

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**
Course: **Law of Criminal Procedure**
Semester- IV (Batch: 2018-23)

End Semester Online Examination: February 2021

Date: 08th February, 2021

Duration: 8 hours

Max. Marks: 50

Instructions:

- Attempt all questions. The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Mention appropriate authorities with every answer.
- Cite correct section and correct name of the statute.
- Cr.P.C. should be read as Code of Criminal Procedure, 1973.
- Originality in answers is expected. Do not use highlighter or abbreviations in answers.
- Prescribed Word Limit: 900-1000 words

	Marks
<p>Q.1 Section 482 of Cr.P.C states; <i>“Saving of inherent powers of High Court- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”</i> Supreme Court in <i>State of Haryana and others versus Bhajan Lal and others</i>, 1992 suppl. (1) SCC 335 had elaborately considered the scope & ambit of section 482 Cr.P.C.</p> <p>Paragraph 102 of the said judgement is as follows: <i>“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised”.</i></p> <p>In light of the provision of law & the observation made by Apex court in above & many other case laws, it can be easily concluded that the powers of the High Court under section 482 Cr.P.C are partly administrative and partly judicial. Elaborate this statement citing suitable authorities.</p>	<p>(10)</p>

- Q.2 Supreme Court has examined the concept of plea-bargaining in *Kasambhai v. State of Gujarat* 1980 AIR 854, 1980 SCR (2)1037 and quoted in the judgment: (10)

It is obvious that such conviction based on the plea of guilty entered by the appellant as a result of plea bargaining cannot be sustained. It is to our mind contrary to public policy to allow a conviction to be recorded against an accused by inducing him to confess to a plea of guilty on an allurement being held out to him that if he enters a plea of guilty, he will be let off very lightly. Such a procedure would be clearly unreasonable, unfair and unjust and would be violative of the new activist dimension of Art. 21 of the Constitution unfolded in Maneka Gandhi's case. It would have the effect of polluting the pure fount of justice, because it might induce an innocent accused to plead guilty to suffer a light and inconsequential punishment rather than go through a long and arduous criminal trial which, having regard to our combers and unsatisfactory system of administration of justice, is not only long drawn out and ruinous in terms of time and money, but also uncertain and unpredictable in its result and the judge also might be likely to be deflected from the path of duty to do justice and he might either convict an innocent accused by accepting the plea of guilty or let off a guilty accused with a light sentence, thus, subverting the process of law and frustrating the social objective and purpose of the anti-adulteration statute. This practice would also tend to encourage corruption and collusion and as a direct consequence, contribute to the lowering of the standard of justice.

Similarly in case of *Murlidhar Meghraj Loya v. State of Maharashtra* 1976 AIR 1929, 1977 SCR (1) 1 Supreme Court then, did not approve this concept in India on the basis of formal inducement. Further, the Supreme Court in many cases strongly disapproved the practice of plea bargain.

While Law Commission of India in its 142nd and 154th report suggested the concept of Plea-bargaining in India. They observed that this tool will be alternative to be explored to deal with huge arrears of criminal cases. Thus Section 265-A to 265-L were inducted in Cr.P.C. which provides for the plea-bargaining.

Write citing suitable authorities, whether Indian justice system need to adopt this concept. What are the pros & cons of these provisions?

- Q.3 Discuss the essential aspect of following trials in Cr.P.C. (10)
- Session trial
 - Warrant trial

Discuss at which level the mistake/s can be avoided to increase conviction rates, especially in heinous crimes.

- Q.4 Discuss & critically analyse the following statement citing suitable case laws & appropriate section/s of law: (10)
- ‘Cr.P.C. has the provision/s meant to uphold the fair trial in all circumstances’.

- Q.5 ‘Arrest without warrant under CrPC can be made only if there is reliable & creditable information received by the police officer’- analyse this statement in light of the provisions of CrPC & appropriate authorities. (10)
