

HIGH COURT OF KERALA

KERALA STATE HIGHER JUDICIAL SERVICE MAIN (WRITTEN) EXAMINATION-2021

PAPER - I

Date of Examination: 20.05.2022

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 30 Objective Multiple Choice Type questions carrying 2 marks each. **These shall also include questions having multiple correct answers and in such questions all the correct answers are to be marked.** If the candidate darkens any of the wrong answer options or darkens only a part of the correct answer options, it will be treated as incorrect answer. All the questions are to be attempted. In **Part-B**, there are 12 descriptive type questions (to be answered in not exceeding 75 words) carrying 6 marks each. Of these 12 questions, 10 questions are to be attempted (the first 10 answers alone will be evaluated if more than 10 questions are answered). The only one question in **Part-C** (Judgment 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 **30** Objective Multiple Choice Type questions in Part-A, **12** descriptive type questions in Part-B and **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.hkcrecruitment.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.

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PART - A

[In this Part, there are 30 Objective Multiple Choice Type questions carrying 2 marks each. These shall also include questions having multiple correct answers and in such questions, all the correct answers are to be marked. If the candidate darkens any of the wrong answer options or darkens only a part of the correct answer options, it will be treated as incorrect answer. All the questions are to be attempted. There will not be any deduction for incorrect answers. 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) Which among the following conditions is not essential for constituting valid gift of immovable property?
 - A) Handing over possession
 - B) Acceptance
 - C) Consideration
 - D) Voluntariness

- 2) Section 124 of the Trademarks Act, 1999 provides for.....
 - A) Falsifying and falsely applying trademarks
 - B) Suit for infringement etc., to be instituted before the District Court
 - C) Relief in suits for infringement or passing off
 - D) Stay of proceedings where the validity of the registration of the trademark is questioned, etc.

- 3) Which of the following products have been granted Geographical Indication (GI) tags in India?
 - A) Darjeeling Tea
 - B) West Bengal Rasgulla
 - C) Tirupati Laddu
 - D) All of the above

- 4) Lease of immovable property is the transfer of.....
 - A) Interest in the property for certain time
 - B) Right to enjoy the property for certain time
 - C) Right in the property for certain time
 - D) None of the above

- 17) '*spes successionis*' means.....
- A) Right to succession B) Chance of succession
C) False claim of succession D) None of the above
- 18) The maximum amount of special cost that the Motor Accidents Claims Tribunal can impose under Section 172 of the Motor Vehicles Act, 1988 is....
- A) Unlimited B) Rs.1,000/-
C) Rs.10,000/- D) Rs.1,00,000/-
- 19) Ramu transferred Rs.25,000/- to Raja's account on Raja agreeing to shoot and kill the peacocks causing destruction to Ramu's paddy cultivation. Transfer of the amount by Ramu to Raja is
- A) Valid B) Void
C) voidable D) None of the above
- 20) Despite a decree for restitution of conjugal rights passed under Section 9 of the Hindu Marriage Act, the husband refuses to abide by the decree. What is the remedy available to the wife?
- A) Seek arrest and detention of the husband in execution of the decree
B) Seek attachment of the husband's property in execution of the decree
C) File a suit for compensation.
D) File a criminal complaint for cheating
- 21) Doctrine of election under Section 35 of the Transfer of Property Act is an exception to
- A) Doctrine of perpetuity B) Doctrine of void contracts
C) Nemo dat quod non habet D) None of the above
- 22) Among the following, which final judgment, order or decree of a competent court will amount to a judgment in *rem*?
- A) Judgment in a money suit
B) Judgment in a suit for annulment of marriage
C) Judgment in a suit for permanent prohibitory injunction
D) All of the above

- 33) Latha, a widowed homemaker, died in a motor accident leaving behind two minor children, Sanju and Meenu, aged 5 years and 3 years. Latha's parents, along with the children, moves an application for compensation under Section 168 of the Motor Vehicles Act, 1988. Discuss the parameters to be followed by the Tribunal in fixing just compensation for the claimants.
- 34) 'A' filed a suit under Section 34 of the Specific Relief Act, 1963 for a declaratory decree that 'B' is not his legally married wife and that she has no right to claim 'A' as the husband, in as much as the alleged marriage between 'A' and 'B' was not legal, valid and tenable in law. 'A' also sought a permanent injunction against 'B', restraining her from claiming 'A' as her husband and causing disturbance to 'A' at his office and residence. In her written statement, 'B' contended that the marriage between her and 'A' was conducted under the Special Marriage Act and hence, the suit is barred by virtue of Sections 7 and 8 of the Family Courts Act, 1984, since 'A' was essentially seeking the annulment of his marriage with 'B'. Discuss and set out your opinion on the maintainability of the suit filed by 'A'.
- 35) Discuss the different circumstances under which an easement would get extinguished.
- 36) What is your understanding about the 'rule against perpetuity'? Are there any exceptions to the rule?
- 37) What is novation of a contract and what are its effects?
- 38) Ramesh suffered a decree for payment of money in the suit filed by Pradeep. After the decree, Ramesh wants to move an application seeking permission to pay the decree amount in installments. Advise Ramesh with reference to the relevant provisions in the Code of Civil Procedure and the Limitation Act.
- 39) What are the usual obstacles faced by the decree holders while executing the decree in accordance with the procedure prescribed under Order 21 of CPC. What are your suggestions for expediting the process of execution?

- 40) What are the circumstances enabling a person to file a suit as indigent person? What all details should a plaint in "*forma pauperis*" contain?
- 41) What are the tests laid down by the Apex Court in *Vidya Drolia v. Durga Trading Corporation Ltd* for determining a non-arbitrable claim?
- 42) What are the rights and liabilities of buyer and seller under Section 55 of the Transfer of Property Act, 1882?

PART – C

[This question to be answered compulsorily and it carries 30 marks. The Answer should be written in the Answer Book bearing Serial (C). Answer written elsewhere will not be valued.]

- 43) Write a judgment based on the following materials.

On 01.02.2018, certain residents of Ramanathapuram in Palakkad District filed a representative suit seeking an injunction restraining the Madison Solid Waste Disposal Company from setting up its waste disposal plant in their village. The waste disposal plant was proposed to be set up at the instance of the Palakkad Municipality in the land acquired by the Government for that purpose. According to the plaintiffs, the location selected for setting up the plant was wholly ill-advised as it would entail in serious health problems for the residents of Ramanathapuram and would pollute the Yakkara river flowing nearby.

The defendants, namely, the Madison Solid Waste Disposal Company, the Municipality and the State Government filed written statements refuting the averments regarding possibility of health hazard and water pollution. It was asserted that the land where the plant is proposed to be set up was selected after due consultation and deliberation with all concerned.

Moreover, setting up of a solid waste disposal plant had become an absolute necessity, in the absence of any other alternative mechanism for disposing the solid waste collected by the Municipality on a daily basis. It was assured that the project would be set up only after obtaining necessary permission and statutory clearances. The defendants also contended that the prayer for injunction is liable to be refused in view of Section 41 (f) & (ha) of the Specific Relief Act.

On the plaintiffs' side, two local residents and an expert were examined. The expert gave evidence regarding the possibility of the plant causing health hazards and polluting the Yakkara river.

On behalf of the first defendant Company, the head of Engineering Department was examined and the statutory clearances obtained from different authorities marked. The Secretary of Palakkad Municipality gave evidence and marked the Municipal Council's decision regarding the necessity for setting up the solid waste disposal plant and the procedure followed for awarding the contract. The file pertaining to acquisition of the land was produced and marked through the Tahasildar.

The Advocate Commissioner, who had inspected the land where the plant was proposed to be set up and submitted report and plan, was examined as Court Witness.

[The candidate will be free to supplement further facts, in accordance with the above facts and also to assign numbers to witnesses, and documents]

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HIGH COURT OF KERALA

KERALA STATE HIGHER JUDICIAL SERVICE MAIN (WRITTEN) EXAMINATION-2021

PAPER - II

Date of Examination: 21.05.2022

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 30 Objective Multiple Choice Type questions carrying 2 marks each. **These shall also include questions having multiple correct answers and in such questions all the correct answers are to be marked.** If the candidate darkens any of the wrong answer options or darkens only a part of the correct answer options, it will be treated as incorrect answer. All the questions are to be attempted. In **Part-Y**, there are 12 descriptive type questions (to be answered in not exceeding 75 words) carrying 6 marks each. Of these 12 questions, 10 questions are to be attempted (the first 10 answers alone will be evaluated if more than 10 questions are answered). The only one question in **Part-Z** (Judgment 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 **30** Objective Multiple Choice Type questions in Part-X, **12** descriptive type questions in Part-Y and **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.
5. Answers to the questions in **Part-X** of the Question Booklet should be marked in the OMR Answer Sheet bearing Serial (**X**) which will be evaluated using OMR software.
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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10. No candidate will be allowed to leave the examination hall without handing over the OMR Answer Sheet bearing Serial (**X**) and the separately tied answer books bearing Serial (**Y**) and Serial (**Z**) to the Invigilator. Candidates can take the Question Booklet with them.
11. Answer Key to the questions in **Part-X** of the Question Booklet will be published in the website www.hckrecruitment.nic.in after the examination.
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PART - X

[In this Part, there are 30 Objective Multiple Choice Type questions carrying 2 marks each. These shall also include questions having multiple correct answers and in such questions, all the correct answers are to be marked. If the candidate darkens any of the wrong answer options or darkens only a part of the correct answer options, it will be treated as incorrect answer. All the questions are to be attempted. There will not be any deduction for incorrect answers. 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) An agreement in writing executed between parties to the suit is admitted in evidence. Defendants adduced oral evidence to the effect that the above agreement was only a paper transaction, without any effect. Is the oral evidence hit by section 92 of the Indian Evidence Act?
 - A) Yes. Since, exclusion of documentary evidence by oral evidence is barred.
 - B) No. Since, the oral evidence is not adduced to contradict, vary, add to or subtract from the terms.
 - C) Yes. Since S.92 provides a complete bar against any oral evidence.
 - D) None of the above.

- 2) At which stage, can a court invoke the power under Section 319 Cr.P.C.?
 - A) At any stage of proceedings
 - B) In the course of inquiry or trial
 - C) At pre enquiry stage
 - D) At pre charge stage

- 3) A certified copy of a document purported to be thirty years old is produced from proper custody. What is the presumption which the court may draw ?
 - A) The original was duly executed
 - B) The original was not properly executed
 - C) The original is genuine
 - D) Signature authenticating the copy was genuine.

- 4) A person accused of an offence before a criminal court can be a competent witness in the same trial for the
- A) Prosecution B) Prosecution and defence
C) Defence D) None of the above.
- 5) Accused commits sexual assault on a child, which infects the child with HIV. What offence under the POCSO Act is committed by the accused?
- A) Aggravated sexual assault. B) Sexual assault
C) Aggravated penetrative sexual assault. D) Sexual harassment.
- 6) Under Rule 70 of the Criminal Rules of Practice, if the Magistrate has doubt whether the accused whose confession is proposed to be recorded will speak truth, he shall be withdrawn from the police custody for 24 hours, before his statement is recorded. If for any reason, such a long time cannot be granted, the Magistrate shall give him few hours time for
- A) Re-thinking B) Re-consideration
C) Reaffirmation D) Reflection.
- 7) What is the impact of the recent interim order of the three Judges Bench, headed by the Chief Justice of India, on S. 124A IPC?
- A) The operation of above section remains stayed.
B) The operation of the section remains suspended.
C) State and Union Governments were directed not to Register fresh FIR under S. 124A
D) Directed that trial of all pending cases under S.124A will be kept in abeyance and "hoped and expected" that Union or State will not register fresh FIR under S.124A

- 8) What will be the impact on a recovery of a Narcotic drug from the body of a person, in violation of S.50 of the NDPS Act?
- A) Does not affect the recovery B) Recovery so effected is vitiated.
C) Accused is entitled for bail D) Accused is entitled for acquittal.
- 9) The obligation of the accused to rebut the presumption under section 29 and section 30 of the POCSO Act commences at which among the following stages?
- A) At the commencement of trial.
B) At the end of the trial.
C) At the time of answering section 313 Cr.P.C.
D) When the prosecution establishes the fundamental facts
- 10) Who among the following is entitled for an order of maintenance under S.125 Cr.P.C.?
- A) Married minor daughter
B) Illegitimate minor son
C) Father, unable to maintain himself
D) Illegitimate mentally challenged child.
- 11) Under Section 106 of the Indian Evidence Act, the burden of proving which among the following fact is upon the person referred?
- A) Especially within the knowledge of any person .
B) Exclusively within the knowledge of any person.
C) Specifically within the knowledge of any person
D) None of the above.

- 12) The presumption that can be gathered under section 112 of the Indian Evidence Act is?
- A) Conclusive proof of legitimacy B) An absolute proof of paternity.
C) A conclusive proof of illegitimacy D) None of the above
- 13) The Criminal Procedure (Identification) Act 2022, repealed which among the following?
- A) Identification of Prisoners Act, 1920
B) Identification of Accused Act, 1920
C) Identification of Convicts Act, 1920
D) None of the above.
- 14) Which among the following is not a relief that can be granted under the Protection of Women from Domestic Violence Act?
- A) Custody order B) Monetary relief for loss of earning
C) Medical expenses. D) None of the above..
- 15) If any offence under the POCSO Act is committed by a child, he shall be dealt with under the provisions of which statute ?
- A) Juvenile Justice (Care & Protection of Children) Act, 2015
B) POCSO Act, 2012
C) Protection of Child Rights Act
D) Indian Penal Code.
- 16) Bar under Section 468 Cr.P.C. relating to limitation in taking cognizance has to be considered with reference to -----?
- A) Offences mentioned in FIR.
B) Offences referred to in the final report.
C) Offences in the final report and of which cognizance has been taken
D) None of the above.

- 17) What is the ground on which protection order granted under Section 18 of Protection of Women from Domestic Violence Act shall be altered, modified or revoked?
- A) Order was passed on a wrong premise
 - B) Change of circumstances
 - C) Respondent could not effectively oppose the application
 - D) None of the above.
- 18) The principle of Res Gestae is an exception to which among the following?
- A) Rule of best evidence
 - B) Rule of exclusion of oral evidence.
 - C) Rule of hearsay evidence
 - D) None of the above.
- 19) Which among the following is correct in relation to extra judicial confession ?
- A) It is a weak evidence by itself
 - B) It should be made voluntarily and truthfully
 - C) It should inspire confidence.
 - D) All the above
- 20) "A, a soldier fires on a mob by the order of his superior officer in conformity with commands of law. A, has committed no offence." This is the illustration provided to which provision of the Indian Penal Code?
- A) Section 95
 - B) Section 77
 - C) Section 76
 - D) Section 90
- 21) The scope of self incrimination was considered by the Constitution Bench of the Supreme Court in which among the following decision?
- A) State of Bombay v. Kathi Kalu Oghad
 - B) King Emperor v. P.Kottayya
 - C) K.Veera Swami v. Union of India
 - D) Noor Agha v. State of Punjab

PART - Y

[In this part, there are 12 descriptive type questions (to be answered in not exceeding 75 words) carrying 6 marks each. Of these 12 questions, 10 questions are to be attempted (the first 10 answers alone will be evaluated, if more than 10 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.]

- 31) A co-accused was discharged by the Sessions Court, on his application, holding that there was no sufficient material to proceed against the accused. In the course of trial, the Court invoked S.319 Cr.P.C. and issued summons to the accused, holding that it appeared from the evidence of a witness that the accused had committed the offence. Is the order legal ?
- 32) Explain the mode of proving of document required by law to be attested. Can the mode of proof be avoided, if such document is proved to be more than thirty years old and is produced from proper custody ?
- 33) Explain the procedure for revocation of pardon under section 308 Cr.P.C. Can such person whose pardon has been revoked be examined along with the co-accused, in the same trial ? Notwithstanding revocation of pardon, will he continue to be a competent witness as against the co-accused ?
- 34) Section 6 of IPC provides that through out the Code, every definition of offence, every penal provision and every illustration of every such definition or penal provision shall be understood subject to exceptions contained in the general exceptions under Chapter IV of IPC. Examine the general exceptions in this context?

- 35) Explain the evidentiary value of retracted confession of a co-accused. Can it form the basis of conviction?. Can the extra judicial confession of the accused be the sole basis of conviction? Explain with case laws?
- 36) Explain the safeguards provided under the POCSO Act, 2012, to ensure that the trial of offences under the Act is child friendly ?
- 37) Protection of Women from Domestic Violence Act, 2005, is an essentially a Civil Law, aimed mainly at providing reliefs to an aggrieved person, rather than punishing the offender. Comment?
- 38) Explain with reference to the case laws, the statutory safe guards under the Narcotic Drugs & Psychotropic Substances Act, to ensure that there is no false implication of an accused for offences under the Act?
- 39) Can anticipatory bail be granted to a person accused of an offence under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 ? What are the parameters ?
- 40) For every distinct offence of which any person is accused, there shall be separate charge. Explain the above with reference to section 219, section 220, section 221 and section 222 of Cr.P.C.?
- 41) "Judgment writing is a skill that can be learned, practiced, improved and refined. A well structured judgment bases on clarity and conciseness and helps to ensure that the reasoning process is complete". Critically analyse?
- 42) A married woman had been in love with a young bachelor, for about one year. Alleging that they had entered into physical relationship during that period, on a promise given by the young bachelor to marry her, and that he retracted from the promise and has been keeping away from her for the past six months, she laid a complaint alleging rape. Is her allegation sustainable ? Explain with precedents?

PART - Z

[This question to be answered compulsorily and it carries 30 marks. The Answer should be written in the Answer Book bearing Serial (Z). Answer written elsewhere will not be valued.]

- 43) Rajan, John, Lal and Jacob faced trial before Court for offences punishable under S 341, S.324, S.326 and section 307 IPC read with S.120 B IPC. The allegation was that due to their previous enmity towards the victim Ram, the accused entered into a criminal conspiracy on 27th of February 2022, at the house of Jacob and they entered into an understanding to cause death of Ram. In furtherance of the conspiracy, Rajan purchased two choppers from the shop of PW5. On 1st March 2022, at about 9.30. PM, while the victim was walking along the by lane leading to the house of the victim, he was attacked by the accused. He sustained injuries and was rushed to the hospital. FIR was laid at 10.10.PM by PW1, a neighbour, who had rushed to the scene. Victim sustained three major injuries. A sharp wound on the head and two other cut injuries on the fore arms. Wounds were sutured and after 7 days of inpatient treatment, he was discharged. Final report was laid and all accused faced trial. On the side of the prosecution, PW1 to PW15 were examined. Exts.P1 to P27 were marked and MO1 to MO5 were identified. On the side of the defence, there was no evidence.

PW1, PW3 and PW4 were the witnesses who had rushed to the scene on hearing the cries of the victim. PW1 and PW3 gave evidence to the effect that they saw Rajan, John and Lal attacking the victim. John

and Lal were armed with MO1 and MO2 choppers. Rajan was armed with a stick. Jacob was seen giving directions. PW4 referred substantially, but could identify only Jacob. PW2, the victim gave evidence substantially in accordance with the prosecution case. He identified all the accused and weapons. PW8 Doctor, who gave Ext.P3 wound certificate stated that two injuries on forearms were caused by sharp weapons. However, regarding injury on head, he stated that it could be caused by a blunt weapon also. Nobody gave evidence regarding conspiracy.

Write a judgment ?

[Within the above facts, candidate will be free to supplement factual details and to assign numbers to other witnesses, documents and Material objects not referred to in the above facts].

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