

CHHATTISGARH
JUDICIAL SERVICE
EXAMINATION (MAINS) 2014

Time : 3 hrs.

Marks : 100

Q.1 Read the following carefully and write judgement after framing necessary issues: 40

The plaintiff Ram Naresh Yadav filed a suit for eviction and damages against the defendant Surjeet Singh on 10.1.2013. According to plaintiff, he is owner of the suit house situated at village Silyari, District Raipur and the defendant is his tenant on a monthly rent of Rs. 500/- (Rs. Five hundred only). However, despite notice under Section 106 of the Transfer of Property Act dated 7.9.2012, the defendant did not vacate the suit premises. The defendant, while admitting the factum of tenancy, denied the plaintiff's averments inter alia on the ground that plaintiff's son Somesh entered into an agreement to sell the suit premises with him for a sale consideration of Rs. 65,000/- (Rs. Sixty five thousand only) on 20.1.2001, out of which he has already paid him Rs. 59,000/- (Rs. Fifty nine thousand only) on different dates, and after execution of aforesaid agreement of sale, now he is in its possession as owner/ prospective purchaser and not as tenant and the suit is liable to be dismissed.

The plaintiff produced and proved Rent Note Ex. P1 dated 20.10.1999, legal notice Ex. P - 2 dated 7.9.2012 and its acknowledgement Ex. P-3, whereas defendant produced the agreement of sale Ex. D1 dated 20.1.2001 said to be executed between plaintiff's son Somesh and him and one diary Ex. D2 showing payments received by Somesh, Defendant also filed copy of legal notice sent by him through his lawyer to the plaintiff claiming the suit premises in his possession in part performance of the contract and not as a tenant, after execution of agreement of sale. Apart from document evidence plaintiff examined himself as PW-1 whereas defendant examined himself DW-1 as well as plaintiff's another son Rakesh as DW-2, in which he has given evidence corroborating the agreement between defendant and Somesh.

(Note: C.G. Accommodation Control Act is not applicable on the subject matter of suit)

Q.2 Read the following carefully and write judgement after framing necessary charge. 40

On 10 March 2014, while returning back to his house sometime between 8 p.m. to 9 p.m. in the evening, after dropping his brother to Raipur Airport, A was stopped by accused 'B' with an unidentified person, who were armed with pistol, and asked him to handover his wristwatch valued at Rs. 2,000 one gold chain valued at Rs. 30,000 and his purse containing Rs. 2,000 by putting him to the fear of death at gun point. 'A' handed over the three items to 'B' and accompanying person out of fear. 'A' reported the incident to 'C', the Station Officer, Civil Lines Police Station, Raipur around 10 p.m. An FIR (Ex-P1) was lodged accordingly. "C" interrogated "B" on 12 March 2014 after taking him in his custody as a suspect. A wrist watch (Article Q-1) was recovered from a box lying in the house of 'B' situated at Civil Lines, Raipur and gold chain (Article. Q-2) from goldsmith 'D', on the basis of information given by 'B' to 'C' during interrogation. 'A' identified the wristwatch and the gold chain as his property in the identification

proceedings before the Deputy Collector. 'B' was prosecuted for the offence under Section 392 of Indian Penal Code.

'A' (PW-1) supported the story of the prosecution and has stated that he identified the wristwatch and gold chain in the identification proceedings in the Collectorate. He has denied that the wristwatch and the gold chain were shown to him before hand at the Police Station.

'C' (PW-2), the Station Officer, P.S. Civil Lines, Raipur, while supporting the story of the prosecution, has stated that a wristwatch (Article Q-1) was recovered from a box lying in the house of 'B' and a gold chain (Article Q-2) was recovered from goldsmith 'D' on the basis of information given by B.

Goldsmith 'D' has stated that 'B' claiming himself owner of it, sold a gold chain (Article Q-2) to him on 11 March, 2014 for Rs. 20,000, which has been entered in Register P-2.

Deputy Collector 'K' (PW-4) has stated that he conducted identification proceedings in the Collectorate on 12 March, 2014 for identification of wristwatch (Article Q-1) and Goldchain (Article Q-2), in which 'A' identified both the item correctly. <https://www.pyqonline.com>

The defence of accused 'B' is that he has not committed and robbery and the wristwatch and chain were shown to 'A' at the Police Station before hand and the identification proceedings are nothing but farce. He has also stated that he did not sell any chain to goldsmith 'D' and that the police did not conduct any identification parade to get him. identified by 'A' and 'D'.

Q.3 अ- निम्नलिखित हिन्दी गद्यांश का अंग्रेजी में अनुवाद कीजिए ।

Translate the following Hindi passage into English.

[10]

भूल, जैसा कि विधिशास्त्र में एक शब्द प्रयुक्त किया गया है, सत्य के मिथ्याबोध या भ्रान्ति द्वारा उत्प्रेरित एक गलत मानसिक स्थिति, संकल्पना या विश्वास है, तथा एक संव्यवहार के एक अथवा दोनों पक्षकारों द्वारा किसी कार्य का कार्यलोप अथवा गलत प्रकार से भोगा है, परंतु तत्समय इसके गलत होने की प्रकृति आशयित अथवा ज्ञात हुए बिना यह अन्तर्गस्त विधि अथवा तथ्य से संबंधित हो सकती है। एक तथ्य की भूल संव्यवहार से सारवान गत या वर्तमान एक तथ्य की निश्चेतना, अज्ञानता या विस्मरणशीलता में निहित है, या ऐसे संव्यवहार के लिए एक सारवान चीज के वर्तमान अस्तित्व में, जो अस्तित्व में नहीं है या एक ऐसी चीज के गत अस्तित्व में जो अस्तित्व में नहीं थी ।

दण्ड संहिता की अधीन भूल तथ्य की होनी चाहिए, विधि की नहीं ! जहां भूल के कारण, एक व्यक्ति एक विधिजन्य कार्य करने के आशय से ऐसा कार्य करता है जो अवैधानिक है, वह कार्य तथा इच्छा पृथक क्रियाशील होंगे। उनके माध्यम ऐसा समायोजन नहीं है जो आपराधिक कार्य को गठित करने के लिए आवश्यक हो । परंतु जहां एक कार्य स्वयं में एक अपराध है, तथा एक व्यक्ति, तथ्यों के संबंध में एक भ्रान्त धारणा के अधीन, जो उसे

आपराधिक बनाती है, उस कार्य को करता है, वह दण्डिक अपराध का दोषी होगा। इस प्रकार एक सेंधमार यह कहकर दण्ड से नहीं बच पायेगा कि भूल से उसने एक गलत घर में प्रवेश कर लिया, न ही किसी हत्यारे को यह कहते हुए सुना जायेगा कि मृतक उसका आशयित शिकार नहीं था। इनमें से किसी भी मामले में तथ्य की भूल क्षम्य नहीं है ।

प्र०3 ब- निम्नलिखित अंग्रेजी गद्यांश का हिन्दी में अनुवाद कीजिए ।

Translate the following English passage into Hindi.

[10]

"If there is any part of the Constitution which can be called a lawyer's paradise on the basis of the extent of litigation that it has caused so far, it is the chapter which embodies the Fundamental Rights. Even a casual glance over the pages of the Supreme Court reports will show that there have been more cases in this area than in any other. Critics of the Constitution were severe on the provisions at the time of their adoption and predicted that they would beat all records as a source of litigation. But it stands to the credit of the Constitution that even in this field, the number of cases has not been too large. Normally Fundamental Rights, by their very nature provide a continuously rich source of litigation. The conflict between man and the state is a perennial problem. As such, any Constitution that guarantees fundamental rights and makes the judiciary its protector makes also an invitation to litigation. The bill of rights under the American Constitution is the best example. The fact that the American Bill of Rights is couched in the simplest language imaginable did not in any way reduce litigation. On the contrary, The American Supreme Court, again and again, in thousands of cases, was called upon to adjudicate the competing claims of individual freedom and social control. It is not a fact that in India, the litigation arising out of the provisions of the chapter on fundamental rights has been due to the detailed nature of the provisions or because of the numerous exceptions and qualifications. Such litigation is an inevitable expression of the democratic vigilance in regard to the freedom of the individual. It is a sign of health and not necessarily the result of any defects in the law.