

Uttarakhand Higher Judicial Service Examination, 2013

PAPER-3

Time allowed- Two hours

Maximum Marks: 100

Note:- The question paper is divided in four parts. Each of Part 'A' 'B' and 'C' carries 30 marks. Part 'D' carries 10 marks. All questions are required to be attempted. Credit will be given to the answers supported with case laws. Brevity in replying the questions shall be appreciated. The candidate has a choice to answer the questions either in Hindi or in English.

Part-A

Indian Evidence Act 1872

- 1- Explain the meaning and concept of the maxim '*falsus in uno falsus in omnibus*'. Please illustrate the same by way of examples? - 10 marks
- 2- How much of information received from accused in custody of police may be proved?. Illustrate by way of giving examples? -10 marks
- 3- What do you mean by primary and secondary evidence? How do you explain 'public documents' and 'private documents'? -10 marks

Part-B

The Code of Civil Procedure, 1908

- 4- Kindly explain the salient features of Order XXXIX Rules 1 and 2 C.P.C. -10 marks
- 5- Please explain briefly as to when Order IX Rule 4 CPC, Order IX Rule 7 CPC and Order IX Rule 13 CPC will Operate? -10 marks
- 6- Attempt any two of the following- -10 marks
 - (a) Scope of Order XXXVIII Rule 5 C.P.C.
 - (b) Scope of Order XL C.P.C.
 - (c) Scope of Order XVIII C.P.C.
 - (d) Scope of Order XXVI Rule 9 C.P.C.

Part-C
Code of Criminal procedure 1973

- 7- An application U/S 156(3) Cr.P.C. is filed before a Judicial Magistrate. The same is dismissed. A Criminal Revision is preferred before the Sessions Judge. State of Uttarakhand only is arraigned as respondent in the Criminal Revision. Should the accused be also made a party in the Criminal Revision? If yes, give the reasons? -10 marks
- 8- What do you mean by the word 'cognizance'? Please mention the provisions for prosecution for offences against public justice and for offences relating to documents given in evidence? -10 marks
- 9- What do you mean by 'incriminating evidence'? What precautions are required to be taken while recording statement of the accused U/S 313 Cr.P.C.? -10 marks

Part-D
Drafting

- 10-In a session trial case, there is direct ocular evidence, duly corroborated by the report of Forensic Science Laboratory and medical evidence in the form of post mortem report. F.I.R. is promptly lodged. One of the accused takes plea of *alibi* that he was admitted in King George's Medical College, Lucknow on the date of occurrence, which plea is not accepted by you. Please write a judgment convicting and sentencing the accused persons for the offence punishable U/S 302 I.P.C. read with Section 34 I.P.C. Imagine the facts of the case on your own? -06 marks
- 11-Frame a charge U/S 302 I.P.C. read with Section 34 I.P.C. in the aforementioned session trial? -02 marks
- 12-You are trying a civil suit for permanent prohibitory injunction in which the material pleas are denied by the defendant in his written statement. Kindly frame issues. Imagine the facts of the case yourself. -02 marks
