

Main Written Examination (2012)
For Direct Recruitment to Grade – I of Assam Judicial Service.
Paper –II

Total Marks: 100
Time: 3(Three hours)

I. GROUP 'A' (each question carries 1 mark)

Answer following questions in one word (Yes or No):

- (1) A mistake of law, committed in good faith, is a valid defence in a criminal trial?
- (2) A 14 year old boy was found guilty of offence under Section 379 IPC. He pleads for leniency in sentence as a minor boy of Immature understanding. Is the plea sustainable?
- (3) Actus Reus is a mental state in commission of a crime and must be proved to convict an offender?
- (4) A person cannot be held to be guilty for committing an offence of criminal conspiracy under Section 120 (A) IPC to kidnap a person for ransom, unless overt act as proof to have been committed?
- (5) Decision in a proceeding under Section 372 of the Indian Succession Act, which was rendered after full-fledged trial will operate as *res judicata* in a subsequent suit between the same parties?
- (6) A decision rendered by the Civil Judge Senior Division upon delegation of power in a proceeding under Section 372 of the Indian Succession Act for Rs. 50,000/- is appealable before the District Judge?
- (7) A preliminary decree is not envisaged in a redemption suit?
- (8) Without attestation a privilege will is not valid in law?
- (9) The right to private defence is not available to an accused who is found to be an aggressor?
- (10) No appeal lies against an award of the Arbitrator under the Arbitration and Conciliation Act, 1996?

II. GROUP 'B' (each question carries 3 mark)

- (1) Rahim sues Ramjan for declaration of right, title and interest over an area of land and obtains decree. Thereafter Rahim sues Abdul for a decree of possession by evicting him. Abdul contends that he is in possession as Ramjan's tenant, raising the plea of *res judicata*. Is the defence of Ramjan sustainable in law? Explain.
- (2) In a civil suit certain documents are found to be fraudulently manufactured by the plaintiff attracting an offence under Section 463/471 IPC. The defendant filed a criminal complaint before the local Magistrate against the plaintiff-
 - (a) What would be the defence of the plaintiff in the criminal case?

(b) Does the Magistrate has jurisdiction to take cognizance of the case?

(3) Section 216 of the Cr. P.C. empowers the Court to amend/alter a charge at any time before judgment. In the event the court proposes to alter the charge at the time of hearing of the argument-

(a) What is the duty cast upon the court?

(b) What would be the duty of the Court, if the alteration/addition of charge causes prejudice to the accused?

(4) 'A' borrows a sum of Rs.10000/- from HDFC Bank and keeps some of his ornaments as security for due re-payment of the debt

(a) What is the legal term of this contract?

(b) In case of default to repay the loan, can the Bank recover the amount by selling the ornaments of their own?

(5) 'A' appoints 'B' to purchase certain goods in an auction sale on his behalf

(a) What is the legal relationship created between 'A' & 'B' by the above contract?

(b) Can 'B' delegate the authority given to him by 'A' to 'C' and if so, under what provision of law and to what extent?

(6) A contract in writing is executed between 'X' and 'Y' that 'X' shall sell 50 quintals of paddy and the price is to be paid on delivery. At the same time they made an oral agreement that 2(two) months' credit shall be given to 'X' and after receipt of the price certain dues of 'X' to 'C' will be cleared.

Can the oral agreement be introduced in evidence in a suit between 'X' and 'C'? If so, under what principle?

(7) 'W' files a petition against her husband 'H' for maintenance. During the pendency of the proceedings 'W' executed an agreement with 'H' not to proceed with the proceedings on the promise of 'H' to pay maintenance allowance. 'H' defaulted to pay and 'W' sued her husband on the basis the agreement.

(a) Will 'W' be entitled to get relief in the suit?

(b) Comment on the nature and legal consequence of the agreement made between 'W' & 'H'.

