

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Law of Evidence
Semester- V (Batch: 2020-25)

End Semester Examination: November 2022

Date: 05th 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.
- **Bare Act is not allowed.**

(Answer Any Five)

Marks

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| Q.1 | The Supreme Court while interpreting the relevant provision under the Indian Evidence Act, 1872 with reference to the admissibility of evidence for proving conspiracy held that <i>"we do not think that the theory of agency can be extended thus far, that is to say, to find all the conspirators guilty of the actual offences committed in execution of the common design even if such offences were ultimately committed by some of them, without the participation of others. We are of the view that those who committed the offences pursuant to the conspiracy by indulging in various overt acts will be individually liable for those offences in addition to being liable for the conspiracy"</i> . Elucidate the above-mentioned proposition with the help of relevant provision of the Indian Evidence Act, 1872 and decided case-laws. | (10) |
| Q.2 | The rule of relevancy and admissibility of the evidence of the information received from an accused person is that "when any fact is proved to be discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered may be proved."- Discuss the controversies revolving around this rule keeping in mind the key words such as 'information', 'confessional statement', 'custody', 'proviso', 'discovered', with the help of relevant provisions of the Indian Evidence Act, 1872 and decided case-laws. | (10) |
| Q.3 | A, the victim along with her mother went to work in the rice fields of the Bundu Village. While working, A's mother was about 100 metres away from her daughter and heard her screaming. When mother rushed near to her daughter, she found 'A' lying on the ground with her clothes torn, body covered in blood and her tongue cut off. Thereafter, she was admitted to the Hospital in an unconscious state of mind. She gained consciousness after six days and her statement was recorded by the doctor and in which she named two accused persons. Three days later, again her statement was recorded by the District Magistrate (DM) in 'Multiple Choice Questions (MCQ) & Answers' format as she was not in a condition to speak. In her statement, she accused three other persons of having raped her. The victim's medical sample was taken and sent for forensic examination. The forensic report stated that there were no signs that woman was raped. After a month, she | (10) |

died due to the consequence of injuries suffered by her. But the postmortem report specified the cause of death, but not due to the injuries. In the absence of clear scientific evidence, the police relied on the statement given by the victim to the doctor and the DM and filed the chargesheet accordingly. The defence counsel objected to the case on the ground that there were multiple statements which were inconsistent in nature. They also contended that the forensic evidence contradicts the statement of the victim, hence it should not be relied upon. They also objected to the manner in which the statement was recorded by the DM suggesting that the answers were tutored.

In light of the above stated facts & circumstances of the case, examine the relevancy, admissibility and reliability of the statements given by the deceased as per the relevant provisions of the Indian Evidence Act, 1872 and decided leading judgments.

- Q.4 Discuss the scope, nature, characteristics and evidentiary value of expert evidence under the Indian Evidence Act, 1872 with the help of decided case-laws? Can an expert be sued for negligence in giving a wrong opinion? (10)
- Q.5 When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the general exceptions in Indian Penal Code, 1860, or within any special exceptions or proviso contained in any other part of the same code, or in any law defining the offence, is upon him, and the court shall presume the absence of such circumstances. Apply the above mentioned rule of evidence to the cases falling under Section 84 of Indian Penal Code, 1860 with the help of decided case-laws. (10)
- Q.6 Discuss the difference between the 'rule of presumption' applicable to the cases of 'abetment of suicide' by married women and dowry death as per the provisions of the Indian Evidence Act, 1872 and decided case-laws. (10)
