict be released on probation under the Probation of Offenders Act?

13. (a) Frame a charge on the following facts:

Ram and Rasheed were thick friends. Unfortunately they fell in love with the same girl, Leena. Rasheed warned Leena not to share the company of Ram. Leena did not heed. Then Rasheed threatened Ram to keep away from Leena. On 26.10.2014 at about 8.30 A.M. while Ram was on his way to College, Rasheed, who had hidden himself behind a bunk shop, pounced on Ram and repeatedly stabbed him with a dangerous weapon shouting that Ram should die so that he may live and Ram died as a result of the injuries sustained by him.

 - (b) What is the procedure to be followed when Bond is forfeited?

14. Explain the principle contained in Sec. 300 of Cr.P.C.

15. Which court has jurisdiction to try the following offences?
- (a) Criminal misappropriation.
 - (b) Offence committed on journey or voyage.
 - (c) Decoy.
16. (a) What is the difference between wrongful restraint and wrongful confinement?
- (b) Who is a victim and what are his rights of appeal?
17. (a) What is the mode of proof of execution of a document required by law to be attested?
- (b) What is the law relating to burden of proving death of a person?
18. (a) What is abetment?
- (b) 'A' beats 'B' thrice with an iron rod. One of the beatings caused a fracture. 'A' was put to trial for offence under Sections 341, 324 and 326 I.P.C. and was found guilty on all counts. How is the sentence to be awarded?

PART - Z

[The only question (Judgement Writing) carrying 30 marks in this Part is compulsory. Answer to the question in this Part should be written in the Answer Book bearing Serial (Z). Answer written elsewhere will not be valued.]

1. Write a judgment on the basis of the materials given below:

Krishnan and Murali were college mates and good friends. Even though both did not involve in politics initially, Murali joined the youth wing of a political party SRB. In the college election SRB party nominated Murali as its candidate for the post of Chairman. Under compulsion from friends Krishnan also decided to contest for the post of Chairman as an independent candidate. Campaign began. Soon it became clear that Krishnan was becoming more popular making Murali's chances bleak. This infuriated Murali, who asked

Krishnan to withdraw his candidature. Krishnan did not relent. Then left with no option Murali decided to do away with Krishnan.

On 21.8.2014 at or about 8.45 A.M. while Krishnan was going to his class room, he had to pass through a varenda. As he was passing by, Murali came from behind and inflicted stab injuries on the neck and back of Krishnan. Crying aloud, Krishnan fell down. Hearing the cries of Krishnan, his friend Manu came to the place and found Krishnan lying in a pool of blood. On enquiry by Manu, Krishnan told him that Murali had stabbed him. By that time another friend of Krishnan, Raghu came to the place and Krishnan told him that Murali had stabbed him, Krishnan was removed to the hospital. Krishnan was pronounced dead by doctor who examined him. Manu (PW 1) went to police station and lodged FIS. The SHO recorded the statement of Manu and registered Crime No.342/2014 against Murali for offence under Sec. 302 I.P.C. The C.I. of Police, on getting information of the grievous acts, took over investigation. He went to the hospital and conducted inquest over the body of Krishnan. During inquest, he took into custody blood stained cloths of Krishnan. Body was sent for autopsy. One Dr. Vijayan, Police Surgeon attached to General Hospital, Ernakulam conducted autopsy and issued post mortem certificate. Thereafter body was handed over to relatives of Krishnan.

C.I. went to the place of incident and prepared scene mahazar. Collected blood stains from the spot and took statements of several persons. One of them by name Ramesh said that while he was coming to the College, Murali was seen going into the bathroom and he saw that there were blood stains on the cloths of Murali.

Murali was arrested by C.I. and produced before court. He was remanded to custody. Since police sought his custody for five days, that was granted. C.I. questioned Murali and Murali confessed about his act and said that

he had kept the knife used for stabbing Krishnan behind the almarah in his bed room. As told by Murali, C.I. of Police and accused went to the house of accused and as shown by the accused, he took out a knife from behind the almarah in the bed room of Murali. Weapon of offence was seized by C.I. and he prepared a mahazar for recovery and it was signed by the accused. He also seized the blood stained cloths of Murali on the basis of the statement given by Murali as per another mahazar. He had the knife, cloths of both Krishnan and Murali sent for chemical examination and obtained FSL report. He completed investigation and laid charge before JFCM.

JFCM took cognizance and committed the case to Sessions Court. Sessions Court framed charges. Trial started.

P.W.1.- I am Manu. I am a friend of Krishnan and Murali, after Murali joined the SRB party and stood for election, his relationship with Krishnan became bitter. I have heard Murali threatening Krishnan. Hearing the cries of Krishnan, I reached the spot. I saw Krishnan wriggling in pain and lying in a pool of blood. I asked him what had happened. He told me that Murali had stabbed him. By that time Raghu also arrived and Raghu also asked Krishnan what had happened. Krishnan repeated what he told me. We, with the help of other friends, removed Krishnan to Hospital. Doctor told us that Krishnan is dead. I went to the police station and gave statement. This is the statement given by me. Marked as **Ext.P1**. It contains my signature. These are the cloths which Krishnan had on him when he was stabbed. Shirt marked as M.O.I and Pants marked as M.O.II.

Cross.- I did not see Murali stabbing Krishnan. My information regarding the incident is only as told to me by Krishnan. Later I came to know that Murali had

been arrested. I do not know if Murali stabbed Krishnan except for what Krishnan told me. I deny the suggestion that I am telling lies and Krishnan had never told me that Murali had stabbed him. My cloths were also had blood stains of Krishnan. Police did not ask for my cloths so I did not give it.

PW.2: My name is Raghavan. I am a common friend of Krishnan and Murali. Before Murali joined SRB party and stood for election, they were good friends. When Krishnan decided to contest for college election, Murali did not like it and there used to be quarrels between them. I have heard Murali threatening Krishnan with dire consequences if he did not withdraw from the election. Murali on several occasions had threatened Krishnan.

Cross: Your statement to police does not disclose that you were a common friend of Murali and Krishnan (Q). I had told the police so (Ans). I deny the suggestion that I never heard Murali threatening Krishnan. I also deny that till death both of them were good friends.

PW.3 : I am Raghu. I am a classmate of Krishnan. I know Murali. Murali and Krishnan were good friends. They fell apart during college election. I heard from others that Murali used to threaten Krishnan. I do not exactly remember the date on which the incident occurred. It was a Wednesday. As I was entering the class, I heard cry of a familiar voice and I rushed to the place from where the cry had come. I found Krishnan lying in a pool of blood and wriggling in pain. Manu (PW.1) was already there. I asked Krishnan what had happened to him, He told me that Murali had stabbed him.

Cross: I did not see Murali stabbing Krishnan. I had helped to remove Krishnan to hospital. My cloths were stained with blood of Krishnan. I did not hand over

those cloths to police. I deny the suggestion that Krishnan had not told me that Murali had stabbed him and that I am saying so at the instance of the police.

PW.4 - Dr.Raveendran:

I am working as Surgeon in General Hospital at Ernakulam. On 21.8.2014 I was attending casualty and at about 12.30 noon a person named Krishnan was brought to the casualty. He was profusely bleeding. By the time I attended to him, he had died.

Cross : Nil.

PW.5 - Bhaskaran : I was present at the time of inquest of the body of Krishnan. This is my signature. Inquest report is marked as **Ext.P2**.

PW.6 - Rama:

I am a neighbour of Murali. Murali stays with his parents. On 23.8.2014 at about 10.30 a.m. while I was getting out of my house to go to the market, a police jeep came and stopped in front of the house of Murali. Murali got down from the jeep accompanied by police officers. I went to see what was happening. I saw police officer taking Murali to his room in the house. I saw Murali taking out a knife from behind the almarah and handing it over to a police officer. Is this the knife that was handed over by Murali to police (Q) I think so (A) Marked as MO.3.

Cross: How many people were there in the house of Murali?(Q) About 10-15 people (A) I was called by the police along with another person into the house of Murali. Murali then went to the room and took out knife. I deny the suggestion that I was not there at the time of recovery of M.O.3 and I am speaking falsehood to settle scores with the family of Murali as I had quarrel with that family.

PW.7: Dr. Vijayan

I am Dr.Vijayan, Forensic Surgeon attached to General Hospital, Ernakulam. On 21.8.2014 I conducted autopsy over the body of one Krishnan and issued the certificate now shown to me. Marked as **Ext.P3**. The cause of death is shown as injury No.5 described in Ext.P3 which is on the neck. Injury No. 5 is sufficient in the ordinary course of things to cause death.

M.O.1 shown to P.W.7. Can this weapon cause an injury which lead to the death of Krishnan? (Q) Yes. (A).

Cross: Injury No. 5 could be caused by use of any sharp edged weapon.

P.W.8 - Mohanan :

I was present on 22.8.2014 in the house of Murali. While I was talking to the father of Murali, a police jeep stopped in front of the house. Murali got down accompanied by police officers and went to his room. I also went. I saw Murali taking out the shirt and dhoti from behind an almarah and handing it over to police. ഈ മഹസ്സറിൽ കാണുന്ന ഒപ്പ് എൻ്റെതാണു്. Marked as **Ext.P4**. This is the shirt and dhoti which Murali handed over to the police. Marked as M.Os.IV and V respectively.

No cross examination.

PW.9 - Thomas

I was the Village Officer at the relevant time. **Ext.P5** plan was prepared by me.

Cross :- Nil.

PW.10 - S.I. of Police.

Chief: On 21.8.2014 at about 1 p.m. one Manu came to the Ernakulam North Police Station and gave information that Krishnan had been stabbed and he died. I recorded statement of Manu and this is the statement recorded by me. It contained my signature. Already marked as Ext.P1. On the basis of Ext.P1, I registered crime No. 342 of 2014 of Ernakulam North Police Station for offence under Section 302 I.P.C. against one Murali. I informed the C.I. of police.

Cross :- Nil.

PW.11 - C.I. Of Police:

On 21.8.2014 at about 3 p.m. I was informed about the incident. I took over the investigation of the case. I went to General Hospital and conducted inquest over the body of Krishnan and prepared Ext.P2 report. I seized M.Os. I and II shirt and pant found on the body. Ext.P2 contains my signature. Then I went to the place of occurrence and prepared scene mahazar. This is the sence mahazar prepared by me, marked as **Ext.P6**. I collected blood stains from there. I then had Murali arrested and produced before court and obtained police custody for three days for investigation. In his confession statement he has stated as follows: എന്നെ കൊണ്ടുപോയാൽ കത്തി ഞാൻ കാണിച്ചുതരാം. Based on that statement as led by the accused, we went to his house and from his room on the north-eastern side of the building, from behind an almarah he took a knife and handed it over to me. It had blood stains on it. MO.III is the knife so handed over to me and **Ext.P7** is the mahazar prepared by me. Based on his statement മുണ്ടും ഷർട്ടും എന്നെ കൊണ്ടുപോയാൽ ഞാൻ എടുത്തുതരാം, he was taken to his house and from his room from behind the almarah he took the shirt and dhoti and handed them over to me. M.O.IV is the shirt and M.O.V is the dhoti. Ext.P4 is