

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR****Course: Law of Crimes (IPC)
Semester- III (Batch: 2021-26)****End Semester Examination: November 2022****Date: 06th Nov, 2022****Duration: 3 hours****Max. Marks: 50****Instructions:**

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- 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.

Put 'Q' mark before answering a question. Mention the name of the statute cited with every section in every answer. IPC is Indian Penal Code 1860, FIR to be read as First Information Report. Mention relevant case laws in every answer, whether asked or not. Start every question distinguished from the previous question. Write your answer in third person. Use of highlighters is prohibited. Do not write in short forms or with abbreviations.

Marks

- Q.1 The details mentioned below are from a criminal appeal pending before the Apex Court. (8)
Read them carefully to answer the question.

An FIR was lodged by Kushmita Gurung, wife of one Rohit Gurung who is being a resident of Nigeria. They got married on 08.07.2013. It was claimed that before the marriage, Rohit had introduced Kushmita to one Mr. Sham and Mrs. Ravina Bhojwani as his foster parents and also said that he had two foster sisters, namely, Ishika Bhojwani (the appellant herein), living in India and the other being Ms. Ritika Bhojwani, who is residing with her mother in London. There are allegations made about the demand of dowry against the husband and his foster parents. The specific demand included diamond neckless for Ishika Bhojwani/ Tondon. There was reference to subsequent behaviour of troubling the complainant on account of the dowry demands. The FIR also made some allegations regarding illicit relations of her husband Rohit with the present appellant and other women. It was then contended that when the complainant had gone to Sierra Leone, Ishika Bhojwani/ Tondon took away her diamond encrusted heavy gold pendant and chain and earring set on the pretext that she wanted to wear them once and she would keep them at a safe place in her father's house. The complainant also stated that she did not return these ornaments. Further, it was stated that the complainant was slapped by her husband when she did not give her other jewellery. It was further claimed that when appellant, Ishika Bhojwani, got married in 2015 the complainant had to beg for her ornaments for attending the marriage and there was a misbehaviour on the part of Mrs. Ravina Bhojwani towards her and again the name of the present appellant figured therein. At this time, the complainant claimed that she was pregnant for the first time and yet she was given physical and mental ill treatment because of which she had a mis-carriage. There is a reference to the sexual behaviour of her husband with reference to a pornographic website. It was claimed that the complainant delivered a baby in 2017. Then appellant visited them and stayed with the complainant's parents for three days and

during her stay the appellant was wearing the diamond encrusted pendant and gold chain and earring set which she had taken (practically stolen) in Sierra Leone.

Complainant also alleged that there had been a demand of 2 crore rupees by Mrs Bhojwani and a telephonic recording was also referred. She also contended that her husband was working for the father of appellant in Sierra Leone and had lot of undue pressure from their side. After lot of issues and misbehaviour of her husband, she finally decided in 2020 to file an FIR against Mr. Sham, Mrs. Ravina Bhojwani and Ms Ishika Bhojwani/ Tondon.

The appellant on the other hand put on record that she has no blood relation with the husband of the complainant. At present she is residing in Punjab, where she is married to a kin of royal family. She did go to live with the parents of the complainant but that was only a courtesy visit and all the time the parents of the complainant were present. She denied any mis-behaviour of her parents or demand of dowry or any neckless as alleged. Before marriage of Rohit or her own she was mostly at Londen with her mother and younger sister. She denied that it was irrational that she could have stolen any article from Kushmita the complainant. Yet after the formal complaint was filed, she along with her mother (in India at that time) were arrested and this had created a lot of problems for her marital life.

The trial court held that a crime was made out against the appellant, as evidence was sufficient to prove that articles claimed by the complainant were actually used by the appellant. The High Court also decided the appeal within a short span as this case had attracted a lot of media and society attention, upholding the judgement of the trial court. As the appellant got an anticipatory bail from the session court, she preferred this appeal to the Supreme Court.

Based on the facts mentioned above, answer the following questions (refrain from writing anything related to FIR or bail provisions):

- a) What crime/s are involved in this case. Write the answer mentioning the correct provision of IPC.
- b) Advice to Apex Court as you have read relevant provisions of IPC, what is the amicable solution of this situation. Cite suitable authorities in support of your answer.

Q.2 The present facts are from a writ of Habeas Corpus under Article 226 of the Constitution of India pending before the High Court of Madras (now Chennai). Read the facts carefully to answer the questions given at the end. (10)

The petitioner, who is the brother of the detenu, challenges the order of detention passed against the detenu detaining him under sub section (2) of Section 3 of the National Security Act, 1980. It is alleged that in a public meeting organised by the Tirunelveli Bar Association the detenu, who had participated in the said meeting, had spoken about Sri Lankan Tamils issue, in support of the Liberation Tigers of Tamil

Eelam, a banned organisation, instigating violence amidst the youth and thereby disturbing the public order. It is also stated in the order of detention that the detenu had spoken in the said meeting that he had accepted Prabhakaran, the leader of the Liberation Tigers of Tamil Eelam, as his brother and he had also spoken in such a manner to instigate violence among youth of Tamil Nadu for the liberty of Tamil Eelam. In view of the above, Palayamkottai Police Station registered a case against the detenu for the offences under relevant sections of the IPC and Sections 13(1)(b) and 13(2) of the Unlawful Activities (Prevention) Act, 1967 and thereafter, he was arrested and lodged at Central Prison, Kalapattu, Puducherry.

The matter was put to trial and the counsel appearing for the petitioner argued that the detaining authority had failed to consider the fact that the speech made by the detenu was only in support of the Tamils who were suffering due to the ongoing war at Sri Lanka and the same was not against the sovereignty or integrity of India. He presented that entire matter was violative of the provisions of the fundamental rights. He referred Honourable Apex Court in *Sunil Fulchand Shah vs. Union of India* [(2000) 3 SCC 409], wherein it has been observed as follows:

"Personal liberty is one of the most cherished freedoms, perhaps more important than the other freedoms guaranteed under the Constitution. It was for this reason that the Founding Fathers enacted the safeguards in Article 22 in the Constitution so as to limit the power of the State to detain a person without trial, which may otherwise pass the test of Article 21, by humanising the harsh authority over individual liberty.....the restrictions placed on a person to preventively detain must, consistently with the effectiveness of detention, be minimal. In a democracy governed by the rule of law, the drastic power to detain a person without trial for security of the State and/or maintenance of public order, must be strictly construed. This court, as the guardian of the Constitution, though not the only guardian, has zealously attempted to preserve and protect the liberty of a citizen...."

Pending this writ, high court seeks your opinion as to making an appropriate decision in this regard. Identify the crimes alleged by the prosecution in this case and also tender your opinion, writing in third person, citing suitable authorities of law, whether any case is maintainable or not.

- Q.3 *"It is immaterial whether the defendant intended the defamatory statement to apply to the complainant or knew of the complainant's existence if the statement might reasonably be understood by those who knew the complainant, to refer to him."* Elucidate with the help of relevant provisions and case laws, the established principle in matters of defamation as provided in the IPC. (4)
- Q.4 On the night of 31st December 2021, six accused persons Mohinder, Harinder, Satinder, Trilok, Mani and Sati had entered a petrol pump, which was located on a highway, at 11:00 PM intending to take away the money. The place was out of the town and had very less/no traffic after sunset. The first accused, Mohinder, was armed with a knife, while Trilok had a small gun in his hand. Harinder beat up the security guard, who was present there and guarding the petrol pump and took away the keys to the office from his pocket. Thereafter, Harinder handed over the keys to Satinder, who opened the office. Mani and Sati entered the office, ransacked the place and decamped with the money. (5)

When they were departing, a person passing by saw them and created an alarm. All the residents nearby the petrol pump arrived on the scene. In the meanwhile, the security guard of the petrol pump also informed the police about the incident. Mohinder, Harinder and Satinder ran on one side of the highway whereas Trilok, Mani and Sati ran on the other side of the highway along with the money. The residents started chasing Mohinder, Harinder and Satinder not realising that the money is with Trilok, Mani and Sati. When they were crossing the bridge, Mohinder was caught by one of the chasers. Realising that he would not be able to save himself, Mohinder attacked the chaser with multiple blows with his knife and ran away. This led to the instant death of the latter. A police investigation happened and after a week all the six accused persons were arrested from their respective homes.

Based on the given facts and circumstances, discuss the liability of the accused persons of the crime committed and support your answer with the help of relevant provisions and case laws.

Q.5 Write short notes on:

- a) Blasphemy and provision of the IPC
- b) Family as institution and the IPC as its custodian
- c) Abetment as a crime in the IPC

(6)

OR

Analyze the facts given below where accused need your help to ensure that they can be saved from harsh punishment:

- a) The appellant got infuriated when he was told that his calf had come to the place of the deceased and latter started abusing him. When deceased was being stopped from abusing then accused fired. At the time of the incidence, the accused had a weapon but the deceased was unarmed. This indicated that the appellant had an intention to kill the deceased.
- b) The accused was a student of class 10. He failed in his exam. He has a wife aged 19 years. He decided to end his life and talked about his decision to his wife. His wife asked him to kill her first and then to kill himself. The accused killed his wife but before he would kill himself he was arrested.
- c) Accused along with his friend went to watch a movie at theater and while coming out met with his old acquaintance, who is presently an active member of BK, a banned organization of state. He not only greeted the latter, but also uttered a famous slogan of 'Raj karega Khalsa'. Only these three were talking with each other and people were roaming around and did notice them casually. After a short while of exchanging the greetings, all went to their ways. Two patrolling officers of the state police found this meeting objectionable and arrested these two, who were also the state govt employees.

Q.6 Write your observation/opinion in third person about the concept given below and its reflection in relevant provision of the IPC:

(9)

- a) Crime of human trafficking

- b) Crime of mob lynching
- c) Acid attack in civilized world

Q.7 In the landmark case of *K. Puttuswamy v. UOI* (2017), it has been quoted that “While the legitimate expectation of privacy may vary from the intimate zone to the private zone and from the private to the public arenas, it is important to underscore that privacy is not lost or surrendered merely because the individual is in a public place. Privacy attaches to the person since it is an essential facet of the dignity of the human being. Thus, the privacy of the person does not depend on the fact that whether it is a public or private area but on the fact that whether the person believes to be in the private space where there is no reasonable apprehension of being seen or not”. Critically analyse the above statement as per provisions of the IPC. (8)
