

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Law of Criminal Procedure**
Semester- IV (Batch: 2021-26)

End Semester Examination: May 2023

Date: 09th May, 2023

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.
- Read CrPC as Code of Criminal Procedure, 1973, IPC as Indian Penal Code, 1860. Do not use short hand writing, highlighters or any identification mark in the answer script, PW is prosecution witness, FIR is First Information report. Write only from the angle of CrPC, refrain from writing anything in relation to associated law. Cite suitable and appropriate case laws in every answer, even where it is not asked. Cite suitable provision of the Code with correct section and name of the Code in abbreviation.
- Bare Act is not allowed.

Answer **any five** of the following questions.

Q.1 The facts of a case pending before the Apex Court are as follows:

Marks
(10)

On 4th December, the Rajouri Garden Police Station received information that a woman had committed suicide at C-224, Tagore Garden Extension, Delhi. Sub Inspector commenced investigation and reached the place of occurrence. The deceased was identified as Komal Kapoor. Her body was sent for post mortem. The Investigating Officer recorded the statement of her son Amit Kapoor and an FIR was registered on the complaint filed by him. This FIR was registered against Ramesh Chander Sibbal (the accused) and another, on the basis of the statement of Amit Kapoor and the suicide note.

According to Amit Kapoor, he knew Ramesh Chander Sibbal for the last 10 years. Father of Amit Kapoor was running a paint brush business and had purchased property No.C-225, Tagore Garden, Delhi through the said Ramesh Chander Sibbal. Since the father of Amit Kapoor had fallen ill, his mother was also looking after the business. However, the family business suffered acute losses. The family discussed the possibility of selling their moveable and immovable property situated at Rohini. The accused persons are stated to have fraudulently obtained signatures of the deceased in this connection. In order to get over the financial crises and to meet their liabilities, the deceased had also discussed the possibility of selling another plot owned by the family situated in Bawana Industrial Area.

At that time also, the accused told the deceased that certain documents have to be executed before the plot is sold. On this pretext, he again got some papers signed by them. The accused paid a sum of Rs.5,00,000/- to the deceased at the first instance and thereafter a sum of Rs.3,00,000/- for the plot situated in Bawana as against the market value of Rs.28,00,000/-, with an assurance that the rest of the amount will be paid after execution of the sale deed.

Around one month before the suicide, the accused approached the deceased claiming that he be given accommodation on a temporary basis for a period of ten to twelve days

on the ground floor of her house situated at C-224, Tagore Garden, Delhi on the pretext that his own house was under renovation. The deceased believing him and keeping the relationship in mind, agreed and allowed him to occupy two rooms on the ground floor. It is alleged that while the deceased was away at Haridwar, the accused encroached upon one more room in the said house. When the deceased asked the accused to vacate the said premises, he refused and, on the contrary, stated that he had paid a sum of Rs.24,00,000/- and that it was his house. Not only this, the accused as well as his son threatened the deceased and her family to vacate the house or else they would ruin them. It is also alleged that when the deceased asked the accused as to when she will get rid of this problem, he is said to have replied that she could get rid of this only after her death.

This was followed by the accused sending a legal notice dated 1st December to the deceased which was received on 3rd December, in which similar claim was made by the accused against the deceased. The trust that she had placed upon the accused was totally betrayed by him. This led to the deceased slipping into depression. In face of all these circumstances, coupled with the threats extended by the accused persons, the deceased committed suicide by hanging herself from a ceiling fan, using a scarf (chunni). It may be noticed at this stage that the deceased had left a suicide note which mentioned all the details correctly and verified later by the facts & documents.

The Investigating Officer prepared the site plan, effected recoveries of the articles from the place of occurrence and thereafter recorded the statements of the witnesses. Upon completion of the investigation, a charge sheet was filed in terms of Section 173(2) of the Code wherein Ramesh Chander Sibbal was stated as the accused and names of his wife, Suman Sibbal and son Gaurav Sibbal were shown as co-accused. Upon committal, the learned Additional Sessions Judge framed charges against the accused under Sections 306 and 448 of IPC.

The accused filed a criminal revision being Criminal Revision in the High Court of Delhi at New Delhi challenging the order of the trial court framing the charge. The High Court vide its judgment quashed the charge framed under Section 306 IPC, while permitting the trial court to continue the trial in relation to the offence under Section 448 IPC.

Aggrieved from the judgment of the High Court, in the present appeal, the appellant impugns the same primarily on the ground that the High Court had exceeded and not appropriately exercised its jurisdiction under Sections 397 and 482 of the Code in quashing the charge framed against the respondent under Section 306 IPC.

Refer the appropriate authority and provisions of law studied as to whether the contention of appellant is correct or that of the respondents.

Q.2 The following facts are from an incident that took place at Ramlila maidan, New Delhi, in June 2011. (10)

On 4th June, 2011, Baba Ramdev's hunger strike began with the motto of bhrashtachar mitao satyagraha. He had been granted permission to hold satyagraha at Jantar Mantar, of course, with a very limited number of persons. Despite the assurance given by Acharya Virendra Vikram, as noted above the event was converted into an Anshan and the crowd at the Ramlila Maidan swelled to more than fifty thousand. No yoga training was held for the entire day.

At about 1.00 p.m., Baba Ramdev decided to march to Jantar Mantar for holding a dharna along with the entire gathering. Baba Ramdev along with his large number of followers and supporters performed a Shanti Paath at about 10 p.m. on 4th June, 2011, whereafter, all those who had assembled and stayed back went to sleep under tents and canopies to again get up in the morning the next day at about 4 a.m. to attend the schedule of Ashtang Yoga training to be conducted by Baba Ramdev.

Just after midnight, at about 12.30 a.m. on the 5th of June, 2011, a huge contingent of about more than a thousand policemen surrounded the encampments while everybody was fast asleep inside. There was a sizable crowd of about 20,000 persons who were sleeping. They were forcibly woken up by the Police, assaulted physically and were virtually thrown out of their tents. This was done in the purported exercise of the police powers conferred under Section 144 Cr. P.C. on the strength of a prohibitory order dated 4.6.2011 passed by the appropriate authority.

Thereafter, at about 1.10 a.m., the Police reached the dais/platform to take Baba Ramdev out, which action was resisted by his supporters. At 1.25 a.m., Baba Ramdev jumped into the crowd from the stage and disappeared amongst his supporters. He, thereafter, climbed on the shoulders of one of his supporters, exhorting women to form a barricade around him. A scuffle between the security forces and the supporters of Baba Ramdev took place and eight rounds of teargas shells were fired. By 2.10 a.m., almost all the supporters had been driven out of the Ramlila Maidan.

The entire instance was criticized by the common men and the judiciary.

Based on the facts mentioned above, elaborate on the essential of the promulgation of section 144 CrPC and the grounds on which Baba Ramdev can make an appropriate plea to the court. Mention the grounds of error committed in this instance, citing suitable authority of law.

- Q.3 The facts mentioned below are from an appeal pending at the High Court. Read the facts carefully to answer the issue raised by the appellant, citing suitable authorities of law. (5x2=10)

The applicants are accused of complaint pending in the Court of Additional Sessions Judge. In this case the charges for offences under Sections 323/34, 307/34, 504, 506, IPC were framed. Thereafter the statement of PW 1, Rajendra Prasad was recorded. The applicants then moved an application to alter the charge under Section 307/34 IPC to 324/34 IPC on the basis of his statement. The application has been rejected by the order of the Court of Additional Sessions Judge. Aggrieved by it, the present petition has been filed.

The major questions of concern are:

- a) Whether the court can drop the charges in this matter?
- b) Whether the higher court can hear this matter to an extent that any change is possible as requested by the petitioners?

- Q.4 Discuss the following issues as to whether appeal lies or not in the facts mentioned below in an appeal to the Supreme Court of India: (10)

An FIR for two accused was filed for the offence under Section 364A read with Section 34, IPC. After investigation of the crime, a charge sheet was filed against the second

accused under Sections 364A/302/201, IPC. By the judgment of the court the second accused was convicted for offence punishable under Sections 364A, 302 and 201, IPC. Subsequently he was sentenced for offence under Sections 302, 364A and 201, IPC as under.

In view of above observations the Court directs that:

- A) The convict is sentenced with imprisonment for life u/s 302 IPC and is further directed to pay a fine of Rs.1 lakh. In default of payment of fine, he is directed to undergo RI for five years.
- B) The convict is sentenced with imprisonment for life u/s 364A IPC and is further directed to pay a fine of Rs.1 lakh. In default of payment of fine, he is directed to undergo RI for five years.
- C) The convict is sentenced with rigorous imprisonment for seven years for the offence punishable u/s 201 IPC and is further directed to pay a fine of Rs.50,000/-. In default of payment of fine, he is directed to undergo RI for one year.

All the sentences shall run concurrently. Here the first accused were sentenced with life imprisonment and a fine of Rs. 5 lakh.

The complainant, who is the father of the deceased boy, has filed an appeal challenging the order of sentence, seeking enhancement of sentence to death penalty for both the accused. In the appeal filed before the High Court of Delhi under Section 372 CrPC it was his case that the sentence of life imprisonment imposed on the accused is inadequate and needs to be enhanced to death penalty. The High Court of Delhi has dismissed the appeal as not maintainable. Aggrieved thereby the present appeal has come to the Apex Court.

Cite suitable case law and proper provision of the Code while answering the matter.

What are the situations where an appeal does not lie in CrPC?

- Q.5 A very technical issue has come up to the Apex Court from the order of the High Court in the matter of bail. The facts are as follows: (10)

Appellant made an appeal to the High Court under section 439 of CrPC for regular bail. It was declined with the observations that it is the Magistrate whose jurisdiction has necessarily to be invoked and not of the High Court or even the Sessions Judge.

In the impugned Judgment, the learned Single Judge opined that when the appellant's plea to surrender before the Court is accepted and he is assumed to be in its custody, the police would be deprived of getting his custody, which is not contemplated by law, and thus, the appellant "is required to be arrested or otherwise he has to surrender before the Court which can send him to remand either to the police custody or to the Magisterial custody and this can only be done under Section 167 of CrPC by the Magistrate and that order cannot be passed at the High Court level."

The appellant contended that the Magistrate is not empowered to grant bail to the appellant since he can be punished with imprisonment for life. After the denial of the bail by the High Court, the appellant seeks your opinion whether his application is appropriate or not. Advise the Apex Court what is the amicable way out of this situation, so that the law is properly implemented.

Q.6 Write a short note on **any two** of the following:

(5x2=
10)

- a) Police Report in CrPC
- b) Importance of FIR in Criminal Justice System
- c) Procedure to obtain Maintenance by parents & kids
- d) Rights of victim & accused person
