

AU-7080
B.A.LL.B./Bcom.LL.B. (Fifth Semester)
Examination 2014

Law of Crimes-II
Model Answers

prepared by: **Naved Akhtar**
Assistant professor (Ad-hoc)
School of Law, GGU

Section-A

15x2= 30

1. Choose the correct answer.

- (i) (b) On April 1, 1974
- (ii) (c) Either orally or in writing
- (iii) (b) to ascertainment of truth and falsity of certain things
- (iv) (a) Ten lakhs
- (v) (d) High Court of the concerned state
- (vi) (a) State Government
- (vii) (b) Sessions Judge
- (viii) (d) by any of the above
- (ix) (b) The apparent cause of the death
- (x) (c) Magistrate having Jurisdiction
- (xi) (c) Section 162
- (xii) (a) yes
- (xiii) (a) Chapter XVII, Sections 211-224
- (xiv) (d) All the above
- (xv) (c) Compoundable Offences

Section-B

5x4=20

2. When can a warrant be issued by court in lieu of summons?

Section 87 of Code of Criminal Procedure 1973 gives power to issue a warrant in lieu of, or in addition to summons. The power can be exercised under two conditions.

- (i) If either before the issue of such summons or after the issue of the same but before the time fixed for his appearance, the court sees the reason to believe that he has absconded or will not obey the summons.

(ii) If at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Whenever power conferred under this section is exercised by a court, it must record its reason in writing for doing so because it is a condition precedent to any exercise of power under this section.

3. Define charge and enumerate the content of charge.

- section 2 (b)
- Charge is the precise formulation of the specific accusation made against a person who is entitled to know its nature at the earlier stage.
- It is an intimation of the offence to the accused which he is required to plead.
- The charge must state the offence with which the accused is charged.
- It must be specific and precise.
- The object of framing of charge is to enable the accused to prepare his defence.
- Section 211

4. State the law of remand prescribed in section 167 of Cr.P.C.

- Section 57 mandates that a police officer cannot detain an accused person arrested without a warrant for more than 24 hours.
- If the police officer consider necessary to detain such person for a longer period for the purposes of investigation, he can do so only after obtaining a special order of a magistrate under section 167.
- section 167 clause (1) and (2)
- The nature of the custody can be altered from judicial custody to police custody and vice versa during the first 15 days.
- After 15 days the accused can only be kept in judicial custody or any other custody as ordered by the magistrate but not the custody of police.
- CBI Special Investigation Cell v. Anupam J. Kulkarni (1992) 3 SCC 141
- No magistrate shall authorise remand of any accused unless the accused is presented before him.
- The object of this proviso is to decide judicially whether remand is necessary and to enable the accused to make any representation to controvert the grounds on which police has sought remand.

5. Distinguish between:

(i) Acquittal and discharge

- The order of acquittal may be passed after the trial whereas the order of discharge may be passed after the inquiry.
- The order of acquittal may be passed in any criminal case whereas discharge is the matter only of warrant case.
- Appeal lies in the case of acquittal whereas no appeal shall lie in case of discharge though it may be challenged under section 482 Cr.P.C.
- An acquitted person cannot be tried again for the same offence whereas discharged person can be tried again for the same offence with the consent of the court.
- In acquittal accused is supposed to be an innocent person while in discharge accused cannot get the effect of innocence.

(ii) Inquiry and Investigation

- Section 2(g) and Section 2(h)
- An investigation is made by police or by some person authorised by the magistrate or a court whereas inquiry is conducted by a Magistrate or court but not by a police officer.

- The object of an investigation is to collect evidence for the prosecution of the case whereas the object of inquiry is to determine the truth and falsity of certain facts with a view to taking further action on them.
- Investigation is the first stage of a criminal case and is normally followed by inquiry whereas inquiry is the second stage of a criminal case.
- Investigation is not a judicial proceeding whereas an inquiry is a judicial proceeding.

6. Narrate in brief the procedure of Session Trial

- Opening case for prosecution. Section 226 r/w 209
- Discharge Section 227
- Framing of Charge Section 228
- Explaining the charge to the accused.
- Conviction on plea of guilty. Section 229
- Date for prosecution evidence Section 230
- Evidence for prosecution Section 231
- evidence for defence Section 233
- Arguments Section 234
- Judgment of acquittal or conviction

7. Write a short note on anticipatory bail.

- Section 438 makes a provision enabling the superior courts to grant anticipatory bail i.e. a direction to release a person on bail issued even before the person is arrested.
- The words 'anticipatory bail' are not found in Section 438.
- it is a bail granted not in anticipation of arrest but in the form of a direction that in the event of arrest, a person shall be released on bail.
- Concurrent jurisdiction of High Court and Sessions Court to grant bail under this section.
- Requisite of section 438 is reasonable apprehension of arrest for a non-cognizable offence.
- Gurubaksh Singh Sibbia v. State of Punjab 1980 SCC (Cri) 465.
- While granting bail the court should record reasons for doing so. It should not be a blanket order.
- No anticipatory bail after arrest.

8. Write a short note on the object of Probation of Offender Act 1958.

- Probation of Offender Act 1958 is a reformatory measure.
- Its object is to reclaim amateur offenders who can be usefully rehabilitated in the society.
- It seeks to prevent the conversion of youthful offenders into obdurate criminals as a result of their association with hardened criminals.
- The Act recognises the importance of environmental influence in the commission of crime and prescribes a remedy whereby the offenders can be reformed and rehabilitated in the society.
- It provides for the release of offenders on probation or after due admonition.
- Role of probation officers during such release

Section-C

15x2=30

9. A is travelling from Howrah to Mumbai by train. During the night his suitcase is stolen. The theft is discovered at Mumbai. B is caught with stolen suitcase at Bilaspur. Referring to

statutory provisions explain that where B can be tried?

Section 177 provides for the ordinary place of inquiry or trial. It says, "Every offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed." but when any offence is committed in a journey or voyage it might sometimes be difficult to know the exact locality of the actual commission of the crime.

- Section 183 is intended to remove out such inconveniences.
- Section 183
- correlate with the question problem
- meaning of journey and voyage
- Charanjeet singh v. State of U.P. 1986 CrLJ 173
- Section 183 is applicable only for the trial of offences committed in India.
- The court having jurisdiction at the place of termination of journey is also competent to try the accused for an offence committed in the course of a journey.

10. No appeal lies in petty offences? What are petty offences according to Cr.P.C? Is the state Government entitled to file appeal against the order of acquittal of the accused? What is its procedure?

According to Section 376 of Cr.P.C. there shall be no appeal by a convicted person in any of the following cases, namely:

- mention four clause of Section 376
- These are termed as petty offences against which no appeal can be preferred.
- Section 378
- Appeal against order of acquittal is an extra ordinary remedy.
- Explain the procedure laid down in Section 378.
- Ramesh Babu Lal Doshi v. State of Gujarat (1996) 9 SCC 225.
- Article 144 Limitation Act prescribes for the limitation of an appeal from an order of acquittal by the state i.e. 90 days.

11. What are the provisions under Cr.P.C regarding search by a police officer? Explain.

Police is enjoying vast power of search not only in investigation of any offence but also for the prevention of an offence. Power of search may be categorised into investigative and preventive. Though extensive powers of search has been conferred upon the police officers to conduct search yet some of the restrictions has been placed to prevent the misuse of these provisions. Provisions regarding search by a police officer can be found in sections 51, 52, 100, 153, 165 and 166.

- Search of arrested person Section 51.
- Power to seize offensive weapons Section 52.
- person in charge of closed place to allow search Section 100
- Inspection of weights and measures Section 153
- Search by a police officer Section 165
- Section 166 authorises the officer in charge of a police station to conduct a search within the limits of another station through the officer in charge of that station.