

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

**Course: Law of Criminal Procedure Code
Semester-IV (Batch: 2015-20)**

End Semester Examination: April-May 2017

Date: 3rd May, 2017

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Index of Bare Act, Probation Act and Evidence Act is allowed.**

**Part-A
Answer the questions**

**Marks
(3x10
=30)**

- Q.1** The State of Uttar Pradesh through CBI aggrieved by the orders dated 29th April, 2004 and 8th July, 2004 passed by a Single Judge of Allahabad High Court (Lucknow Bench) in Crl. Misc. Case No. 1402(B)/2004 and No. 1954(B)/2004 releasing the accused Amarmani Tripathi (Accused No. 5) and Madhumani Tripathi (Accused No. 4) on bail have filed these appeals.

On 9th May, 2003 Madhumita Shukla was shot dead in her house located in Paper Mill Colony by two persons who were later on identified as Santosh Kumar Rai and Prakash Chandra Pandey. Investigation in the case revealed that Madhumita Shukla was killed pursuant to a conspiracy involving Amarmani Tripathi and his wife Smt. Madhumani Tripathi. Nidhi Shukla lodged a Report in regard to the blind murder of her sister Madhumita Shukla on 9.5.2003 in the Mahanagar Police Station, Lucknow. The case was transferred to Crime Branch, CID on 17.5.2003. On a request made by the State on 17.6.2003, the CBI took over the investigation.

The case of the prosecution in brief is as follows:

Amarmani Tripathi, a Minister in the U.P. Government, at the relevant time, was having an affair with deceased Madhumita Shukla, a young Poetess. This led to Madhumita's pregnancy thrice. On the first two occasions, the pregnancy was aborted at the instance of Amarmani. On the third occasion, in spite of pressure and persuasion by Amarmani, Madhumita refused to abort the pregnancy. The post-mortem revealed a six month old foetus in her womb. D.N.A. test of the foetus established the paternity of Amarmani.

According to the prosecution, the murder of Madhumita was a result of the conspiracy among Madhumani, Amarmani, Rohit Chaturvedi, Santosh Rai and Prakash Pandey. Amarmani was arrested on 23.9.2003. On 19.12.2003 a charge-sheet was filed against six accused, namely, (1) Santosh Kumar Rai @ Satya Prakash, (2) Prakash Chander Pandey @ Pappu, (3) Rohit Chaturvedi, (4) Madhumani Tripathi, (5) Amarmani Tripathi and (6) Yagya Narain Dixit. On the date of filing of the charge sheet, accused no.4, Madhumani Tripathi, was absconding. However, when the first bail application filed by Amarmani Tripathi was rejected by the High Court by order dated 11.3.2004 on the ground that the

co-accused (Madhumani Tripathi) had not surrendered, Madhumani surrendered on 25.3.2004.

In the present case, we find that the High Court has granted bail being of the opinion that the extra judicial confession given by Rohit Chaturvedi one of the co-accused may not stand the test of scrutiny by a judicial mind but that by itself was not sufficient to grant the bail. There is voluminous evidence collected by the CBI to show the involvement of Amarmani Tripathi, and his effort to interfere with the investigation of the case before the grant of bail and also after the grant of bail. He tried to change the course of investigation by creating false evidence of the marriage of Madhumita with Anuj Mishra with the help of Yagya Narain Dixit, a police officer, the 6th accused who died in an accident during the course of investigation. There are written complaints with the investigating agency showing that after his release on bail Amarmani Tripathi tried to threaten as well as win over Nidhi Shukla, sister of the deceased, and her mother by offering bribe. In the opinion, of the Supreme Court the High Court gravely erred in granting bail to Amarmani Tripathi in such circumstances. The High Court practically failed to consider/take into consideration the voluminous evidence which had been collected by the investigation agency and have been referred to by them in their statement of objections to the application for grant of bail.

Answer the following:

- (a) Being aggrieved by the two orders of the Allahabad High Court granting bail to Amarmani and Madhumani, the State has approached the Supreme Court of India. Suppose you are the learned Additional Solicitor General appearing for the petitioner, what would be your submissions before the court?
- (b) State the principles laid down by the Supreme Court for consideration while granting or refusing the 'Bail'.
- (c) What judgment has been laid down by the Supreme Court in this case? What direction has been issued, if any to the State by the court?

Q.2 The appeals in the case of *Dara Singh v. Republic of India*, (2011) 2 SCC 490 relate to a sensational case of triple murder of an Australian Christian Missionary – Graham Stuart Staines and his two minor sons, namely, Philip Staines, aged about 10 years and Timothy Staines aged about 6 years.

Answer the following:

- (a) State the principles which emerge with regard to Section 164 Cr. PC for recording confession in the case.
- (b) The Supreme Court declined to reduce the punishment of life imprisonment meted to Dara Singh by the High Court for the live-burning of the Australian Christian Missionary. Whether sentence of life imprisonment awarded to Dara Singh is correct?

Q.3 In a country like India, where over a considerable part of last few centuries, women were harassed on various grounds and ill treated by the society at large. There were, and even today are, innumerable cases of dowry, bride burning, marital abuse, etc. To change the social scenario with regards to marital cruelty and harassments, the legislature inserted Section 498A in the Indian Penal Code in the year 1983. A petitioner by name Arnesh Kumar filed an appeal through Special Leave Petition in Supreme Court of India after his application for anticipatory bail was rejected by the Sessions Court and also by High Court. He was charged under sections 498-A of Indian Penal Code, 1860 which provides for the imprisonment which may extend to three years and fine.

Answer the following:

- (a) What is the judgment given by the Supreme Court in this case?
- (b) Whether data related to crime against women given in the case can be applied to offences of all categories which are punishable with imprisonment for a term which may be less than seven years; with or without fine?
- (c) Whether the provision of section 498 A of IPC has been abused?

Part-B
Answer the questions

(2x5=
10)

Q.4 Write notes on **any two** of the following:

- (a) Dairy of proceeding in investigation – Police diary and its use
- (b) Summary dismissal of appeals – Special provisions regarding jail appeals
- (c) “Bail or jail?” – at the pre-trial or post-conviction stage

Part-C
Answer the questions

(2x5=
10)

- Q.5 Discuss the procedure to be followed by a Magistrate in a trial of warrant cases instituted on a police report. What is the need to have different trial procedures to be followed by Magistrates in respect of warrant cases instituted on a police report and in respect of those instituted otherwise than on a police report?
- Q.6 What are the different courts exercising jurisdiction under the Criminal Procedure Code? What sentences can they pass? Why is it necessary to have a hierarchy of different criminal courts?
