

DO NOT OPEN THIS QUESTION BOOKLET UNTIL YOU ARE ASKED TO DO SO



**MANIPUR JUDICIAL SERVICE GRADE - I
MAIN WRITTEN EXAMINATION, 2020**

Subject:- LAW PAPER - II

DURATION: 3 Hrs.

FULL MARKS: 100 MARKS

INSTRUCTIONS:

1. Immediately after the commencement of the examination, you should check that this question booklet does not have any unprinted or torn or missing pages. If so, get it replaced by a complete new question booklet.
2. Write your roll number:
3. Use of Calculator/Mobile Phone or any other electronics gadget inside the examination hall is strictly prohibited.
4. Use of unfair means in the Examination Hall, causing disturbance to others or indiscipline of any sort will lead to cancellation of candidature followed by legal action (if necessary).
5. Removing pages from the question booklet and handing over/taking of other's question paper is strictly prohibited and will be treated as use of unfair means.
6. Ensure that you have returned the answer sheets to the invigilator before leaving the examination hall.
7. You may take this question booklet along with you after the completion of the examination.

DO NOT OPEN THIS QUESTION BOOKLET UNTIL YOU ARE ASKED TO DO SO

Manipur Judicial Service, Grade-1 Examination

PAPER III- 2020

PART-A

Answer any three of the following questions.

{3x10=30 marks}

1. What is the concept of State under Indian Constitution?
2. Write a brief note on principle propounded in case of **Menaka Gandhi V UOI**.
3. What are the remedies available in the Indian Constitution against infringement of Fundamental rights?
4. What do you mean by Judicial Review under Constitution of India? Can there be Judicial Review of any Economic Policy?
5. What do you mean by Doctrine of Basic Structure? Can there be amendment in the basic structure of Constitution?

PART-B

Answer any two questions- each question carries 10 marks.

{2x10=20 marks}

6. Discuss the role of Roscoe pound in developing the sociological jurisprudence.
7. Distinguish between Austinian's theory of law and Kelson's pure theory of law.
8. What is the doctrine of Ratio Decidendi? Distinguish between Ratio Decedent and Obiter Dicta?
9. What do you understand by the expression "Sources of Law"? What are the different sources of Law?

PART – C

Judgment writing- Each judgment carries 25 marks.

{2x25=50 marks}

10. Frame necessary issues and write judgment on the available evidence, documents and pleadings. The candidates are required need not reproduce the facts given below and it is suffice for them to proceed with discussion on each issue/point and arrive at the conclusion. The candidates shall not reveal their identity by specifying any name, address, name of Court or any other details other than the facts given below.

CIVIL SUIT NO 15/2020

The plaintiff filed the suit for recovery of double of earnest money amounting to Rs.10,00,000/- paid in pursuance of Agreement to Sell dated 16.09.2013 against the defendant along with interest at the rate of 24% per annum from the date of filing of the suit till realization of the amount.

THE CASE OF THE PLAINTIFF

The plaintiff and the defendant entered into an agreement to sell dated 16.09.2013 in respect of the property bearing No. B-1122/1, out of Khasra No.233/1 measuring 100 sq. yards situated at Gali No 1, Chauhan Bangar, Delhi-110053 (hereinafter referred to as “**suit property**”) stated to be owned by the defendant. The defendant assured the plaintiff that he is the registered owner of the suit property and on his assurance the plaintiff has agreed to purchase the suit property for a sale consideration of Rs.1,15,50,000/-. The plaintiff paid Rs.10,00,000/- as earnest money in cash against the receipt in presence of two independent witnesses. The defendant agreed to execute the title deed in favor of the plaintiff in respect of the suit property on 15.02.2014 and on that day, the

plaintiff has to pay balance sale consideration to the defendant. The plaintiff repeatedly approached the defendant to receive the balance sale consideration and to execute the title deed in respect of the suit property. The plaintiff was always ready and willing to make the balance payment and abide by the terms and conditions of the agreement to sell dated 16.09.2013. The defendant asked the plaintiff to come at the Office of Sub-Registrar, Delhi on 17.02.2014 with the balance sale consideration. The plaintiff on 17.02.2014 waited for the defendant in the Office of Sub-Registrar, for execution of title deed in his favor after payment of balance sale consideration. The plaintiff also marked his presence in Office of Sub-Registrar vide receipt no.1052 dated 17.02.2014. The plaintiff approached the defendant on 18.02.2014. The defendant informed the plaintiff that the original owner of the suit property did not execute the title deed in favor of the defendant and due to this reason the defendant could not execute the title deed in respect of the suit property in favor of plaintiff. The defendant as such cheated and defrauded the plaintiff as the defendant was not the owner of the suit property at the time of agreement to sell dated 16.09.2013. The plaintiff is always ready and willing to perform his part of contract and to make payment of balance sale consideration. The defendant has failed to execute the title deed in favor of the plaintiff in terms of agreement to sell dated 16.09.2013 as such the defendant is liable to pay the double amount of the earnest money i.e. Rs.20,00,000/-. The plaintiff served a legal notice of demand dated 28.08.2015 on the defendant but the defendant despite service did not reply said notice. The plaintiff being aggrieved filed the present suit for recovery of Rs.20,00,000/- against the defendant along with interest at the rate of 24% per annum from the date of filing of the suit till realization of the amount.

THE CASE OF THE DEFENDANT

The defendant filed the written statement and contested the claim of the plaintiff. The defendant in **preliminary objections** stated that the suit is liable

to be dismissed being not maintainable as the plaintiff did not take appropriate steps for completion of contract entered between the plaintiff and the defendant. The plaintiff has not appeared with clean hands and suppressed the material facts. The plaintiff after payment of Rs.10,00,000/- never approached the defendant for execution of relevant documents. The defendant in second week of February, 2014 approached the plaintiff for execution of the documents in favor of the plaintiff. The plaintiff explained his financial difficulty to the defendant but it was agreed that the plaintiff would get the suit property transferred in his favor on 17.02.2014. The defendant approached the Office of Sub-Registrar, on 17.02.2014 and paid Rs.100/- to the office as token on his presence in the office. The defendant remained present in the office for entire day but the plaintiff did not come for execution of title document in his favor. The plaintiff has implicated the defendant in frivolous litigations.

The defendant on **reply on merits** stated that the plaintiff never turned up to perform his part of contract for execution of the title document in his favor after payment of settled amount as the financial position of the plaintiff was no good due to low price of the property. The defendant on 17.02.2014 approached the concerned Sub-Registrar and marked his presence twice vide slip no. 10539 and 10541 dated 17.02.2014 but the plaintiff did not come to the office of the concerned Sub-Registrar. The defendant denied other allegations of the plaintiff.

EVIDENCE OF THE PLAINTIFF AND THE DEFENDANT

The plaintiff to prove its case examined him as PW1 and tendered the affidavit Ex.PW1/A. The plaintiff in affidavit Ex.PW1/A deposed about the execution of the Agreement to Sell dated 16.09.2013 Ex.PW1/1 in respect of the sale of the suit property between the plaintiff and the defendant for a sale consideration of Rs.1,15,50,000/- and payment of Rs.10,00,000/- as earnest money vide Receipt

Ex.PW1/2. The plaintiff in affidavit Ex.PW1/A also proved the Legal Notice dated 28.08.2015 as Ex.PW1/4. The plaintiff in cross-examination deposed that he did not know whether he was having sufficient money on relevant date for transferring the suit property in his name and denied the suggestion that he was not having sufficient money for the transfer of the suit property in his name. The plaintiff could not tell whether the market value of the suit property came down after execution of Agreement to Sell Ex.PW1/1 and denied the suggestion that due to the recession in the market value of the suit property he did not approach the defendant for the transfer of the suit property in his name. The plaintiff in the year 2013-14 was earning Rs.20,000/- per month by doing work of embroidery. The plaintiff admitted that he is not ready to purchase the suit property as the market value of the suit property has come down. The plaintiff has denied the suggestion that the defendant had suffered the loss/damage due to non-payment of balance sale consideration by him. The plaintiff also proved Receipt dated 17.02.2014 as Ex.PW1/2 to establish his visit to the office of Sub-Registrar, Delhi on 17.02.2014.

The defendant in affidavit Ex.DW1/A deposed that on 17./02.2014 he had gone to office of Sub-Registrar and placed on record two Receipts bearing no.10539 & 10541 which are Ex.DW1/1 & Ex.DW1/2. The defendant in the cross-examination deposed that he purchased the suit property in the year 2012. The defendant on 17.02.2014 was accompanied by DW2 Sanjay Singh and DW3 Sunder Singh to the office of Sub-Registrar. The defendant has taken the title documents in respect of the suit property to the office of Sub-Registrar. The defendant denied the suggestions that he was not the owner of the suit property at the time of the execution of the Agreement to Sell Ex.PW1/1 or that he was not competent to execute the sale documents in favor of the plaintiff. The defendant admitted that he did not send any notice or written letter to the plaintiff regarding the execution of the title deed in favor of the plaintiff in

respect of the suit property and for payment of balance sale consideration. The defendant in the cross-examination admitted that the sale deed was never executed by previous owner namely, Pradeep Rawal of the suit property who is in possession of the suit property and the defendant never remained in the possession of the suit property. The defendant to corroborate and support his testimony also examined Sanjay Singh as DW2 and Sunder Singh as DW3 who in their respective affidavits Ex.DW2/A and Ex.DW3/A deposed that on 15.02.2014 the defendant approached the plaintiff for execution of the title documents in respect of the suit property and it was agreed that the plaintiff shall be executing title documents in respect of the suit property on 17.02.2014 but the plaintiff did not come to the office of Sub-Registrar on 17.02.2014.

ARGUMENTS ADVANCED BY COUNSEL OF THE PLAINTIFF

The defendant did not plead and proved that he has suffered losses due to the non-payment of balance sale consideration by the plaintiff. The plaintiff was also not cross-examined by the defendant in material particulars regarding the financial losses suffered by him. The defendant has failed to execute terms and conditions of Agreement to Sell dated Ex. PW1/1. The defendant is liable to pay **suit amount.**

ARGUMENTS ADVANCED BY COUNSEL OF THE DEFENDANT

The plaintiff did not plead and proved that he suffered loss as sale deed/title deed in respect of the suit property was not executed by the defendant. The plaintiff has not suffered financial losses due to non-execution of the sale deed in respect of the suit property in his favor by the defendant. The defendant went to Office of Sub-Registrar for execution of title documents in favor of the plaintiff. The suit is liable to be dismissed.

11. Frame necessary charges and write judgment on the available evidence and documents. The candidates need not reproduce the facts given below and it is suffice for them to proceed with the discussion on each charge/point and arrive at the conclusion. The candidates shall not reveal their identity by specifying any name, address, name of court or any other details other than the facts given below.

SC-123/19

FIR No: 112/14

CASE OF PROSECUTION

Ram Singh (hereinafter referred to as **“the complainant”**) is residing at house no.123, Gali no.6, Shahdara, Delhi along with his parents and is doing a private job. The complainant on 28.11.2014 at about 5:30PM left his house to attend the engagement ceremony of the daughter of his friend residing at Mukund Vihar, Karawal Nagar. The complainant after the function was over along with neighbour Paswan came out and in the *gali* (street) Mohan (hereinafter referred to as **“the accused”**), an auto rickshaw driver was standing. The accused asked the complainant and Paswan that whether they had removed music system from his auto but the complainant and Paswan informed the accused that they did not remove music system from the auto of the accused. The accused started to quarrel with the complainant and Paswan and brought a rod like object from his auto. The accused hit the complainant with said object due to which the complainant sustained injury on the left side of his forehead. The public persons also gathered at the spot but the accused managed to ran away from the spot. The complainant was brought to his house. The police was informed. PCR

removed the complainant to G.T.B hospital. The statement of the complainant was recorded.

SI Sachin on 28.11.2014 after receipt of DD no.74B along with Ct. Sandeep reached at GTB Hospital. SI Sachin prepared *tehrir*. FIR was registered. Subsequent investigation was handed over to HC Balbir Singh who arrested the accused. The weapon of offence could not be recovered. The accused after completion of the investigation was charge sheet for offence punishable under section 323/341/308 of the Indian Penal Code, 1860 (hereinafter referred to as "**IPC**") and the charge sheet was filed before the concerned court.

The copies of charge sheet and annexed documents were supplied to the accused in compliance of Section 207 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "**Cr.P.C.**"). The concerned Metropolitan Magistrate vide committal order dated 13.03.2019 committed the case to the Court of Sessions and assigned to this Court for trial in accordance with law.

EVIDENCE OF PROSECUTION

The prosecution examined the complainant/injured Ram Singh as PW-1, Dr. Sanjay Kumar, Consultant at Daksh Hospital near Chaudhary Charan Singh University, Meerut, UP as PW-2, Ct. Yogesh Kumar as PW-3, ASI Rambir Singh as PW4, SI Sachin Kumar as PW5 and HC Balbir Singh as PW-6.

PW1 is the complainant. PW2 Dr. Sanjay Kumar Consultant at Daksh Hospital near Chaudhary Charan Singh University, Meerut, UP examined the complainant. PW3 Ct. Yogesh Kumar participated in the investigation along with Investigating Officer SI Sachin Kumar. PW4 ASI Rambir Singh being Duty officer registered the FIR bearing no.1077/14 under section 323/341 IPC on the basis of *tehrir* sent by the Investigating Officer Sachin Kumar. PW5 SI Sachin Kumar being the Investigating Officer conducted the initial

investigation. PW6 HC Balbir Singh conducted subsequent investigation and arrested the accused.

The prosecution proved complaint of the complainant PW1 as Ex. PW1/A, *tehrir* as Ex. PW5/A, the computerized copy of FIR bearing no.1077/14 u/sec. 323/341 as Ex. PW4/B, endorsement on *tehrir* as Ex. PW4/A, certificate under section 65-B of the Indian Evidence Act as Ex. PW4/C, site plan as Ex. PW1/B, MLC of the complainant/injured Prempal as Ex. PW2/A, arrest and personal search memos of the accused as Ex. PW3/A and Ex. PW3/B. The prosecution evidence was ordered to be closed vide order dated 25.09.2019.

The complainant/injured Ram Singh as PW1 supported the case of the prosecution and deposed that on 27.11.2014 he had gone to Mukund Vihar, Karawal Nagar to attend engagement ceremony of the daughter of his friend Rajpal and when he came out after attending the function, the accused was found to be standing in the gali (street) in drunken condition. The accused asked from him regarding removal of music system from his auto and at that time Paswan, neighbour of the complainant and other persons were also present with the complainant. The complainant informed that he did not steal the music system from the auto of the accused then the accused started to abuse the complainant and brought one iron rod from his auto and assaulted the complainant on his head. The accused managed to escape from the spot and the complainant came back to his house. The police was informed and thereafter police removed the complainant to GTB Hospital. The statement Ex. PW1/A of the complainant was recorded. The complainant in cross examination deposed that he was discharged from the hospital on the same day. The complainant had given complaint Ex. PW1/A in his own handwriting. The police did not record the statement of any other person who gathered at the spot in his presence. The complainant denied the suggestion that the accused was not present at the spot

or that no scuffle took place between the complainant and the accused. The prosecution to prove the injuries received by the complainant examined Dr. Sanjay Kumar as PW2 who deposed that on 27.11.2014 he was working at GTB hospital and the complainant was referred to Neurosurgery Department for further treatment. The complainant was advised for CT Scan of his head but the complainant refused to undergo the CT scan test. PW2 Dr. Sanjay Kumar in MLC Ex. PW2/A could not give medical opinion regarding the nature of injury. PW2 Dr. Sanjay Kumar in cross-examination could not tell that whether the injury noticed on the complainant was self-inflicted injuries. The prosecution also examined Investigating Officers SI Sachin Kumar as PW5 and HC Balbir Singh as PW6. PW5 SI Sachin Kumar in the intervening night of 27/28.02.2014 was on emergency duty and after receipt of DD no.74B along with Ct. Sandeep went to GTB hospital where he obtained MLC Ex.PW2/A and statement Ex.PW1/A of the complainant. PW5 SI Sachin Kumar in cross-examination deposed that he left GTB hospital along with the complainant PW1 at about 2:45AM and denied the suggestion that the complaint Ex.PW1/A was given by the complainant after being tutored. PW6 HC Balbir Singh who conducted subsequent investigation arrested the accused vide arrest memo Ex.PW3/A but could not recover weapon of offence. PW6 HC Balbir Singh admitted that the place of occurrence was a crowded place and the complainant PW1 is the relative of the accused. PW6 HC Balbir Singh denied the suggestion that he has not conducted fair investigation.

STATEMENT OF ACCUSED UNDER SECTION 313 Cr.P.C.

The statement of the accused was recorded under section 313 Cr.P.C. The accused denied the incriminating evidence against him and pleaded false implication and his innocence. The accused stated that there was no scuffle between him and the complainant at any point of time. He further stated that he

was not present at the spot at the time of the incident. The accused did not lead evidence in defence.

ARGUMENTS ADVANCED BY DEFENCE COUNSEL

1. Weapon of offence i.e. iron rod was not recovered and seized by the investigating officer.
2. No public person was included in the investigation.
3. No evidence led by the prosecution which can reflect that the complainant received such injury which was likely to cause the death of the complainant not amounting to murder:
4. The alleged injury on the complainant is self-inflicted.

ARGUMENTS ADVANCED BY PUBLIC PROSECUTOR

1. The Public Prosecutor argued that non-recovery of weapon of offence is not always fatal to case of the prosecution.
2. The Public Prosecutor argued that the complainant received injuries on his head as such the case falls within the ambit of section 308 IPC.
3. The prosecution proved its case beyond reasonable doubt.