

HIGH COURT OF KERALA
KERALA JUDICIAL SERVICE MAIN (WRITTEN) EXAMINATION – 2024
Paper – I (General English)

Duration – 3 hours

Total Marks- 100

(Questions 1 – 30 carry 1 mark each)

● **Fill in the blanks with suitable prepositions:-**

1. The Government's interference.....the strike is wrong
2. She is sitting.....an armchair
3. They climbed.....the roof to gaze at the starry sky
4. He put his wallet.....his pocket
5. Man can never be satiated.....pleasure

● **Identify the misspelt word and correct it:-**

6. (a) knowledgable (b) nuptial (c) multifarious (d) leisure
7. (a) penury (b) plagiarize (c) platoon (d) quadrant
8. (a) possesion (b) purgatory (c) malevolent (d) misshapen
9. (a) mellifluous (b) perseverance (c) precision (d) diarrhoea
10. (a) melancholy (b) momento (c) minstrel (d) neuralgia

● **Substitute one word for the following:-**

11. Collection of wild animals in cages
12. A gifted child with unusual talents
13. A person who loves astronomy or constantly gazes at the stars
14. Science of man's development, customs and beliefs
15. A reckless pleasure seeker who lives to eat, drink and be merry

● **Pick out the phrasal verb which means the word underlined:-**

16. The meeting was cancelled due to the storm
(a) called of (b) called off (c) called back (d) called out
17. The police are investigating the cause of the accident
(a) looking into (b) looking to (c) looking upon (d) looking about
18. The company is increasing its resources for future growth
(a) building on (b) building up (c) building over (d) building at
19. The Government is planning to reduce the expenses
(a) cut upon (b) cut back (c) cut in (d) cut away
20. We were starving, so we started eating greedily when the food finally did arrive
(a) digging out (b) digging away (c) digging upon (d) digging in

● **Fill in the blanks with the correct option:-**

21. Jenny, along with her friendsvisiting the art gallery today.
(a) are (b) was (c) will (d) is
22. International agencies, including U.N.....failed.
(a) has (b) have (c) are (d) will have
23. War and poverty.....a direct connection.
(a) has (b) will have (c) have (d) none of these
24. When we reached the railway station, the trainleft
(a) has (b) was (c) had (d) is
25. Either of us.....capable of doing the job
(a) were (b) are (c) is (d) have been

● **Choose the correct option:-**

26. I am sorry, I can't be with you now. I am.....
- (a) lost in time (b) without time
(c) pressed for time (d) lacking in time
27. I wrote down his mobile number, in case.....
- (a) I am forgetting it (b) I forgot it
(c) I have forgotten it (d) I would have forgotten it
28. The phrase 'magnum opus' means.....
- (a) In bad faith (b) Magnificent
(c) Method of working (d) a great composition
29. Change into reported speech:-
Mother said, "Are you ill"?
- (a) Mother asked whether I have been ill
(b) Mother asked to me whether I was ill
(c) Mother asked me whether I was ill
(d) Mother asked whether I had been ill
30. We will be going out, if the weatherfine
- (a) will be (b) is (c) shall be (d) be

● **Write an essay on any two of the following (20x2 = 40 marks)**

31. Poverty anywhere is a threat to prosperity everywhere.
32. Management of Indian border issues is a complex task.
33. Heard melodies are sweet, but those unheard are sweeter.
34. Democracy is not simply a matter of holding elections.
35. The impact of social media on real life communications.
36. Every cloud has a silver lining.

37. Make a precis of the following passage (15 x 1 = 15 marks)

Energy, a fundamental commodity essential for human sustenance and well-being, serves as a key indicator of development. Understanding the historical evolution of energy use patterns is important to appreciate the complexity of current energy challenges and significance of SDG 7. The narrative of humanity's energy consumption journey unfolds across epochs, traversing the realms of traditional biomass utilization, the ascendancy of fossil fuels, and the promising era of renewable energy revolution. In antiquity, energy needs were predominantly met through locally available biomasses such as firewood and agricultural residues, underpinning the sustenance of early civilizations. The advent of the industrial revolution heralded a seismic shift with coal emerging as the primary energy source, catalysing unprecedented socio-economic transformations. Subsequent epochs witnessed the dominance of oil and natural gas, engendering unparalleled advancements in transportation and industrialization. However, this trajectory of fossil fuel dominance has precipitated a litany of environmental woes, including air pollution, climate change, and resource depletion, emphasizing the imperatives of transitioning towards sustainable energy alternatives. With the advancement in renewable energy technologies, the push for renewable energy gained further momentum, with the focus on solar, wind, hydro and geothermal power. Despite such progress, fossil fuels still account for a significant portion of primary energy consumption. Reflections on the historical evolution of energy use patterns provides insights into contemporary energy challenges addressed by SDG 7, including environmental degradation, climate change, energy security and social inequalities.

Sustainable Development Goal 7 (SDG 7) gets ambitious targets to ensure universal access to affordable, reliable, sustainable and modern energy by 2030. This goal encompasses a multifaceted approach, including ensuring universal access to clean energy, increasing the share of renewable energy sources, doubling the rate of energy efficiency improvements, enhancing international cooperation to facilitate clean energy research and investment and enhancement of infrastructure and upgradation of technology in developing countries.

ധർമ്മങ്ങളിലേക്കു എത്താറില്ല. എല്ലാറ്റിനെയും ചൂഷണം ചെയ്യാൻ വെമ്പൽ കൊള്ളുന്ന, ലാഭനേട്ടങ്ങളുടെ കണക്കുപുസ്തകത്തിൽ മാത്രം കണ്ണുടക്കി കിടക്കുന്ന കോർപ്പറേറ്റ് വ്യവസ്ഥിതി അതിനു സമ്മതിക്കില്ല എന്നു പറയുന്നതാണ് ശരി.

വിവിധതരം മാലിന്യങ്ങളുടെ കുമ്പാരമായി ഭൂപ്രകൃതിയെ നാം മാറ്റി. വ്യവസായശാലകളിൽ നിന്നു പുറന്തള്ളുന്ന മാതൃകമായ വിഷമാലിന്യങ്ങൾ ഒഴുക്കിക്കളയുന്നത് കുടിവെള്ള സംഭരണികളായി വർത്തിക്കുന്ന നദികളിലേക്കാണ്! എത്ര ശുദ്ധീകരിച്ചാലും നീക്കം ചെയ്യപ്പെടാനാവാത്ത നിക്കൽ, ക്രോമിയം, കാഡ്മിയം, ആക്ടീനീക്, സിങ്ക്, ലെഡ് തുടങ്ങിയ മാതൃകമായ സാന്ദ്രത കൂടിയ ലോഹമൂലകങ്ങളുടെ രാസമാലിന്യസംഭരണികളായി നദികൾ മാറി. തൽഫലമായി മാലിന്യം നിറഞ്ഞ കുടിവെള്ളം വിതരണം ചെയ്യപ്പെടുന്നു എന്നു മാത്രമല്ല, വിഷലിപ്തമായ നദികളിലെ മത്സ്യസമ്പത്തു തന്നെ നഷ്ടപ്പെടുന്നു. ഉപഭോഗസംസ്കാരം വളർന്നതനുസരിച്ചു മണ്ണിൽ ലയിച്ചുചേരാത്ത പ്ലാസ്റ്റിക് മാലിന്യങ്ങളുടെ അളവുകൂടി. ഇതു മണ്ണിൻറെയും, മനുഷ്യൻറെയും ആരോഗ്യത്തെ സാരമായി ബാധിക്കുന്നു.

HIGH COURT OF KERALA

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Marks: 100

Duration : 3 Hours

PAPER - II

PART - I

Answer all the questions (Answers to the questions in this Part should be marked only in the O.M.R. answer sheet. Answers marked/written elsewhere will not be evaluated).

(15 x1 mark = 15 marks)

1. In a petition seeking divorce filed by a Muslim wife on the ground that the whereabouts of the husband have not been known for a period of four years, details of whom among the following persons need not be stated in the petition?
 - (A) Mother of the husband
 - (B) Maternal uncle of the husband
 - (C) Brother of the husband
 - (D) Paternal uncle of the husband

2. Act of a party to a contract with intent to deceive another party thereto amounts to fraud as defined in Section 17 of the Indian Contract Act, 1872 if (Choose incorrect option)
 - (A) the suggestion, he made as a fact is not true
 - (B) there is active concealment of a fact by him
 - (C) made a promise without any intention of performing it
 - (D) there was a mistake of fact which he had communicated

3. Pursuant to a notification inviting applications for admission to B.Tech course, 'A' secured admission and paid fees. Subsequently, 'A' discovered that the course offered is unauthorised having no recognition or affiliation with any University. Choose the correct option.
 - (A) 'A' cannot get a refund of fees since the *caveat emptor* rule applies
 - (B) 'A' cannot get a refund of fees if classes are imparted.
 - (C) 'A' will get refund of fees since the contract is void
 - (D) 'A' will get a refund of fees only if the court declared the contract to be void.

4. What is the period within which a suit for recovery of possession of an immovable property under Section 6 of the Specific Relief Act, 1963 is to be filed?
- (A) One year (B) Three years
(C) Three months (D) Six months
5. A court can cancel a written instrument under Section 31 of the Specific Relief Act, 1963 if the document is (Choose the most appropriate option)
- (A) void (B) void or voidable, and it may cause injury to the plaintiff
(C) voidable (D) voidable, and whether or not it may cause injury to the plaintiff
6. Suit is one for perpetual prohibitory injunction against trespass upon an immovable property. What shall the plaintiff prove to get a decree?
- (A) Plaintiff should prove settled possession.
(B) Plaintiff should prove title and possession.
(C) Plaintiff should prove both title and possession in a case where the defendant denied plaintiff's title.
(D) Plaintiff should prove only title
7. What way 'attested' defined in Section 3 of the Transfer of Property Act, 1882 differs from 'attestation' defined in Section 63(c) of the Indian Succession Act, 1925?
- (A) Differs in the number of witnesses
(B) Differs in the case of a gift deed
(C) Differs in the case of a will
(D) No difference
8. A person professes to transfer property which he has no right to transfer and as part of the same transaction confers a benefit on the owner of the property. If the owner confirms such a transfer, it is
- (A) Estoppel (B) Feeding the grant by estoppel
(C) Election (D) Reversion

9. The doctrine of lis pendens applies from the
- (A) date on which the defendant receives summons in the suit
 - (B) date of the presentation of the plaint in the court.
 - (C) date on which the defendant enters appearance in the suit.
 - (D) date on which the defendant receives suit notice.
10. If a defendant in a suit expired, what is the period within which impleadment of his legal representatives can be allowed without insisting on a petition for condonation of delay?
- (A) 150 days
 - (B) 90 days
 - (C) 120 days
 - (D) 60 days
11. What is the period of limitation for execution of a decree for mandatory injunction?
- (A) 1 year
 - (B) 12 years
 - (C) No limitation
 - (D) 3 years
12. Right to lateral support to an immovable property can be a
(Choose the incorrect option)
- (A) natural right
 - (B) prescriptive easement
 - (C) easement by necessity
 - (D) purchased right
13. Which among the following cannot be prescribed as an easement even by satisfying the requirements of Section 15 of the Easements Act, 1882?
- (A) Right to light to a building
 - (B) Right to light to an open land
 - (C) Right to air to a building
 - (D) Right to access to a residential building

14. In a suit for partition of a Hindu father's property between two children, the court passed a composite decree. That decree is.....
- (A) invalid since the law insists on passing a preliminary decree in a partition suit always
 - (B) valid since a composite decree is the rule when the number of parties is limited
 - (C) invalid since the law prohibits passing a composite decree
 - (D) valid if a composite decree can be passed without further enquiry
15. In the case of a Hindu, the mother inherits from a female differently than a male. If a female dies, mother will be a sharer only if the deceased has no
- (A) sons, daughters, children of predeceased son and daughter and the husband
 - (B) sons and daughters
 - (C) sons, daughters and children of predeceased son and daughter
 - (D) sons, daughters, children of predeceased son and daughter, husband and father

PART - II

Answer any 15 questions. Answer shall not exceed 120 words (1 page). If more than 15 questions are answered, the first 15 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book .

(15 x 3 mark= 45 marks)

16. 'B' borrowed money from 'A' and issued a cheque for payment. The cheque when presented, was dishonoured for insufficiency of funds. Thereupon 'A' filed a suit on the dishonoured cheque. 'B' contended that the suit is not maintainable for want of notice preceding the institution of the suit. Discuss regarding the sustainability of the defence plea.

17. How is the market value of the following determined for the purpose of valuation of the court fee?
 - (a) Agricultural land
 - (b) Building
 - (c) other properties.

18. Explain how court fee is chargeable when
 - (a) plaintiff contains separate and distinct reliefs on the same cause of action.
 - (b) the plaintiff seeks alternative reliefs on the same cause of action.
 - (c) the plaintiff seeks alternative reliefs on different causes of action.

19. Explain the theory of reciprocal promises in the context of "readiness and willingness" in relation to an agreement for sale of an immovable property.

20. Explain appropriation of payments rule.

21. Explain "offer" and "acceptance" with reference to tenders.

22. Explain the concept of 'right of lateral support'.

23. Explain customary right and customary easement.

24. What are the essentials to establish for an easement right of way by necessity?

25. What are the grounds for declaring an election to be void under the Municipalities Act, 1994?

26. The suit was instituted against a Panchayat for widening a way by encroaching into the plaintiff's property. Is the suit maintainable in the light of protection given to official acts and in the light of Section 249 of the Panchayat Raj Act, 1994 stipulating for a notice for institution of any suits against the Panchayat?

27. What are the differences between a sham transaction and benami transaction?
28. Explain the doctrine of marshalling.
29. Can a gift deed be revoked except for the vitiating factors rendering a contract voidable or void?
30. What is the effect of a succession certificate issued after contest, in a subsequent suit on title?
31. What are the conditions to be satisfied for a grant of decree for mandatory injunction?
32. An additional defendant was impleaded after the expiry of the period of limitation for filing the suit. When is the suit deemed to have been instituted against the additional defendant? Is there any exception?
33. Limitation bars the remedy and not the right. Is there any exception to this Rule?
34. 'A' while in possession of an immovable property was dispossessed by 'B'. 'A' filed a suit for recovery of possession on the strength of his possession after twelve years. 'B' contended that he has prescribed title by adverse possession. What is your opinion about the frame of the suit, defence and sustainability of the plaint claim?
35. Landlord has let out a three roomed building by the side of a road to a tenant. Landlord want to start a business of his own in two rooms. He is residing in a building situated on its rear side. He has only a footpath for access to his residence. He wants to demolish one room to widen the way. He proposes to file a Rent Control Petition for eviction of 2 rooms on the ground of bona fide need for own occupation and a civil suit for eviction regarding the room required to widen the way. Comment.

PART - III

Answer any 5 questions. Answers shall not exceed 250 words (2 pages). If more than 5 questions are answered the first 5 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book.

(5 x 8 marks = 40 marks)

36. Explain briefly the grounds of eviction available for the landlord under the Kerala Buildings (Lease and Rent Control) Act, 1965.
37. What are the acts of the creditor that discharges surety?.
38. Frustration and restitution are the two sides of the same coin. Explain.
39. What is the concept of "stop proceedings" in a rent control petition? When does such situation arise? Explain with reference to the relevant statutory provision.
40. Explain the effect of (a) fraud (b) coercion (c) undue influence (d) misrepresentation (e) mistake, on contracts. Are there any exceptions with regard to the consequence of existence of such vitiating factors on the contract?
41. Explain "right of subrogation" under the Transfer of Property Act and under the Contract Act.
42. Explain "Lis Pendens".
43. What are the modes of extinction of easements ?

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HIGH COURT OF KERALA

KERALA JUDICIAL SERVICE MAIN (WRITTEN) EXAMINATION- 2024

Marks: 100

Duration : 3 Hours

PAPER - III

PART - I

Answer all the questions (Answers to the questions in this Part should be marked only in the O.M.R. answer sheet. Answers marked/written elsewhere will not be evaluated)

(15 x1 mark = 15 marks)

1. Proceedings under Section 31(1) of the Protection of Women from Domestic Violence Act, 2005 can be initiated for breach of.....
(A) Protection Order (B) Residence Order
(C) Maintenance Order (D) All of the above.

2. The minimum age of a person who is entitled to consume or use any liquor under the Abkari Act, 1077 is
(A) 18 years, (B) 21 years,
(C) 23 years (D) none of the above.

3. Which among the following is not a 'public place' to attract Section 15C of the Abkari Act, 1077 where consumption of liquor is prohibited?
(A) Cinema Theatre (B) Travellers' Bungalow
(C) Police Station (D) Room in a lodging house

4. Which among the following can be considered as the relevant date for applying the provisions of Section 6(1) of the Probation of Offenders Act, 1958?
(A) Date of commission of the offence
(B) Date of filing of complaint/final report
(C) Date of taking cognizance
(D) Date on which the sentence is passed against the accused

5. The reckoning date for the determination of the age of the juvenile is
- (A) date of commission of offence
 - (B) date when the juvenile is produced before the authority or in the court
 - (C) the date of the final report
 - (D) the date of taking cognizance
6. Which of the following is an exception to the rule against hearsay evidence?
- (A) Confession
 - (B) Dying declaration
 - (C) Res Gestae
 - (D) All the above.
7. Which among the following applies while considering the admissibility of character evidence under the Indian Evidence Act, 1872?
- (A) Character evidence is always admissible.
 - (B) Character evidence is never admissible.
 - (C) Character evidence is admissible in certain circumstances
 - (D) none of the above
8. While a woman was using the lavatory, 'X', her neighbour captures her image on his mobile phone and uploads the picture on his Facebook page. Which of the following offence is attracted?
- (A) Sexual assault
 - (B) Outraging the modesty of a woman
 - (C) Voyeurism
 - (D) Stalking
9. A 'holder in due course' of a Negotiable Instrument;
- (A) Can sue on the instrument in his own name.
 - (B) Can sue on the instrument, if permitted by a competent court of law.
 - (C) Can sue on the instrument, if permitted by the payee.
 - (D) Cannot sue on the instrument in his own name.

10. Which of the following is not "sine qua non" for imposing criminal liability on a person?
- (A) Actus reus (B) Mens rea
(C) Motive (D) All the above
11. 'A' engages in consensual sexual relations with 'X', the wife of 'Z'. 'X' gives 'A' a valuable watch belonging to her husband, which she is not authorized to give to anyone. 'A' takes the watch with dishonest intent. Which offence, if any, is attracted against 'A'?
- (A) Criminal breach of trust
(B) Criminal misappropriation.
(C) Theft
(D) Theft and criminal breach of trust
12. Which of the following is primary evidence of a document?
- (A) Certified copy of such document
(B) Counterpart of the document as against the party who executed it.
(C) Counterpart of the document as against the party who did not execute it.
(D) Copies made from the original.
13. When all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused then:
- (A) the inference of guilt can be justified
(B) the inference of guilt cannot be justified
(C) benefit of doubt should be given
(D) none of the above.
14. 'A' is convicted and sentenced by the learned Magistrate to undergo imprisonment for a period of four months and to pay a fine of Rs.1000/- for the offence under Section 323 of the IPC. What is the maximum default sentence that could be imposed by the learned Magistrate?
- (A) 1 months (B) 2 months
(C) 3 months (D) 4 months

15. In a legal proceeding where the court needs to form an opinion on a matter related to information stored in a mobile phone, which of the following person is legally competent to provide an opinion on the matter?
- (A) Director, Central Forensic Science Laboratory
 - (B) Director, State Forensic Science Laboratory
 - (C) Examiner of Electronic Evidence
 - (D) Any person who has technical expertise in the field of mobile phones.

PART - II

Answer any 15 questions. Answer shall not exceed 120 words (1 page). If more than 15 questions are answered, the first 15 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book .

(15 x 3 mark = 45 marks)

16. In a case where five persons are charged with attempting to commit murder and one of the accused absconds during the proceedings, the prosecution relies on a confession made by the absconding accused, which implicates both himself and the others. Can this confession be used against the accused who are currently facing trial? Explain with reference to statutory provisions and case law, if any.
17. Can a proceeding initiated under the Protection of Women from Domestic Violence Act, 2005 before a Judicial Magistrate of the First Class be transferred to the Family Court? Explain with reference to case law.
18. Can a Magistrate entertain a claim for a protection order and maintenance under the Protection of Women from Domestic Violence Act, 2005, if the wife had already filed a petition seeking patrimony and maintenance before the Family Court, which Court had granted her interim maintenance of Rs. 2000/-?
19. Can the Magistrate exercising jurisdiction under the Protection of Women from Domestic Violence Act, 2005 strike off the defence for the failure of the respondent to pay interim maintenance ordered by the court?

20. The accused was found in possession of 40 sealed bottles of Indian Made Foreign Liquor, each with a capacity of 180 ml. The officer who seized the bottles took a sample from only one of the sealed bottles, which is within the permissible quantity for personal possession. The accused contends that since the sample was drawn from only one bottle, the remaining bottles cannot be considered as liquor. Can this contention be accepted?
21. What are the major changes brought out in the Bharatiya Nyaya Sanhita, 2023 regarding Sexual Offences against women and children?
22. Explain as to whether the presumptions against the accused under Section 35 and 54 of the Narcotic Drugs and Psychotropic Substances Act, 1985 are rebuttable?
23. Does the provision contained in Section 106 of the Indian Evidence Act, 1872 dilute the burden of the prosecution to prove the guilt of the accused beyond reasonable doubt. Under what circumstances will the onus shift?
24. Can an application for interim custody of a vehicle, seized by the police on the allegation that it was used for transportation of narcotic drugs, be maintained under Section 451 of the Cr.P.C. by the jurisdictional court, in light of Section 52A of the Narcotic Drugs and Psychotropic Substances Act, 1985?
25. Can the prohibition contained in Section 23 of the Bharatiya Sakshya Adhinyam be made applicable to a confession made to a Forest Officer or a Range Forest Officer under the Kerala Forest Act, 1961? Explain.
26. 'X', a person aged 19 years was found guilty for having committed offence under Section 392 of the IPC. What is the procedure to be followed for releasing the accused on probation invoking powers under the Probation of Offenders Act, 1958?

27. An Indian citizen commits murder in Canada. Can he be tried and convicted of murder in India? Explain.
28. A child, eleven years of age, quarrelled with the deceased. The child threatened the deceased that he would cut him into pieces. Immediately thereafter, the child picked up a knife and stabbed the deceased leading to his death. Whether the accused is entitled to immunity u/s. 83 of the Indian Penal Code?
29. 'A' threatens 'Z' and informs him that he shall publish a libel concerning 'Z' unless he transfers money to 'A'. Under the above threat, 'Z' transfers money to 'A'. What is the offence committed by 'A'? Explain.
30. 'A' meets 'Z' on the road, brandishes a pistol and demands 'Z's' purse. 'Z' in consequence surrenders his purse. What is the offence committed by 'A'? Give reasons.
31. 'A' puts jewels into a box belonging to 'Z', with intention that they may be found in that box, and that these circumstances may cause 'Z' to be convicted of theft. Will the act committed by 'A' constitute any offence?
32. 'A' and 'B' decide to rob a bank. They planned in advance that they will not hurt anybody and they will escape with the money. 'A' directs 'B' to guard the gate and 'A' decides to go inside and take out the money. While 'A' was coming out with the money, a security guard confronts him and during the confrontation, 'A' out of fear, stabs the security guard with a knife consequent to which, he sustains grievous hurt. Thereafter, 'A' and 'B' fled from the place. Can 'B' be convicted for the offence of committing grievous hurt?
33. 'A' sells leather to 'B', a company incorporated under the Companies Act, 2013. In discharge of the amount due to 'A', a cheque signed by the Managing Director of the Company is issued. The cheque on presentment is dishonoured for want of

funds. Explain with reference to the statutory provisions the formalities for filing a complaint under Section 138 of the Negotiable Instruments Act, 1881. Who can be made as the accused?

34. Name the situations under which a police officer can be charged and tried under the Kerala Police Act, 2011?
35. Both Sections 118 and 139 of the Negotiable Instruments Act, 1881, deals with presumptions - Explain the scope and effect of the provisions?

PART - III

Answer any 5 questions. Answers shall not exceed 250 words (2 pages). If more than 5 questions are answered the first 5 answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book.

(5 x 8 marks = 40 marks)

36. What is the difference between medical insanity and legal insanity? - Comment with reference to McNaughton's principle.
37. The basis of liability under section 34 of the IPC is the existence of common intention whereas the liability under section 149 of the IPC is based on the existence of the common object or knowledge of the probability of commission of offence - Explain.
38. What are the key changes brought out in the Bharatiya Sakshya Adhiniyam, 2023 with regard to the admissibility of electronic/digital record and other documents as evidence? Outline the requirements for submitting a certificate for establishing the authenticity of an electronic record.

39. Presumptions can be raised only when they are permitted under the law. Explain the scope and implications of the Rule of Presumption Evidence?
40. No statement made by a person to a police officer in the course of an investigation can be used for any purpose at any enquiry or trial in respect of any offence under investigation at the time when such statement was made. Under what circumstances, can such a statement be used? What are the exceptions?
41. If two or more persons conspire together to commit an offence, can a conspirator be held responsible for the acts/statements made by the other conspirators in furtherance of their common intention even if the conspirator was not directly involved in the specific act? Explain with reference to Section 120B of IPC and Section 10 of the Indian Evidence Act?
42. Under what circumstances can a Dying Declaration be accepted and acted upon in the absence of a certificate of a doctor as to the fitness of mind of the declarant? When can the First Information Statement given by the victim be treated as Dying Declaration?

Answer the above questions in the context of admissibility, reliability, and evidentiary value of Dying declaration.

43. A child in conflict with law commits murder and is apprehended by the police.
- What is the procedure to be followed?
 - Is he bound to seek bail?
 - Can he be tried as an adult?

Explain with reference to statutory provisions and case law.

HIGH COURT OF KERALA

KERALA JUDICIAL SERVICE MAIN (WRITTEN) EXAMINATION- 2024

Marks: 100

Duration : 3 Hours

PAPER - IV

PART - I

Answer all the questions (Answers to the questions in this Part should be marked only in the O.M.R. answer sheet. Answers marked/written elsewhere will not be evaluated)

(15 x1 mark = 15 marks)

1. A suit was decreed. The appeal filed by the defendant is pending. Another suit filed by the defendant wherein the same matter in issue is directly and substantially in issue is pending. Choose the correct statement.
 - (A) Since one of the suits is disposed of and only the appeal there from is pending, trial of the second suit cannot be stayed
 - (B) Whether or not the appeal arose on the previously instituted suit, the suit pending before the trial court can be stayed
 - (C) If the appeal arose from the subsequently instituted suit, then the trial of the first suit can be stayed
 - (D) If one of the suits is disposed of and appeal is pending, the proceedings of the appeal is liable to be stayed.

2. There are three plaintiffs in a suit. For a valid verification of the plaint, (Choose the correct option)
 - (A) All three plaintiffs should verify
 - (B) Plaintiffs' counsel should verify
 - (C) One of the plaintiffs to verify
 - (D) All plaintiffs and if any one of them not available, his power of attorney should verify

3. In a suit, the right to begin evidence is
- (A) always on the plaintiff
 - (B) on the defendant, if his plea is one of discharge
 - (C) on the defendant, if it is a suit for recovery of possession
 - (D) on the defendant, if the suit is one based on a promissory note
4. If a suit is dismissed for default, the plaintiff cannot bring a fresh suit on the same cause of action subject to limitation, if the suit is dismissed under Order IX Rule of the Code of Civil Procedure, 1908.
- (A) 8
 - (B) 5
 - (C) 3
 - (D) 2
5. Judgement-Debtor paid the money payable under a decree, out of court. How is the Judgement-Debtor to get the satisfaction of the decree recorded?
- (A) By filing a suit to declare satisfaction within one year
 - (B) By filing an application to certify payment within one month
 - (C) By filing a statement when the Decree Holder files an Execution Petition
 - (D) By obtaining a written receipt from the Decree Holder
6. When the deposition of a witness was read over to him, an objection was raised by the witness regarding the correctness of a statement. What shall be the course to be adopted by the Munsiff?
- (A) Correct the deposition
 - (B) Allow the counsel concerned to put fresh questions regarding the aspect and record that part of the deposition afresh
 - (C) Make a memorandum regarding the objection raised and record the remarks of the Munsiff
 - (D) No such objection shall be entertained

7. Munsiff rejected an application for a certified copy of a document already marked as an exhibit at the trial of the suit on the ground that objection regarding admissibility of that document is yet to be decided. Decide.
- (A) Admissibility or otherwise of a document in evidence is not a matter to be considered by the Court while issuing the certified copy
 - (B) Munsiff is correct
 - (C) Munsiff shall first decide admissibility of the exhibit and then decide whether or not to issue a certified copy
 - (D) Certified copy of such a document cannot be given to a party to the suit
8. Local limits of the jurisdiction of a Munsiff's Court is decided by the
- (A) District Court in consultation with the High Court
 - (B) High Court
 - (C) State Government
 - (D) State Government in consultation with the High Court
9. What is the maximum period for which an undertrial prisoner, who is facing accusation for having committed an offence punishable with imprisonment for life can be detained under the Bharatiya Nagarik Suraksha Sanhita (BNSS) before he can be released on bail?
- (A) 1/2 of the maximum period of imprisonment
 - (B) 1/3rd of the maximum period of imprisonment
 - (C) 1/4th of the maximum period of imprisonment
 - (D) None of the above
10. Which of the following does not amount to FIR?
- i) A statement given to the police officer after the commencement of the investigation.
 - ii) A statement recorded by the Station House Officer based on personal knowledge on receiving original information.

- iii) A complaint made orally or in writing to the magistrate.
- iv) Information given first in point of time to the police.

- (A) Statement (i) and (iii) (B) Statement (ii) and (iii)
- (C) Statement (iii) and (iv) (D) Statement (ii) and (iv)

11. While computing the period of 15 days mentioned in Section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the following days shall be included:

- (i) Date of arrest of the accused
- (ii) The date of FIR
- (iii) The date on which remand was made
- (iv) The day on which the accused is ordered to be produced.

- (A) (i) and (ii) (B) (iii) and (iv)
- (C) (i) and (iii) (D) (ii) and (iv)

12. An arrest is made by a private person of a person who commits a non-bailable and cognizable offence in his presence. The arrested person shall be made over to the police officer or the nearest Police Station within.....

- (A) 24 hours (B) 8 hours
- (C) 6 hours (D) forthwith

13. In a case exclusively triable by a Magistrate, what is the time frame fixed under the Bharatiya Nagarik Suraksha Sanhita, 2023, for framing a charge from the date of first hearing on charge.

- (A) No time is fixed (B) 15 days
- (C) 45 days (D) 60 days

14. What is the period of limitation under the Bharatiya Nagarik Suraksha Sanhita, 2023, for taking cognizance of an offence which is punishable with imprisonment for a term not exceeding one year?
- (A) 6 months (B) 1 year
(C) 2 year (D) No limitation
15. A victim is not entitled to prefer an appeal against
- (A) acquittal of an accused
(B) convicting for a lesser offence
(C) imposing inadequate compensation
(D) inadequacy of sentence

PART - II

Answer any eleven questions. Answer shall not exceed 160 words (1 1/2 page). If more than eleven questions are answered, the first eleven answers alone will be evaluated. Answers to the questions in this Part should be written in the Common Answer Book .

(11 x 5 mark = 55 marks)

16. Is there any difference between a "legal representative" and "legal heir"? Explain.
17. A suit was filed for a prohibitory injunction against trespass. The defendant filed a written statement asserting his possession. The Commissioner's report prepared pending the suit seemingly suggested plaintiff's possession over the property. Defendant alleging a subsequent trespass by the plaintiff just before the visit of the Commissioner filed a counter claim seeking recovery of possession on the strength of title. Is the counter claim maintainable?
18. What is an "Interpleader Suit"?
19. What are the endorsements to be made on documents admitted in evidence and rejected as inadmissible?

20. After the passing of the decree in a suit for recovery of possession which was filed by three plaintiffs, one plaintiff died. His legal representative are not available. Can the other decree holders get the decree executed?
21. Is there any difference between "reserve price" and "upset price"? Explain.
22. The decree against a dead person is a nullity. Is there any circumstance in which the plaintiff may be exempted from substituting the legal representatives of a defendant and pronounce judgment against that defendant.
23. Is there any difference between "next friend" and "guardian"?
24. What are the changes brought out in the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in respect of the following aspects:
 - a) Recording of search and seizure by the police
 - b) Enquiry, trial or judgment in absentia of proclaimed offender
 - c) provisions regarding police custody.
25. A crime was registered against 'X' on 22.10.2023 for having committed offences punishable under Sections 323, 324 and 307 of IPC. Final report was laid before the jurisdictional court on 2.7.2024. Which is the procedural law applicable for trial - the Code of Criminal Procedure, 1973 or the Bharatiya Nagarik Suraksha Sanhita, 2023. Explain with reasons.
26. Is the victim/informant of an offence entitled to receive information as regards the progress of investigation of the case in which he is involved. If so, how and when?

27. Under what circumstances, is handcuffing of an accused permissible under the Bharatiya Nagarik Suraksha Sanhita?
28. Under Section 200 of the Cr.P.C, a Magistrate is empowered to take cognizance of the offence on a complaint after examining the complainant and the witnesses, if any. Has any change been incorporated in the corresponding provisions of the Bharatiya Nagarik Suraksha Sanhita?
29. In a case charge sheeted by the police, after the recording of the evidence had commenced, an application was filed by the victim seeking alteration of the charge under Section 216 of the Code of Criminal Procedure. Can the charge be altered ? Explain.
30. What is the mode of recording confessions by a Magistrate as stipulated in the Criminal Rules of Practice (Kerala), 1982?

PART - III

Answer both the questions. Answers to the questions in this part should be written in the Common Answer Book.

(2 x 15 marks = 30 marks)

[While writing Judgment, name of Court alone is to be indicated. Other details in the cause title and appendix are not required.]

31. Write a Judgment based on the following:

Plaintiff is the owner of 10 cents of property. That property is plaint A schedule. Its adjoining southern 20 cents of property belongs to the defendant. That property is plaint B schedule. South of that property is a public road. There exists a pathway at a width of 5 feet along the eastern extremity of plaint B schedule

property. That pathway is plaint C schedule. The plaintiff filed a suit on 1.1.2024 seeking a decree of permanent prohibitory injunction.

Plaintiff's plea: He, following his predecessor in interest, has been using plaint C schedule pathway for the last 30 years continuously, peaceably and as of right. He acquired prescriptive easement right along that pathway. The defendant attempted to close down that pathway. Hence, he is entitled to get a decree of permanent prohibitory injunction restraining the defendant from closing down the pathway or from causing obstruction to the plaintiff's usage of the pathway.

Defendant's plea: There is no established and identifiable pathway as described in plaint C schedule. The plaintiff used to walk across plaint B schedule property as a shortcut. Being neighbours the defendant did not object to such a user. The plaintiff has a pathway along the ridges of the paddy fields on the northern side. The plaintiff does not have any right to use plaint C schedule pathway. The suit was filed without bona fides. Suit is to be dismissed.

Plaintiff's evidence:

PW1 is the plaintiff. He deposed about his title to plaint A schedule property. He testified that he has been using plaint C schedule pathway following his predecessor in interest for more than 30 years. He claims that the usage of the pathway commenced on the date on which his predecessor purchased the property 30 years before. Regarding the pathway along the northern side ridge he deposed that he uses that only sporadically. The attempt of the defendant to close plaint C

schedule pathway by erecting a fence one week before instituting the suit was also stated by PW1. His stand was that members of his family and persons coming to his house alone have been using plaint C schedule pathway.

PW2: He sold plaint A schedule property to the plaintiff. He deposed that he had been using both plaint C schedule and the northern ridge to reach his house while he was residing in plaint A schedule.

PW3: Commissioner. He deposed that he inspected the plaint schedule properties and submitted Ext. C1 report along with Ext. C2 rough sketch. He reported and deposed in court that plaint C schedule pathway was in existence. The pathway was a beaten track without definite boundaries. He deposed that it was old, but could not say its age. Availability of a ridge across the paddy field on the northern side of plaint A schedule property was also reported by PW3.

DW1: Defendant. He deposed in terms of the written statement.

Documents proved:

Ext. P1 - Plaintiff's title deed - sale deed dated 5.10.2009

Ext. P2 - Tax paid receipt for plaint A schedule property

Ext. C1 - Commission Report

Ext. C2 - Rough Sketch

Ext. B1 - 3 photographs showing existence of a pathway along the ridge, reaching the northern boundary of plaint A schedule property.

32. On 24.12.2001, at about 4:30 a.m., the accused drove a van through Cherkala-Kasaragod public road from East to West. Upon reaching Panarkulam, the van collided head-on with a jeep coming in the opposite direction on the northern side of the road. The collision caused severe injuries to six passengers in the jeep, five of whom later succumbed to their injuries. The accused was charged under Sections 279, 337, 338, and 304A of the Indian Penal Code.

The accused pleaded not guilty to the charges.

In order to prove its case, the prosecution examined PW1 to PW24. Exhibits P1 to P22 were exhibited and marked. After the close of the prosecution evidence, the incriminating materials were put to the accused under Section 313(1)(b) of the Cr.P.C. The accused denied all incriminating evidence and claimed that he was not the driver but only a passenger. He further stated that the jeep driver was driving the vehicle in a rash and negligent manner and that had led to the accident.

The prosecution relied on the oral evidence tendered by PW1, PW3, PW12, and PW23 and the documents marked as Exhibits P15, P16, P17, and P21 to prove its case. On the side of the defence, the accused examined a witness as DW1, who stated that he was also a passenger in the van and the accused was a co-passenger.

PW1, an injured passenger in the van, stated in his evidence that on 24.12.2001, at around 4:30 a.m., he was traveling with his relatives and when the van reached the Panarkulam, the van collided head-on with the jeep. He stated that the accident

resulted in injuries to six passengers travelling in the Jeep, five of whom died. During cross-examination, he stated that he had lost consciousness immediately after the collision and therefore could not identify the driver of the van.

PW3, a passenger in the van, stated that the incident occurred in the early morning of 24.12.2001 in Cherkala. He and his friends were traveling from Thiruvananthapuram to Mookambika temple in the van. PW3 identified the accused as the driver of the van. However, during cross examination, he stated that he had no previous acquaintance with the accused. It was also brought out that no test identification parade had been conducted.

PW23, a passenger in the jeep, was seated in the back seat. She stated that she had occasion to witness the van coming from the opposite direction and dashing on the jeep. She identified the accused as the driver of the van at the time of the accident, stating she had a clear view of the driver from her position in the jeep. However, during cross examination, it was brought out that the incident had occurred in the early hours and there was no sufficient light in and around the scene of occurrence.

PW1 stated in his evidence that the van veered towards the northern side of the road and collided with the Jeep. He stated that the jeep was on the extreme left side of the road, which was the correct side for the jeep driver. The front of the van hit the front of the jeep, causing the accident. PW3 and PW23 corroborated PW1's account.

PW12, the Joint RTO, inspected both vehicles and issued test certificates, which were marked as Exts. P15 and P16. PW12

stated before court that the braking systems of both vehicles were functional and the vehicles had no mechanical defects.

Ext. P21 mahazar and Ext. P17 site sketch indicated that the road at the accident site was straight with no visible obstructions on either side that would have impeded the vision of the driver of the offending vehicle.

It was brought out during cross examination of the investigating officer that he had failed to collect and produce before court the trip sheet of the van. The owner of the van was given up by the prosecution. The defence had taken up a contention that independent occurrence witness though available was not examined.

Write a judgment based on the above facts.
