

**Andhra Pradesh Judiciary 2012 Mains Questions**

**PART A**

1 Answer the following questions (4 marks each)

(a) What irregularities vitiate the criminal proceedings of the Court of the Judicial Magistrate of First Class? (4 marks)

1. (b) What irregularities do not vitiate the proceedings of the Court of the Judicial Magistrate of First Class? (4 marks)

2. Describe the ingredients of the following offences (2 marks each)

(a) Dowry death. (2 marks)

(b) Offence under Section 498A of the IPC. (2 marks)

(c) Defamation. (2 marks)

(d) Criminal intimidation. (2 marks)

3. Answer the following (4 marks each)

(a) Describe the procedure for the trial of warrant cases by a Magistrate with special reference to cases instituted on a police report. (4 marks)

(b) Write a brief note on plea bargaining. (4 marks)

4. Explain the following (2 marks each)

(a) Victim compensation scheme. (2 marks)

(b) The power of the State Government under Sections 432 and 433 of Cr.P.C. (2 marks)

(c) The difference between "bail bond" and "surety bond". (2 marks)

(d) The exceptions, if any, to the proposition that a Judge or Magistrate shall not try any criminal case in which he is a party or is personally interested. (2 marks)

5. Write a brief note on the probative value of the following (2 marks each)

(a) Injured Witness. (2 marks)

(b) Hostile Witness. (2 marks)

(c) Partisan Witness. (2 marks)

(d) Accomplice. (2 marks)

6. Write a brief note on the following (4 marks each)

(a) What is the evidentiary value of the testimony of an approver? (4 marks)

(b) Can a conviction be based solely on the testimony of an approver? Give reasons. (4 marks)

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7. Write a short note on any four of the following (2 marks each)

- (a) Criminal conspiracy. (2 marks)
- (b) Criminal trespass. (2 marks)
- (c) Criminal breach of trust. (2 marks)
- (d) Right of private defence. (2 marks)
- (e) Dying declaration. (2 marks)
- (f) Extra-judicial confession. (2 marks)

### PART B

1. Answer the following (2 marks each)

- (a) What is a 'Bill of Exchange'? Is a cheque a 'Bill of Exchange'? (2 marks)
- (b) Define "negotiable instrument" and "promissory note". (2 marks)
- (c) When can a defendant be called upon to furnish security for appearance and security for protection of property? (2 marks)
- (d) What is the meaning of "prime facie case"? (2 marks)

2. Answer the following (2 marks each)

- (a) Explain the circumstances in which a civil Court can review its judgement or order. (2 marks)

2. (b) In what circumstances can a judgement, decree or order be amended by the Court? (2 marks)

2. (c) A suit filed by 'X' against 'Y' is dismissed. The appeal by 'X' is also dismissed. One year thereafter in other similar proceedings, the Supreme Court delivered a judgement in favour of the plaintiff. Can 'X' ask the trial Court to review its judgement? Give brief reasons for your answer. (2 marks)

2. (d) Explain "compensatory costs". (2 marks)

3. Answer the following (2 marks each)

- (a) Explain "easements of necessity" and "quasi easements". (2 marks)
- (b) Give an illustration of "easement of necessity". (2 marks)
- (c) What is the difference between 'licence' and 'easement'? (2 marks)
- (d) Enumerate two circumstances when a right of easement is extinguished. (2 marks)

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4. Answer the following (2 marks each)

- (a) What are the guiding principles for grant or refusal of a temporary injunction? (2 marks)
- (b) What are the circumstances under which additional evidence at appellate stage can be adduced? (2 marks)
- (c) What is constructive res judicata? (2 marks)
- (d) When can a receiver be appointed? (2 marks)

5. Write a short note on any four of the following (2 Marks each)

- (a) Novation (2 Marks)
- (b) Quantum merit. (2 Marks)
- (c) Non Gratuitous act. (2 Marks)
- (d) Continuing contract. (2 Marks)
- (e) Wagering contract. (2 Marks)
- (f) Mistake of Fact. (2 Marks)

6. A filed a suit against B for specific performance of an agreement of sale dated 1.3.2009 in respect of the suit schedule property. C who is a third party to the suit proceedings filed an application under Order I Rule 10 of the C.P.C. for his impleadment as defendant No.2 claiming that he acquired title and possession under a gift deed executed by D. It is also claimed by C that he filed a suit for injunction against B in respect of the suit schedule property and the same was decreed ex parte on 5.11.2010. It is also contended that neither A nor B is in possession and the suit agreement is fabricated. Whether C is entitled to be impleaded? Give reasons for your answer. (8 marks)

7. A is a pharmaceutical company carrying on business in manufacture and distribution of its goods at Hyderabad. A appointed B as a distributor of its products and to that effect an agreement was entered into between A and B at Hyderabad. Pursuant to the said agreement, stocks were supplied to B at Hyderabad against the payments made by B. Subsequently certain disputes arose between A and B and therefore B demanded the repayment of amounts made by him together with interest. Since A refused. B filed a suit for recovery of the said amounts in the Court at Hyderabad. Though the entire cause of action arose at Hyderabad, A raised an objection to the jurisdiction of the Court on the basis of a specific clause in the agreement that "the agreement is subject to Pune jurisdiction". Whether the suit in the Court at Hyderabad is maintainable? Give reasons for your answer. (8 marks)

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**PAPER-I (CIVIL LAWS)**

1. 'A' holder of a promissory note demanded 'B' promisor (debtor) to repay the debt by issuing legal notice and 'B' replied denying the execution of the promissory note and borrowal of the amount. So, 'A' transferred the promissory note to 'C' for consideration in view of his dire necessity for money and handed over the promissory note and legal notices exchanged between 'A' and 'B' to 'C'. Thereafter, 'C' the holder in due course filed a suit on the strength of the transfer endorsement on the promissory note against 'B' for recovery of money due under the promissory note. 'B' opposed the claim stating that the transfer of promissory note is not legally valid as the transfer took place after knowledge of dishonour of the promissory note and it lost its negotiability and as there exists a defect in the title of the 'A' as 'B' denied the execution of the promissory note in his reply notice and as he obtained transfer of promissory note with knowledge that execution of it was denied by 'B'.

Explain with detailed reasons with reference to relevant sections of law, whether claim made by 'C' the holder in due course against 'B' is valid under law and whether he is entitled for recovery of the money. (10 Marks)

2. (a) Is there any period of limitation prescribed for filing a petition under Order IX Rule 7 CPC to set aside the order passed against the defendant under Order IX Rule 6(1)(a) CPC that the suit be heard *ex parte* against the defendant. If so, what is the period of limitation and what is the relevant provision of law?

2. (b) Explain whether a defendant who remained *ex parte* after receiving summons from the Court can subsequently participate in the trial of the suit without having the *ex parte* order set aside? If so, to what extent he can participate? Whether there is any limitation on his right to participate?

2. (c) Also explain when the right of the defendant to file written statement is forfeited on his failure to file written statement within the stipulated time, whether he can participate in the trial of the suit without his pleadings? If so, to what extent and whether there is any limitation on his right to participate in the trial?

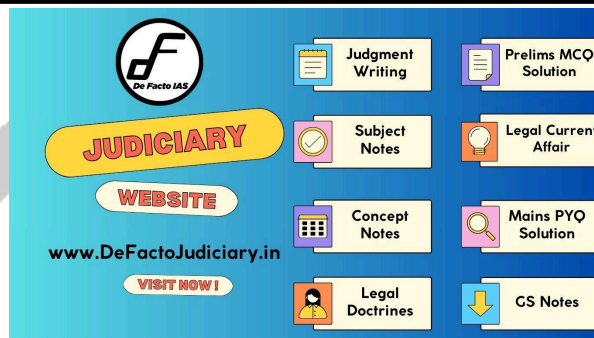
2. (d) Explain whether one of the defendants to the suit can be examined as a witness of the plaintiff? If so, what are the limitations?

3. What is the duty of the Court when an instrument, which is liable to be stamped but not duly stamped, is produced before the Court and is tendered for being marked as an exhibit? What is collateral purpose? Whether such a document can be permitted to be exhibited for collateral purpose? And, if so, when? (10 Marks)

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4. Law of limitation bars the remedy; but, does not extinguish the right. Explain with an illustration. Are there any exceptions to this rule? If so, state the same?  
Whether a person claiming the title by virtue of adverse possession can maintain a suit under Article 65 of Limitation Act, 1963 for declaration of title and for a permanent injunction seeking the protection of his possession thereby restraining the Defendant from interfering in the possession or for restoration of possession in case of illegal dispossession by a Defendant whose title has been extinguished by virtue of the Plaintiffs Remaining in the adverse possession or in case of dispossession by some other person? Answer with reference to the latest case law on the subject. (10 Marks)



5. Write short notes on the following: (10 Marks)

- (a) Res subjudice.
- (b) Doctrine of election.
- (c) Doctrine of feeding the grant by estoppel.
- (d) Cause of action.
- (e) Force Majeure.

6. (a) Explain whether a gift once made can be revoked by the donor under Section 126 of the Transfer of Property Act? If so, state the grounds on which a gift can be revoked under Section 126 of the Transfer of Property Act.

6. (b) Explain whether a husband is implied agent of wife in respect of her immovable property and whether husband can sell the immovable property of wife without her consent? To what extent and for what purpose, husband can be said to be an implied agent of wife in respect of her daily necessities? (2x5=10 Marks)

7. Write short notes on: (10 Marks)

- (a) Quantum meruit and in what case does a claim for quantum meruit arise?
- (b) Quasi contracts.
- (c) Nature of liability under contract of indemnity and guarantee.
- (d) Novation of contract.

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8. Write a note on: (10 Marks)

- (a) Temporary and permanent injunction.
- (b) Mandatory injunction.
- (c) Contracts not specifically enforceable.
- (d) Rights of purchaser or lessee against a person without title or imperfect title.

9. (a) When a Judge who heard the arguments in a suit has written the judgement, but vacated office without pronouncing the judgement, what is the procedure to be followed and who is the competent officer to pronounce the judgement? Explain with reference to the relevant provision of law in CPC.

9. (b) Similarly, when a Judge who vacated the office after pronouncing the judgement, but without signing the decree drawn up in accordance with such judgement, what is the procedure to be followed and who is the competent officer to sign the decree? Explain with reference to the relevant provision of law in CPC.

9. (c) When a suit of the plaintiff opposed by the defendant is dismissed for default owing to his non-appearance when the suit is called for hearing under Order IX Rule 8 CPC, whether the plaintiff can file a fresh suit on the same cause of action or whether he is precluded from filing any fresh suit? What is the remedy available to the plaintiff in the said circumstances? Explain with reasons with reference to the relevant provision of law in CPC.

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9. (d) Explain whether the provisions of Order XXI CPC relating to execution of the decrees (including provisions relating to payment under a decree) apply to the execution of order or not with reference to the relevant provision of law in CPC.

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10. (a) What are the disqualifications for inheritance under Hindu Succession Act, 1956?  
(b) What is escheat?  
(c) What are the rights of inheritance of a child in womb under Hindu Succession Act?  
(d) Define the terms 'cognates', 'agnates', 'full blood', 'half blood' and 'uterine blood'.  
(e) What is right of preemption?

### PAPER -II (CRIMINAL LAWS)

1. (a) When cause of action for filing a complaint under Section 138 of the Negotiable Instruments Act on account of dishonour of cheque arises under Section 142(1)(b) r/w. Section 138(c) of the Negotiable Instruments Act?

1. (b) Explain whether a Magistrate can forward the complaint filed under Section 138 of the Negotiable Instruments Act to the police for investigation and for report under Section 156(3) Cr.P.C. or under Section 202 Cr.P.C.?

1. (c) When a blank cheque signed by the drawer is given, whether it amounts to giving authority to the holder thereof to make a negotiable instrument on it by filling the same for any amount specified therein under Section 20 of the Negotiable Instruments Act? Explain with reasons.

1. (d) Whether a complaint under Section 138 of the Negotiable Instruments Act for dishonour of cheque is maintainable without issuing notice to the drawer demanding him to pay the cheque amount? Whether oral demand to pay the cheque amount is sufficient and valid to maintain a complaint under Section 138 of the Negotiable Instruments Act? Explain with reasons.

1. (e) Whether the defence of the drawer of the cheque in a prosecution for an offence under Section 138 of the Negotiable Instruments Act that he has no reason to believe when he issued the cheque that the cheque will be dishonoured on presentation is valid? Explain with reference to the relevant provision of law. (5x2=10 Marks)

2. (a) 'X' a woman who is a citizen of Pakistan entered the territory of India and settled in Hyderabad for the last 10 years, married 'Y' a citizen of India and lived together for 2 years happily and they begot a son during their lawful wedlock. Thereafter, on account of disputes, they are living separately. 'X' filed a petition under Section 125 Cr.P.C. in the Family Court, Hyderabad against 'Y' seeking maintenance. 'Y' opposed the petition on the ground that 'X' is not a citizen of India and she cannot invoke the laws of India and the petition under Section 125 Cr.P.C. is not maintainable. Upholding the contention, the Family Court dismissed the petition. Explain whether the judgement of the Family Court is correct and whether 'X' got legal right to file the petition, with reasons.

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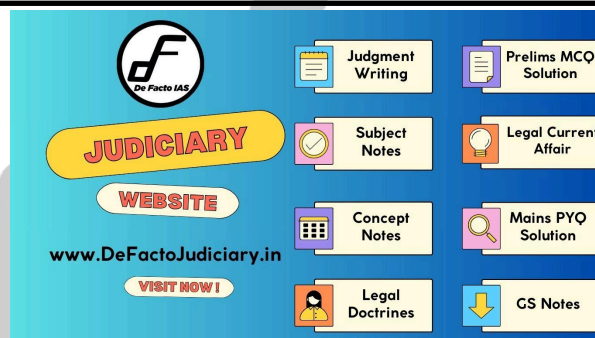
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2. (b) When the police officer is informant of the crime and F.I.R. is registered on the basis of his information, can he investigate the case? In other words, whether the police officer who is informant of the crime, can investigate the case? Explain with reasons with reference to recent judgement of the Supreme Court. (2x5=10 Marks)

3. (a) Is set off permitted for life convicts? Explain.  
(b) What is the procedure to be adopted in case of lunatic accused?  
(c) What are in camera proceedings?  
(d) In what cases compensation can be awarded to the complainant?  
(e) Can police obtain specimen signatures of accused? (5x2=10 Marks)

4. Write short notes on the following: (2x5= 10 Marks)

(i) Under Section 27 of the Indian Evidence Act, how much information received from the accused may be proved.  
(ii) Plea bargaining.



5. (a) What is the evidentiary value of the F.I.R, Section 161 Cr.P.C. statement and Section 164 Cr.P.C. statement of a witness and for what purpose they can be used during trial?

5. (b) Explain the doctrine of transfer of malice under Section 301 of IPC with illustration. State whether doctrine of transfer of malice would attract when the accused exercises his right of private defence under Section 100 of IPC.

5. (c) What is Issue estoppel and when does it apply in a criminal proceeding?

5. (d) Explain whether a Magistrate can order further investigation in a criminal case after taking cognizance of the case in the light of the recent judgement of the Supreme Court.



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6. What is broadly the object behind the Protection of Women from Domestic Violence Act, 2005? Whether a woman forced to leave her matrimonial home on account of acts and conduct that constitute cruelty could initiate and access legal process within jurisdiction of Courts where she was forced to take shelter with parents or other family members? Answer the question with reference to relevant provisions of the Code of Criminal Procedure and case law. (10 Marks)

7. (a) Explain the mode and method of proof of Call Data Reports (CDR) under Section 65B of the Indian Evidence Act?

7. (b) When a co-accused secured acquittal in a trial of criminal case in the absence of absconding accused, can a Magistrate acquit the absconding accused also on the ground that the co-accused was already acquitted?

7. (c) Elucidate whether a Magistrate can order investigation by Central Bureau of Investigation (CBI) under Section 156(3) Cr.P.C. or under Section 202 Cr.P.C. with specific reason?

7. (d) Explain various remedies available to a person under Cr.P.C. when the police fail to register a case on his report which discloses commission of a cognizable offence.

8. Write a brief note on the following: (5x2= 10 Marks)

- (a) Juvenile under the Juvenile Justice Act.
- (b) Section 41A of the Code of Criminal Procedure, 1973.
- (c) Presumption as to abetment of suicide by a married woman.
- (d) Omissions and contradictions.
- (e) Questions by a party to his own witness.

9. (a) What is the value of examination of accused under Section 313 of Cr.P.C.?

(b) What are the principles governing withdrawal of prosecution?

(c) What is the procedure to be adopted by a Sessions Court on passing death sentence and when shall the death sentence stand confirmed?

(d) Inherent power under Cr.P.C.

10. (a) When the offence is punishable with fine only and when upon proof of the said offence the Court imposes punishment of payment of fine, what is the default sentence that a Magistrate is empowered to impose if the accused fails to pay the fine, under I.P.C.? Explain with reference to the relevant provision of law.

10. (b) What are the ingredients to be established to prove abetment of commission of an offence? What is the punishment prescribed for commission of offence of abetment when no express provision is made in I.P.C. for punishment of any such abetment?

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