

Manipur Judicial Service, Grade-1 Examination

PAPER 1-2020

PART-A

This part contains 30 questions and each question carries one mark.

{1x30=30 marks}

{Write the correct answer in words along with the corresponding serial number in the answer book}

1. The total number of members in the Union Council of Ministers in India shall not exceed

- a) 10% of the total number of members of the Parliament
- b) 15% of the total number of members of the Parliament
- c) 10% of the total number of members of the Lok Sabha
- d) 15% of the total number of members of the Lok Sabha

2. Which State/ States in India has/ have enacted a law against mob lynching?

- I. Rajasthan
- II. Manipur
- III. Madhya Pradesh
- IV. Chhattisgarh

- a) Only I and II
- b) Only I
- c) Only I and III
- d) Only I, III and IV

3. Which of the following Articles of the Indian Constitution was called as *the very soul and heart of the Constitution* by Dr. B.R. Ambedkar?

- a) Article 15
- b) Article 21
- c) Article 29
- d) Article 32

4. The idea of Fundamental Rights was borrowed from the Constitution of -

- a) USA
- b) Canada
- c) Britain
- d) Russia

5. The Union Budget is presented under which Article of the Constitution of India?

- a) 110
- b) 111
- c) 112
- d) 122

6. The maximum duration of Zero Hour in the Lok Sabha is -

- a) 30 minutes
- b) 60 minutes
- c) 2 Hours
- d) Indefinite period

7. The question asked orally after the Question Hour in the House is called -

- a) Supplementary Question
- b) Short-notice Question
- c) Starred Question
- d) Unstarred Question

8. In India, judicial Review implies -

- a) the power of the Judiciary to pronounce upon the constitutionality of laws and executive orders
- b) the power of the Judiciary to question the wisdom of the laws enacted by the Legislatures
- c) the power of the Judiciary to review all the legislative enactments before they are assented to by the President
- d) the power of the Judiciary to review its own judgments given earlier in similar or different cases

9. Who among the following doesn't take oath of the office?

- a) President
- b) Vice President
- c) Prime Minister
- d) Speaker

10. Who has been named Time Person of the Year 2019?

- a) Donald Trump
- b) Mala Yousafzai
- c) Geeta Thunberg
- d) Vladimir Putin

11. What is India's rank on the World Bank's Ease of Doing Business Study, 2020?

- a) 70th
- b) 63rd
- c) 75th
- d) 80th

12. Number of States in India with 'Bi-cameral' legislature is as on November 1, 2019.

- a) 6
- b) 7
- c) 8
- d) 9

13. Ayodhya verdict was pronounced by the Supreme Court on -

- a) November 9, 2019
- b) November 14, 2019
- c) November 26, 2019
- d) December 6, 2019

14. Who was the chief guest of 71st Republic Day?

- a) Shinzo Abe
- b) Emmanuel Macron
- c) Jair Bolsonaro
- d) Vladimir Putin

15. Who won the Nobel Peace Prize 2019?

- a) Ethiopian Prime Minister Abiy Aluned
- b) Change activist Greta Thunberg
- c) Brazilian leader and environmentalist Raoni Metuktire
- d) German Chancellor Angela Merkel

16. India's first corporate train has been introduced on route.

- a) New Delhi - Jammu Tawi
- b) Mumbai CST - Ahmadabad
- c) New Delhi - Lucknow
- d) Chennai Central - Bengaluru

17. Paleontology is the study of -

- a) Plant and animal fossils
- b) Rocks
- c) Volcanoes
- d) Atmosphere

18. Where was India's first Day-Night Test organized?

- a) Delhi
- b) Kolkata
- c) Mumbai
- d) Chennai

19. Who became the first World Badminton Champion from India?

- a) Saina Newal
- b) P V Sindhu
- c) Sania Mirza
- d) K. Srikant

20. Name the poet and saint who wrote Ramcharitmanas, another version of the Ramayan.

- 1) Ravidas
- 2) Surdas
- 3) Kalidas
- 4) Tulsidas

21. Which one among the following is a function of the Pro-Tem Speaker of the Lok Sabha?

- a) Swear in the members of the House and hold the charge till a regular Speaker is elected
- b) Conduct of the proceedings of the House in the absence of the Speaker
- c) To check if the election certificates of the members of the House are in order
- d) Give his assent to the bills passed by the House

22. Which of the following is not a constitutional organ?

- a) Election Commission
- b) Finance Commission
- c) Inter State Council
- d) Planning Commission

23. Which organ in the human body helps to maintain balance?

- a) Heart
- b) Liver
- c) Ear
- d) Brain

24. Which organ in the human body regulates the sugar content in the blood?

- a) Pancreas
- b) Liver
- c) Stomach
- d) Gall bladder

25. Food chain is -

- a) relationship between auto-tropic
- b) exchange of genetic material between two organisms
- c) passage of food (and thus energy) from one organism to another
- d) modern entrepreneur establishment providing food outlets

26. Video conferencing is done through -

- a) Telephone Network
- b) IP Network
- c) TV
- d) None of these

27. What is Artificial Intelligence?

- a) Making a Machine intelligence
- b) Programming with your own intelligence
- c) Putting more memory into Computer
- d) Putting your intelligence into Computer

28. Which of the following fuels would produce minimum environmental pollution?

- a) Hydrogen
- b) Diesel
- c) Kerosene
- d) Coal

29. The Goods and Services Tax was proposed by a task force, whose president was -

- a) Vijay Kelkar
- b) Montek Singh Ahluwalia
- c) Arun Jaitly
- d) Narsimham

30. Who is author of book 'Anand Math'?

- a) Bibhuti Bhushan Bandopadhyay
- b) Swami Dayanand
- c) Bankim Chandra Chattopadhyay
- d) Ram Mohan Roy

PART -B ENGLISH

Each question carries 2 marks.

{2x10=20 marks}

31. Give antonym of 'prodigious' -

- a) Rich
- b) Unusual
- c) Abnormal
- d) Unexceptional

32. Correct the spelling mistake in the following sentence -
I do not believe in hepocresy.

- a) hypocresy
- b) hypocreasy
- c) hypocriesy
- d) hypocrisy

33. Give the synonym of 'haggard'.

- a) Cheat
- b) Emaciated
- c) Shrewd
- d) Filthy

34. Arrange the following words as per order in the dictionary

1. Follicle

2. Folk

3. Follow

4. Foliage

- a) 4, 2, 1, 3
- b) 3, 4, 2, 3
- c) 4, 3, 1, 2
- d) 2, 4, 3, 1

35. Fill in the blanks with the correct set of articles from the options given below -

The Taj Mahal is situated on banks of Yamuna river in Agra.

- a) the, the
- b) the, a
- c) the, an
- d) a, the

36. Change the given sentence into passive voice :

Who killed the snake?

- a) Who was killed by the snake?
- b) By whom was the snake killed?
- c) The snake was being killed.
- d) By whom is the snake killed?

37. Identify the part of speech of the italic word

The boys ran *round* the tree.

- a) Adjective
- b) Adverb
- c) Noun
- d) Preposition

38. Change the following sentence into indirect form:

The teacher said, "Be quiet, boys".

- a) The teacher said that the boys should be quiet
- b) The teacher called the boys and ordered them to be quiet
- c) The teacher urged the boys to be quiet
- d) The teacher commanded the boys that they be quiet

39. Choose the alternative which best expresses the meaning of the Idiom/ Phrase.

Drag one's feet

- a) Make something more complicated
- b) Expedite
- c) Be reluctant to act
- d) Stop working

40. Fill in the blank

My father keeps all his Papers in a lock and key.

- a) required
- b) necessary
- c) useful
- d) confidential

PART-C

Write essay on any five among the following preferably not exceeding 200 words. Each essay carries 10 marks.

{10x5=50 marks}

41. Discuss role of District Judiciary in protection of human rights of under trials in criminal trials.
42. Discuss issues, challenges and solutions in implementation of Alternative Disputes Resolution Mechanisms in India.
43. What are legal provisions for grant of maintenance to parents, wives and children in India and Judicial approach of the Supreme Court of India in enforcement of these legal provisions? Discuss.
44. The Right to Information Act, 2015 is considered to be one of significant legislations enacted by the Parliament of India. Elaborate.
45. Doctrine of Judicial Review develops to control abuse of exercise of administrative discretion by executive authorities in India. Discuss grounds of judicial review to control exercise of administrative discretion.
46. The maxim "let hundred guilty persons be acquitted, but not a single innocent be convicted" is in practice changing world over and courts have been compelled to accept that "society suffers by wrong convictions and it equally suffers by wrong acquittals". Discuss.
47. What are rights granted to consumers in India under The Central Consumer Protection Act, 2019?
48. Highlight the role of judiciary in promoting Women Empowerment in India.

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PAPER II- 2020

This part contains 30 questions and each question carries one mark.

{1x30=30 marks}

(Write the question number with the corresponding answer with the alphabetical serial of the answer on the answer sheets to be supplied.)

1. Generally dying declarations are admissible as evidence under-

- a. Section 20 of the Indian Evidence Act, 1872
- b. Section 25 of the Indian Evidence Act, 1872
- c. Section 32 of the Indian Evidence Act, 1872
- d. Section 35 of the Indian Evidence Act, 1872

2. Definition of secondary evidence has been given under _____ of the Indian Evidence Act, 1872?

- a. Section 61
- b. Section 62
- c. Section 63
- d. Section 64

3. Which of the following statements are true under section 10 of the Indian Evidence Act, 1872?

- I. There should be prima facie evidence in support of the existence of conspiracy
- II. A confessional statement by itself can be taken to be prima facie evidence of conspiracy with the persons named
- III. The confession made to the third party after the common intention has ceased to exist will be admissible
- IV. Conspiracy cannot be proved with circumstantial evidence
- V. A confession by a conspirator made to the magistrate after arrest is not admissible under this section

- a. I and V
- b. I, II and IV
- c. II, III and V
- d. III and IV

4. Which of the following are admissible under section 27 of the Indian Evidence Act, 1872?

- a. Recovery of weapon of offence at the pointing of the accused when he was not in police custody
- b. Recovery of articles buried at the public road at the pointing of the accused
- c. Recovery of the weapon made by the pointing of the accused while he was handcuffed
- d. The weapon of offence found lying in the house when the house was opened

5. The maxim "*Acta in uno judicio non probant in alio nisi inter easdem personas*" means:

- a. Things done in one action cannot be taken as evidence in another, unless it is not between the same parties
- b. Things done in one action cannot be taken as evidence in another, unless it is between the same parties
- c. Things done in one action can be taken as evidence in another, unless it is between the same parties
- d. None of them

6. Provision for interpleader suit is contained in which of the following sections of C.P.C.?

- a. Section 87
- b. Section 88
- c. Section 89
- d. Section 90

7. Which of the following deals with the procedure when party fails to present written statement called for by Court in the Code of Civil Procedure?

- a. Order 5, Rule 30
- b. Order 8, Rule 10
- c. Order 6, Rule 10
- d. Order 10, Rule 22

8. Under section 13 of CPC, a foreign judgment can be challenged on the grounds of:

- a. competency of the court pronouncing the judgment
- b. being obtained by fraud
- c. sustaining a claim founded on a breach of law in force in India
- d. all the above.

9. Which of the following tests are to be applied in cases where the plea of bar of the suit under O. 2, r 2 is raised?

- a. Whether the cause of action in the previous suit and that in the subsequent suit are identical
- b. Whether the relief claimed in the subsequent suit could have been given in the previous suit on the basis of the pleadings filed in that suit
- c. Whether the plaintiff omitted to sue for a particular relief on the cause of action which had been disclosed in the previous suit
- d. All of these

10. A suit relating to partnership may be instituted at a place:

- a. where the partnership was constituted
- b. where the partnership business was carried on
- c. where partnership accounts are maintained
- d. all the above.

11. "A" is accused of a theft on one occasion and of causing grievous hurt on another occasion. Applying Section 218 Cr. P.C.:

- a. "A" must be charged and tried for the theft and causing grievous hurt
- b. "A" must be separately charged and separately tried for the theft and causing grievous hurt
- c. "A" can be charged and tried only for the theft
- d. none of them

12. Who among the following is not entitled to claim maintenance under Section 125, Cr. P. Code:

- a. Divorced wife so long as she does not marry
- b. Unmarried sister
- c. Step mother
- d. Illegitimate minor child.

13. If the police do not take action on complaint in respect of cognizable offences, the complainant:

- a. has right under section 190 of Cr PC to complaint before local Magistrate
- b. has no right under section 190 of Cr PC to complaint before local Magistrate
- c. has right under section 290 of the Cr PC to complaint before Magistrate
- d. has right under section 390 of the Cr PC to complaint before Magistrate.

14. Consider the following statement and choose the correct answer with the help of code given below:

- a. Investigation is conducted by police officer
- b. Magistrate cannot interfere in investigation
- c. Investigation is a judicial proceeding
- d. Investigation is not a judicial proceeding

Codes:

- a. (i) and (iv) are correct
- b. (i), (ii) and (iv) are correct
- c. (ii) and (iv) are correct
- d. (ii), (iii) and (iv) are correct.

15. "Plea Bargaining" a new chapter was added in Criminal Procedure Code, 1973 by the Criminal Law Amendment Act, 2005 (2 of 2006) is contained in:

- a. Sections 265A to 265E
- b. Sections 265A to 265L
- c. Sections 265A to 265M
- d. Sections 265A to 265N

16. Voluntarily throwing or attempting to throw acid is an offence punishable under Indian Penal Code, 1860, under:

- a. Section 326A
- b. Section 326B
- c. Section 228A
- d. Section 228.

17. X added potassium cyanide into Y's drink intending to kill him. However, Z also happened to sip from Y's glass. They both died. The medical report claimed that Y actually died of a cardiac arrest, as the poisonous substance administered was insufficient to cause his death. In addition, Z died due to the effect of the poison. So:

- a. X is liable for the death of Y and not for the death of Z
- b. X is not liable for the death neither of Y nor of Z
- c. X is liable for the death of both Y and Z
- d. X is liable for the death of Z only

18. The Indian penal code is divided into...

- a. XIXIII Chapters and 512 Sections
- b. XXIXII Chapters and 511 Sections
- c. XIIXVI Chapters and 501 Sections
- d. XXIII Chapters and 511 Sections

19. Under section 82 and 83 of IPC an offence is punishable if it is done by child.

- a. of below of seven years of age.
- b. of above seven years of age but below twelve years of aged if he has not attained sufficient maturity and understanding.
- c. of above seven year of age but below 12 years having attained sufficient maturity and understanding.
- d. all the above.

20. Which of the following is false of Section 34 and Section 149 of the IPC?

- a. S. 34 does not by itself create any specific offence whereas S. 149 does so
- b. Some active participation in crime is required in S. 34 while it is not needed in S. 149
- c. S. 34 speaks of common intention while S. 149 contemplates common object
- d. S. 34 requires at least five persons who must share the common intention while S. 149 requires at least two persons to share the common intention

21. A quarrel arose between C on the one side and A and B on the other. C abused A, whereupon A struck him with a stick, and B struck him down with an axe on the head. He also received two other wounds with the axe on the other parts of the body. Any one of the three axe wounds was sufficient enough to cause death, especially the one on the head.

- a. C is guilty for voluntarily provoking the attack while B is guilty of culpable homicide
- b. A is guilty of culpable homicide, while B is guilty of voluntarily causing hurt
- c. B is guilty of culpable homicide, while A is guilty of voluntarily causing hurt
- d. Both A and B are guilty of culpable homicide

22. What is the minimum term of imprisonment in case of, at the time of attempting robbery or dacoity, the offender is armed with any deadly weapon, he is punished with imprisonment of not less than:

- a. four years under Section 397, IPC
- b. five years under Section 397, IPC
- c. six years under Section 397, IPC
- d. seven years under Section 397, IPC

23. Within the meaning of provisions of the Transfer of Property Act, 1882, the immovable property does not include:

- a. standing timber or grass
- b. standing timber, jewellery or crops.
- c. standing timber, growing crops or grass.
- d. only grass.

24. The provision of vested interest is provided in:

- a. section 18 of the Transfer of Property Act, 1882
- b. section 19 of the Transfer of Property Act, 1882
- c. section 20 of the Transfer of Property Act, 1882
- d. section 21 of the Transfer of Property Act, 1882.

25. The equitable rule under Section 53A of the Transfer of Property Act, 1882 was originally laid in

- a. Walsh v. Lonsdale
- b. Ariff v. Jadunath
- c. Ranchoddas v. D S Dorik
- d. None of the above.

26. In which of the following cases is rule against perpetuity not applicable under the Transfer of Property Act, 1882?

- a. In case property is transferred for the benefit of lineal decedents
- b. In case property is transferred for the purpose of construction of a winery
- c. In case property is transferred for the purpose of creating a temple promoting Sati
- d. In case property is transferred for building a library for comic books

27. The provision of section 3 of the Limitation Act are

- a. mandatory
- b. directory
- c. discretionary
- d. optional.

28. Legal disabilities are

- a. minority
- b. insanity
- c. idiocy
- d. all of the above

29. Under section 19, Limitation Act, 1963

- a. payment by cheque which is dishonoured on presentation amounts to party payment and shall save limitation
- b. payment by cheque which is dishonoured on presentation does not amount to part payment and will not save limitation.
- c. mere handing over the cheque which is dishonoured on presentation amounts to acknowledgment.
- d. either (a) or (c)

30. Acknowledgement after the period of limitation

- a. is of no effect.
- b. gives rise to an independent and enforceable contract.
- c. both (a) and (b)
- d. neither (a) nor (b).

PART B

Write short notes on any ten among the following questions.

{2x10=20 marks}

31. Define 'Dacoity'. When does robbery become dacoit?
32. Distinguish between Common Intention and Common object.
33. Explain the expression causes death by "rash or negligent" as contemplated under Section 304-A of the IPC.
34. Distinguish between Lease and License with the help of relevant case law.
35. Discuss the essentials of a valid gift under the Transfer of Property Act, 1882.
36. Define 'Judgment' and its essentials. Differentiate between 'Judgment' and 'Decree'.
37. "Courts to try all civil suits unless barred". Comment.
38. Explain the fundamental rules of pleadings. How pleadings can be amended.
39. Discuss impact of part payment on to the acknowledgement?
40. Limitation extinguishes remedy and not right. Explain.
41. Define "presumption", what do you mean by 'May Presume', 'Shall presume' and 'Conclusive proof'?
42. Explain:-
 - i. Accused to be a competent witness
 - ii. Tender of pardon to Accomplice.
43. "Persons once convicted or acquitted of an offence are not to be tried for the same offence again" Explain with reference to relevant provisions of Code of criminal procedure.
44. What is meant by compoundable offence? What are its legal effects? Can a prosecution be withdrawn? What is the procedure regarding it?

PART C

Answer any five among the following questions. Each question 10 marks and answer preferably not exceeding 200 words.

{10x5=50 marks}

45. What is an *ex parte* decree? State the remedies available against *ex parte* decree.
46. Describe the extent to which the plea of grave and sudden provocation may mitigate the liability of an accused person for the offence of murder.
47. What is the concept of property? What is the distinction between movable and immovable property? Explain with relevant case law.
48. "When a limitation period starts it can't stop". Explain with its exceptions.
49. What are pre-conditions to be followed in institution of suits by or against the government? Explain.
50. State the essentials of valid acknowledgment as per section 18 of limitation Act.
51. What is meant by First Information Report? Is delay in F.I.R is fatal to case of prosecution? What is the evidentiary value of F.I.R?
52. Explain the provisions related to maintenance of wives, children and parents under Code of Criminal Procedure.

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PAPER III- 2020

PART-A

Answer any three of the following questions.

{3x10=30 marks}

1. What is the concept of State under Indian Constitution?
2. Write a brief note on principle propounded in case of **Menaka Gandhi V UOI**.
3. What are the remedies available in the Indian Constitution against infringement of Fundamental rights?
4. What do you mean by Judicial Review under Constitution of India? Can there be Judicial Review of any Economic Policy?
5. What do you mean by Doctrine of Basic Structure? Can there be amendment in the basic structure of Constitution?

PART-B

Answer any two questions- each question carries 10 marks.

{2x10=20 marks}

6. Discuss the role of Roscoe pound in developing the sociological jurisprudence.
7. Distinguish between Austinian's theory of law and Kelson's pure theory of law.
8. What is the doctrine of Ratio Decidendi? Distinguish between Ratio Decedent and Obiter Dicta?
9. What do you understand by the expression "Sources of Law"? What are the different sources of Law?

PART – C

Judgment writing- Each judgment carries 25 marks.

{2x25=50 marks}

10. Frame necessary issues and write judgment on the available evidence, documents and pleadings. The candidates are required need not reproduce the facts given below and it is suffice for them to proceed with discussion on each issue/point and arrive at the conclusion. The candidates shall not reveal their identity by specifying any name, address, name of Court or any other details other than the facts given below.

CIVIL SUIT NO 15/2020

The plaintiff filed the suit for recovery of double of earnest money amounting to Rs.10,00,000/- paid in pursuance of Agreement to Sell dated 16.09.2013 against the defendant along with interest at the rate of 24% per annum from the date of filing of the suit till realization of the amount.

THE CASE OF THE PLAINTIFF

The plaintiff and the defendant entered into an agreement to sell dated 16.09.2013 in respect of the property bearing No. B-1122/1, out of Khasra No.233/1 measuring 100 sq. yards situated at Gali No 1, Chauhan Bangar, Delhi-110053 (hereinafter referred to as “**suit property**”) stated to be owned by the defendant. The defendant assured the plaintiff that he is the registered owner of the suit property and on his assurance the plaintiff has agreed to purchase the suit property for a sale consideration of Rs.1,15,50,000/-. The plaintiff paid Rs.10,00,000/- as earnest money in cash against the receipt in presence of two independent witnesses. The defendant agreed to execute the title deed in favor of the plaintiff in respect of the suit property on 15.02.2014 and on that day, the

plaintiff has to pay balance sale consideration to the defendant. The plaintiff repeatedly approached the defendant to receive the balance sale consideration and to execute the title deed in respect of the suit property. The plaintiff was always ready and willing to make the balance payment and abide by the terms and conditions of the agreement to sell dated 16.09.2013. The defendant asked the plaintiff to come at the Office of Sub-Registrar, Delhi on 17.02.2014 with the balance sale consideration. The plaintiff on 17.02.2014 waited for the defendant in the Office of Sub-Registrar, for execution of title deed in his favor after payment of balance sale consideration. The plaintiff also marked his presence in Office of Sub-Registrar vide receipt no.1052 dated 17.02.2014. The plaintiff approached the defendant on 18.02.2014. The defendant informed the plaintiff that the original owner of the suit property did not execute the title deed in favor of the defendant and due to this reason the defendant could not execute the title deed in respect of the suit property in favor of plaintiff. The defendant as such cheated and defrauded the plaintiff as the defendant was not the owner of the suit property at the time of agreement to sell dated 16.09.2013. The plaintiff is always ready and willing to perform his part of contract and to make payment of balance sale consideration. The defendant has failed to execute the title deed in favor of the plaintiff in terms of agreement to sell dated 16.09.2013 as such the defendant is liable to pay the double amount of the earnest money i.e. Rs.20,00,000/-. The plaintiff served a legal notice of demand dated 28.08.2015 on the defendant but the defendant despite service did not reply said notice. The plaintiff being aggrieved filed the present suit for recovery of Rs.20,00,000/- against the defendant along with interest at the rate of 24% per annum from the date of filing of the suit till realization of the amount.

THE CASE OF THE DEFENDANT

The defendant filed the written statement and contested the claim of the plaintiff. The defendant in **preliminary objections** stated that the suit is liable

to be dismissed being not maintainable as the plaintiff did not take appropriate steps for completion of contract entered between the plaintiff and the defendant. The plaintiff has not appeared with clean hands and suppressed the material facts. The plaintiff after payment of Rs.10,00,000/- never approached the defendant for execution of relevant documents. The defendant in second week of February, 2014 approached the plaintiff for execution of the documents in favor of the plaintiff. The plaintiff explained his financial difficulty to the defendant but it was agreed that the plaintiff would get the suit property transferred in his favor on 17.02.2014. The defendant approached the Office of Sub-Registrar, on 17.02.2014 and paid Rs.100/- to the office as token on his presence in the office. The defendant remained present in the office for entire day but the plaintiff did not come for execution of title document in his favor. The plaintiff has implicated the defendant in frivolous litigations.

The defendant on **reply on merits** stated that the plaintiff never turned up to perform his part of contract for execution of the title document in his favor after payment of settled amount as the financial position of the plaintiff was no good due to low price of the property. The defendant on 17.02.2014 approached the concerned Sub-Registrar and marked his presence twice vide slip no. 10539 and 10541 dated 17.02.2014 but the plaintiff did not come to the office of the concerned Sub-Registrar. The defendant denied other allegations of the plaintiff.

EVIDENCE OF THE PLAINTIFF AND THE DEFENDANT

The plaintiff to prove its case examined him as PW1 and tendered the affidavit Ex.PW1/A. The plaintiff in affidavit Ex.PW1/A deposed about the execution of the Agreement to Sell dated 16.09.2013 Ex.PW1/1 in respect of the sale of the suit property between the plaintiff and the defendant for a sale consideration of Rs.1,15,50,000/- and payment of Rs.10,00,000/- as earnest money vide Receipt

Ex.PW1/2. The plaintiff in affidavit Ex.PW1/A also proved the Legal Notice dated 28.08.2015 as Ex.PW1/4. The plaintiff in cross-examination deposed that he did not know whether he was having sufficient money on relevant date for transferring the suit property in his name and denied the suggestion that he was not having sufficient money for the transfer of the suit property in his name. The plaintiff could not tell whether the market value of the suit property came down after execution of Agreement to Sell Ex.PW1/1 and denied the suggestion that due to the recession in the market value of the suit property he did not approach the defendant for the transfer of the suit property in his name. The plaintiff in the year 2013-14 was earning Rs.20,000/- per month by doing work of embroidery. The plaintiff admitted that he is not ready to purchase the suit property as the market value of the suit property has come down. The plaintiff has denied the suggestion that the defendant had suffered the loss/damage due to non-payment of balance sale consideration by him. The plaintiff also proved Receipt dated 17.02.2014 as Ex.PW1/2 to establish his visit to the office of Sub-Registrar, Delhi on 17.02.2014.

The defendant in affidavit Ex.DW1/A deposed that on 17./02.2014 he had gone to office of Sub-Registrar and placed on record two Receipts bearing no.10539 & 10541 which are Ex.DW1/1 & Ex.DW1/2. The defendant in the cross-examination deposed that he purchased the suit property in the year 2012. The defendant on 17.02.2014 was accompanied by DW2 Sanjay Singh and DW3 Sunder Singh to the office of Sub-Registrar. The defendant has taken the title documents in respect of the suit property to the office of Sub-Registrar. The defendant denied the suggestions that he was not the owner of the suit property at the time of the execution of the Agreement to Sell Ex.PW1/1 or that he was not competent to execute the sale documents in favor of the plaintiff. The defendant admitted that he did not send any notice or written letter to the plaintiff regarding the execution of the title deed in favor of the plaintiff in

respect of the suit property and for payment of balance sale consideration. The defendant in the cross-examination admitted that the sale deed was never executed by previous owner namely, Pradeep Rawal of the suit property who is in possession of the suit property and the defendant never remained in the possession of the suit property. The defendant to corroborate and support his testimony also examined Sanjay Singh as DW2 and Sunder Singh as DW3 who in their respective affidavits Ex.DW2/A and Ex.DW3/A deposed that on 15.02.2014 the defendant approached the plaintiff for execution of the title documents in respect of the suit property and it was agreed that the plaintiff shall be executing title documents in respect of the suit property on 17.02.2014 but the plaintiff did not come to the office of Sub-Registrar on 17.02.2014.

ARGUMENTS ADVANCED BY COUNSEL OF THE PLAINTIFF

The defendant did not plead and proved that he has suffered losses due to the non-payment of balance sale consideration by the plaintiff. The plaintiff was also not cross-examined by the defendant in material particulars regarding the financial losses suffered by him. The defendant has failed to execute terms and conditions of Agreement to Sell dated Ex. PW1/1. The defendant is liable to pay suit amount.

ARGUMENTS ADVANCED BY COUNSEL OF THE DEFENDANT

The plaintiff did not plead and proved that he suffered loss as sale deed/title deed in respect of the suit property was not executed by the defendant. The plaintiff has not suffered financial losses due to non-execution of the sale deed in respect of the suit property in his favor by the defendant. The defendant went to Office of Sub-Registrar for execution of title documents in favor of the plaintiff. The suit is liable to be dismissed.

11. Frame necessary charges and write judgment on the available evidence and documents. The candidates need not reproduce the facts given below and it is suffice for them to proceed with the discussion on each charge/point and arrive at the conclusion. The candidates shall not reveal their identity by specifying any name, address, name of court or any other details other than the facts given below.

SC-123/19

FIR No: 112/14

CASE OF PROSECUTION

Ram Singh (hereinafter referred to as **“the complainant”**) is residing at house no.123, Gali no.6, Shahdara, Delhi along with his parents and is doing a private job. The complainant on 28.11.2014 at about 5:30PM left his house to attend the engagement ceremony of the daughter of his friend residing at Mukund Vihar, Karawal Nagar. The complainant after the function was over along with neighbour Paswan came out and in the *gali* (street) Mohan (hereinafter referred to as **“the accused”**), an auto rickshaw driver was standing. The accused asked the complainant and Paswan that whether they had removed music system from his auto but the complainant and Paswan informed the accused that they did not remove music system from the auto of the accused. The accused started to quarrel with the complainant and Paswan and brought a rod like object from his auto. The accused hit the complainant with said object due to which the complainant sustained injury on the left side of his forehead. The public persons also gathered at the spot but the accused managed to ran away from the spot. The complainant was brought to his house. The police was informed. PCR

removed the complainant to G.T.B hospital. The statement of the complainant was recorded.

SI Sachin on 28.11.2014 after receipt of DD no.74B along with Ct. Sandeep reached at GTB Hospital. SI Sachin prepared *tehrir*. FIR was registered. Subsequent investigation was handed over to HC Balbir Singh who arrested the accused. The weapon of offence could not be recovered. The accused after completion of the investigation was charge sheet for offence punishable under section 323/341/308 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) and the charge sheet was filed before the concerned court.

The copies of charge sheet and annexed documents were supplied to the accused in compliance of Section 207 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”). The concerned Metropolitan Magistrate vide committal order dated 13.03.2019 committed the case to the Court of Sessions and assigned to this Court for trial in accordance with law.

EVIDENCE OF PROSECUTION

The prosecution examined the complainant/injured Ram Singh as PW-1, Dr. Sanjay Kumar, Consultant at Daksh Hospital near Chaudhary Charan Singh University, Meerut, UP as PW-2, Ct. Yogesh Kumar as PW-3, ASI Rambir Singh as PW4, SI Sachin Kumar as PW5 and HC Balbir Singh as PW-6.

PW1 is the complainant. PW2 Dr. Sanjay Kumar Consultant at Daksh Hospital near Chaudhary Charan Singh University, Meerut, UP examined the complainant. PW3 Ct. Yogesh Kumar participated in the investigation along with Investigating Officer SI Sachin Kumar. PW4 ASI Rambir Singh being Duty officer registered the FIR bearing no.1077/14 under section 323/341 IPC on the basis of *tehrir* sent by the Investigating Officer Sachin Kumar. PW5 SI Sachin Kumar being the Investigating Officer conducted the initial

investigation. PW6 HC Balbir Singh conducted subsequent investigation and arrested the accused.

The prosecution proved complaint of the complainant PW1 as Ex. PW1/A, *tehrir* as Ex. PW5/A, the computerized copy of FIR bearing no.1077/14 u/sec. 323/341 as Ex. PW4/B, endorsement on *tehrir* as Ex. PW4/A, certificate under section 65-B of the Indian Evidence Act as Ex.PW4/C, site plan as Ex.PW1/B, MLC of the complainant/injured Prempal as Ex.PW2/A, arrest and personal search memos of the accused as Ex.PW3/A and Ex.PW3/B. The prosecution evidence was ordered to be closed vide order dated 25.09.2019.

The complainant/injured Ram Singh as PW1 supported the case of the prosecution and deposed that on 27.11.2014 he had gone to Mukund Vihar, Karawal Nagar to attend engagement ceremony of the daughter of his friend Rajpal and when he came out after attending the function, the accused was found to be standing in the gali (street) in drunken condition. The accused asked from him regarding removal of music system from his auto and at that time Paswan, neighbour of the complainant and other persons were also present with the complainant. The complainant informed that he did not steal the music system from the auto of the accused then the accused started to abuse the complainant and brought one iron rod from his auto and assaulted the complainant on his head. The accused managed to escape from the spot and the complainant came back to his house. The police was informed and thereafter police removed the complainant to GTB Hospital. The statement Ex.PW1/A of the complainant was recorded. The complainant in cross examination deposed that he was discharged from the hospital on the same day. The complainant had given complaint Ex.PW1/A in his own handwriting. The police did not record the statement of any other person who gathered at the spot in his presence. The complainant denied the suggestion that the accused was not present at the spot

or that no scuffle took place between the complainant and the accused. The prosecution to prove the injuries received by the complainant examined Dr. Sanjay Kumar as PW2 who deposed that on 27.11.2014 he was working at GTB hospital and the complainant was referred to Neurosurgery Department for further treatment. The complainant was advised for CT Scan of his head but the complainant refused to undergo the CT scan test. PW2 Dr. Sanjay Kumar in MLC Ex. PW2/A could not give medical opinion regarding the nature of injury. PW2 Dr. Sanjay Kumar in cross-examination could not tell that whether the injury noticed on the complainant was self-inflicted injuries. The prosecution also examined Investigating Officers SI Sachin Kumar as PW5 and HC Balbir Singh as PW6. PW5 SI Sachin Kumar in the intervening night of 27/28.02.2014 was on emergency duty and after receipt of DD no.74B along with Ct. Sandeep went to GTB hospital where he obtained MLC Ex.PW2/A and statement Ex.PW1/A of the complainant. PW5 SI Sachin Kumar in cross-examination deposed that he left GTB hospital along with the complainant PW1 at about 2:45AM and denied the suggestion that the complaint Ex.PW1/A was given by the complainant after being tutored. PW6 HC Balbir Singh who conducted subsequent investigation arrested the accused vide arrest memo Ex.PW3/A but could not recover weapon of offence. PW6 HC Balbir Singh admitted that the place of occurrence was a crowded place and the complainant PW1 is the relative of the accused. PW6 HC Balbir Singh denied the suggestion that he has not conducted fair investigation.

STATEMENT OF ACCUSED UNDER SECTION 313 Cr.P.C.

The statement of the accused was recorded under section 313 Cr.P.C. The accused denied the incriminating evidence against him and pleaded false implication and his innocence. The accused stated that there was no scuffle between him and the complainant at any point of time. He further stated that he

was not present at the spot at the time of the incident. The accused did not lead evidence in defence.

ARGUMENTS ADVANCED BY DEFENCE COUNSEL

1. Weapon of offence i.e. iron rod was not recovered and seized by the investigating officer.
2. No public person was included in the investigation.
3. No evidence led by the prosecution which can reflect that the complainant received such injury which was likely to cause the death of the complainant not amounting to murder:
4. The alleged injury on the complainant is self-inflicted.

ARGUMENTS ADVANCED BY PUBLIC PROSECUTOR

1. The Public Prosecutor argued that non-recovery of weapon of offence is not always fatal to case of the prosecution.
2. The Public Prosecutor argued that the complainant received injuries on his head as such the case falls within the ambit of section 308 IPC.
3. The prosecution proved its case beyond reasonable doubt.