

Uttarakhand Higher Judicial Service Examination 2008

Paper No.2  
(Civil, Criminal and Constitutional Laws)

Maximum Marks -100

Time- 2 hours

Note:- All questions are to be answered.

Marks for questions are indicated in the margin and  
Credit will be given where correct citations are given.  
Answers should be in English and legibly written.

- (1) (a)  $\frac{1.95}{62}$  How does a propounder of a will proceed to prove its execution? 2
- (b)  $\frac{1.25}{62}$  Does the registration by itself prove the genuineness of the will? 1
- (c)  $\frac{1.25}{62}$  What is a testator required to do to revoke his will? 2
- (2)  $\frac{1.25}{62}$  The payment of compensation in a case of death or injury in a motor accident is based on the Law of Tort, i.e., whether there is a rash and negligent act on the part of the driver of the motor vehicle? 5
- (3)  $\frac{1.25}{62}$  (a) Is a deed executed on behalf of a minor by a person who is not his lawful guardian binding on the minor? Is it binding on those who are sui juris? 3
- (b)  $\frac{1.25}{62}$  What is the status of a lessee in occupation of property after expiry of lease? Is a notice under Section 106 of the Transfer of Property Act, necessary before filing a suit for ejection of that person? 3
- (c)  $\frac{1.25}{62}$  Does the principle of mortgage apply to its lessee in a case of mortgage property? Give reasons for your answer? 4
- (4) (a) What do you understand by the following:-
- |                     |   |
|---------------------|---|
| Mutatis mutandis    | 1 |
| Stare decisis       | 1 |
| Non obstante clause | 1 |
| Pari materia        | 1 |
| Ejusdem generis     | 1 |
| Res integra         | 1 |
| Lis pendens         | 1 |
| Ultra Vires         | 1 |
| Persona designata   | 1 |
| Ex-gratia           | 1 |

- (5)  $\frac{1/2}{2/2}$  Whether a person in whose favour a succession certificate is issued becomes sole heir of the deceased in exclusion of others? 3
- (b)  $\frac{1/2}{2/2}$  What is a succession certificate? 3
- (c)  $\frac{1/2}{2/2}$  Whether a judgment rendered in a proceeding for grant of succession certificate operates as res-judicata between the parties in subsequent suit or proceeding? Discuss? 4
- 127 (6) As a Constable tried to apprehend the accused, the latter aimed and fired a gun from a very close range at the thigh of the Constable. The injury sustained by the Constable was sufficient in the ordinary course of nature to cause death. The Constable died as a result of injury sustained by him. Of what offence the accused is guilty. Give reasons? 5
- 76, 127, 82 (7) A finds crops owned by him being uprooted by B. Without having recourse to the police for help, he seeks to protect the property in order to avoid damage to it by attacking and causing injuries to B. In the fight that ensues B inflicts knife wound on A which causes his death. Has B committed any offence? Give reasons for your answer? 5
- 84 (8) (a) Discuss the law of private defence, its ambit and scope and onus. Is strict proof required? 4
- (b)  $\frac{1/2}{2/2}$  K attacks father of accused G with Lathi and causes him simple hurt. G gives a fatal blow on the chest of K with spear. Has G committed any offence? If so, what offence? 3
- (c)  $\frac{1/2}{2/2}$  Three persons are charged U/S 302/34 I.P.C. Main accused had a sharp edged weapon and other two were unarmed. Main accused giving blow with the weapon and the other two catching hold of the deceased person. Discuss whether a case U/S 302/34 I.P.C. is made out against two other persons? What offence each has committed (mention section of sections of I.P.C.)? 3

- (9)  $\frac{15}{25}$  (a) What do you understand by dowry death? What are the essential ingredients of such an offence? 4
- $\frac{15}{25}$  (b) What do you understand by the term "Gang Rape"? 3
- $\frac{15}{25}$  (c) What punishment is to be awarded to a Police Officer committing rape within the limits of Police Station and under which provision of law? 3
- (10) (a) When a person charged U/S 302/149 I.P.C. can be convicted U/S 302/34 I.P.C.? 5
- $\frac{25}{26}$  (b) A adult male, a college student, knows that a girl B who lives in his neighbourhood is below 16 years of age, but her real age is not known to A, she meets him one day and asked him to go to take her in a taxi for sight seeing in and around the city. They go ultimately by train to Bombay, what offence, if any, has A committed? 5
- (11) (a) What are the fundamental duties of a citizen under the Constitution of India? 5
- (b) Can an Indian Citizen be punished for violation of fundamental duties? Give reasons for the answer? 5
- (12) Explain the power of Parliament to amend the Constitution of India. Refer to landmark decision of the Supreme Court on above subject? 10