

Maharashtra (Junior Division) Judiciary Mains 2019

Paper - I

1. Write a Judgement on the basis of facts given below :

You must pay attention to following points :

- (a) Judgement should be in proper format;**
- (b) Frame issues properly and give findings on them;**
- (c) Conclude the judgement with operative order.**

Facts for Judgement :

Plaintiff's Case is as under :

Sunil Borate and Sham Pandit are friends. Sunil is a cloth merchant and Sham is a builder/contractor. Sunil and Sham were having financial transactions in the past. Sunil was in need of money and therefore approached Sham on 2.2.2014 with a request to lend him amount of 3,00,000 for his business purpose. Sham extended the said amount on 15.2.2014 by withdrawing it from his account. Sunil had promised to return the amount within 6 months. It was agreed that no interest will be paid on the said amount, if the same is returned within the stipulated period.

Sunil failed to return the amount within 6 months, Sham issued notice dt. 23.10.2014 through his Advocate to Sunil and called upon to make payment within 15 days. Sunil received the notice on 25.10.2014. He issued cheque bearing No. 12345 drawn on State Bank of India, Rajwada Branch, Sangli for 3,00,000 dt. 5.11.2014. The said cheque was presented by Sham with his banker HDFC Bank, Ganesh Peth, Sangli on 6.11.2014. Said cheque came to be dishonoured on the ground 'refer to drawer' on 7.11.2014.

Again Sham issued notice through Advocate on 20.11.2014 and informed al' facts to Sunil. Sunil was called upon to make payment on or before 2.12.2014. Sunil had received the said notice on 22.11.2014 but failed to comply with it.

Hence suit has been filed by Sham for recovery of 3,25,000 against Sunil. The claim is inclusive of interest from the date after expiry of first 6 months and notice charges. Future interest is also prayed.

Defence taken in the written statement:

Sunil admits that he had broughed amount from Sham in the past but denied to have taken amount this time. He had booked a flat in the project undertaken by Sham and had issued cheque towards said contract. The said cheque has been misused by Sham.

Sham had filed complaint u/s. 138 of Negotiable Instruments Act against him in respect of same cheque. He has been acquitted by competent Court after holding that there was no "legally enforceable debt or liability". No doubt, appeal against acquittal is pending.

All the other averments in the plain have been denied specifically.

Evidence by parties - as per imagination.

[20 Marks]

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2. Write short notes on any 4 of the following topics :

- (a) Doctrine of Lis pendens
- (b) Mortgage by deposit of title - deeds
- (c) Determination of lease
- (d) Effect of part delivery
- (e) Subrogation
- (f) Right of foreclosure [16 Marks]

3. Answer any two of the following sub-questions :

- (a) Whether in all circumstances an executing court can not go behind decree ?
- (b) Court Commissioner can not be appointed to collect evidence - comment on this proposition.
- (c) Whether a defendant can ask for relief or temporary injunction in suit against him, when that suit itself has been filed for declaration and injunction? [16 Marks]

4. Write short notes on any four topics :

- (a) How contract of sale is made ?
- (b) Rights of minor partner
- (c) Unpaid seller
- (d) Auction sale
- (e) Dissolution of partnership firm
- (f) When condition should be treated as warranty? [16 Marks]

5. Answer any two sub-questions :

- (a) When an interpleader suit can be filed and when can not ?
- (b) Notice u/s. 80 of Code of Civil Procedure 1908 - a prerequisite.

(c) Whether exclusion of jurisdiction of Civil Court can be readily inferred? [16 Marks]

6. Write short note on any four of the following :

- (a) Decree against minor
- (b) Necessary and/or proper parties
- (c) Specific denials
- (d) Impounding of documents
- (e) Attachment before judgement
- (f) Set - off [16 Marks]



Paper - II

1. Discuss power to suspend, remit and commute sentence and its Restriction. [10 Marks]

2. Write difference between (any four) :

- (a) Theft and Robbery
- (b) Criminal Force and Assault
- (c) Wrongful restraint and Wrongful confinement
- (d) Relevant fact and Fact in issue
- (e) Inquiry and Investigation
- (f) Summons case and Warrant case [10 Marks]

3. Discuss critically procedure in the case accused being Lunatic or Unsound mind person under the Code of Criminal Procedure, 1973. [10 Marks]

4. Write notes (any two) :

- (a) Limit of Punishment of offence made up of several offences
- (b) Criminal breach of trust
- (c) Thug
- (d) Hearsay evidence [10 Marks]

5. Discuss different types of bail and powers of different courts to grant bail under the Code of Criminal Procedure, 1973. [10 Marks]

6. Write short notes (any four) :

- (a) Discharge
- (b) Release on probation of good conduct

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- (c) To what extent court can alter its judgement
- (d) Disposal of property at conclusion of trial
- (e) Restriction for use of statement recorded by police officer during investigation
- (f) Estoppel [10 Marks]

7. (a) Comment on "Collective fine" under the SC and ST (Prevention of Atrocities) Act, 1989.

[05 Marks]

7.(b) Define different types of places under the Protection of Civil Rights Act, 1955. [05 Marks]

8. Discuss critically the maxim "Ignorantia Juris non excusat" and its application in Indian Penal Code. [10 Marks]

9. Write essay on any one of the following :

- (a) Age of consent in sexual offences
- (b) Right to Privacy in India
- (c) Right to die [20 Marks]

10. Write judgement on the following facts :

X, a senior citizen goes to Police Station (in short P.S.) to give information of commission of a cognizable offence. He finds there 2 Police Officers (A & B) snoring. He took a handcuff from there. He handed it over to the Superintendent of Police (in short S.P.) at his office. He files a written complaint with the S.P. He also informs him about the situation at the P.S. when he had gone there.

On the basis of information of S.P. the X was charge-sheeted and prosecuted for the theft of the handcuff.

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During trial S.P. deposed that X handed over him handcuff at his office and filed a written complaint. In his cross-examination he admitted that X apprised him about the position at P.S. A was not examined. B denied that he was sleeping in the P.S. at the relevant time. However, in his cross examination he stated that departmental enquiry is pending against them. X took a plea that there was no mens rea on his part in doing so. As per the prosecution taking away is proved, X could have woke up the officers. Hence, he cannot take such plea. [20 Marks]

