

**HIGH COURT OF BOMBAY
MAIN WRITTEN EXAMINATION-2024
FOR THE POST OF DISTRICT JUDGE
PAPER II- CRIMINAL LAW
QUESTION PAPER**

Date: 19 th January, 2025	Total Marks: 100
Time: 2.00 p.m. to 5.00 p.m.	

INSTRUCTIONS

1. All Questions are compulsory.
2. Figures to the right indicate marks.
3. Answers to optional questions, in excess of prescribed number, will not be assessed.

Q.1 Write a judgment as a trial judge on the following facts after 30 mentioning bare necessary facts and presuming that necessary and relevant documents have been produced. Do not mention any names other than those given in the question and if necessary to mention names of witnesses, refer them as PW-1.... or DW-1...., as the case may be, without mentioning any name. Do not mention your name or any other name or put signature as author of the judgment. Judgment need not be in the form prescribed in the Criminal Manual and may begin with the simple heading 'Judgment'.

Facts:

01. The victim girl (PW6), aged about 8 years is alleged to be deaf and dumb and mentally retarded. On 13.11.2019 at about 11:00 a.m; PW2, mother of the victim, went to the field and dropped the victim at the house of the victim's aunt(PW4). Accused was running a Pan Stall near the house of PW4. Accused is a relative of PW4. Victim alone went to the shop of accused for purchasing chocolate. As the victim did not return home after lapse of time, PW4 went in search of victim. PW4 saw the victim lying on the cot while her frock removed and her legging was striped off up to her knees and the accused while lying on her person was kissing her breast and abdomen. On seeing PW4, accused was scared. PW4 got the victim down from the cot, dressed her and brought her home. PW2, returned home from the field at about 2:30 pm. PW4 narrated the incident to her. Husband of PW2 and his brother returned home at about 6:00 pm. PW4 and PW2 narrated the incident to them. PW4,

her husband and her relatives went to the house of accused and questioned him as to why he did so, whereupon he raised quarrel with them. Immediately thereafter, they went to police station where PW2, lodged report against accused at about 9.00 p.m. Upon usual investigation, Accused was charge-sheeted and put on trial for having committed an offence punishable u/s 376 (2)(j) and 376(AB), r/w 511 of the Indian Penal Code, and u/s 6 r/w 18 of the Protection of Children from Sexual Offences Act, 2012.

02. Prosecution examined the Spot and seizure panch Mr. Ashish (PW1), victim's mother (PW2), Mr. Roshan, Jr. Clerk (PW3) from the office of Birth and Death Dept, Municipal Council, victim's aunt (PW4), Mr. Baban (PW5) an interpreter and sign language expert, the victim (PW6), the Medical Officer (PW7) and the Investigating Officer (PW8). Prosecution also relied on documentary evidence including disability certificate of the victim disclosing 100% hearing impairment.

03. PW.4 though admitted that she had no lavatory at her house, she denied that she and her family members were using the lavatory which was on the plot, where accused was running his shop. She denied that she wanted to purchase the said plot from its owner. PW4 admitted that her house is situated besides the shop of accused and that the house of PW2 was situated on the other side of the road nearby the house of the accused.

04. The victim was unable to depose and even did not understand sign language. PW5 deposed and certified to that extent. According to PW7, labia majora and clitoris, as well as vagina of victim were normal. Perineal tear was absent and there was no bleeding. PW7 deposed that according to the history, sexual assault occurred upon victim with no history of sexual intercourse and accordingly, she had issued the medical report.

05. PW7 admitted that there were no violence or injury marks on the person of the victim and that there was no certification of mental retardation and yet she has mentioned the victim to be mentally retarded in her report. No semen was detected on he clothes of the victim or the accused.

06. PW8 admitted that the lavatory and house of PW4 were not shown in sketch map of the spot panchanama, though the lavatory is on the plot where the pan shop is situated and house of PW4 is besides the pan shop.

07. Accused totally denied the allegations. In his statement u/s 313 of the Code of Criminal Procedure, 1973 he stated that he was Chairperson of the Village Dispute Resolution Committee for about ten years and was about 65 years old at the relevant time. He and victim's family were affiliated to rival political parties. There was a lavatory in the plot where his shop is situated. About 15 to 20 days prior to the alleged incident, he had restrained PW4 and her family members from using the lavatory and since then they were on cross terms with him. PW4 was interested in purchasing the said plot. He was implicated at the instance of rival political party. It is his further defence that customers and his family members frequented his shop for whole day. Interior of his shop was visible from the road as well as from the house of PW4. On the day of incident, DW1 Satish and DW2 Devidas were sitting in front of his shop from 12:00 noon to 2:00 pm.

08. DW1 and DW2 deposed that they were at the shop of the accused in the afternoon and that there were disputes between the accused, PW4 and her family members over use of said lavatory.

Q.2 Write a detailed note of about 400 words on any one of the following: 20

- A M'Naghten's Rules and the penal provisions in the Indian context.
- B Milestones in the interpretative journey from 'right to life' to 'right to die with dignity'.
- C 'Abetment to suicide' - dichotomy between legal and common sense.
- D Exposition of 'right to bail' in recent judicial pronouncements - a balancing act between Constitutional guarantee and societal concern.

Q.3 Answer any two of the following in detail 20

- A 'Every homicide is not a murder'. Explain.
- B Connotation of the expression 'any place within public view' under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act, 1989.

C Whether presumptions u/s 29 and 30 of the **Protection of Children from Sexual Offences Act, 2012**, dilute the presumption of innocence? If yes, to what extent?

D Penal liability of Directors under the **Negotiable Instruments Act, 1881**.

Q.4 Distinguish between any two of the following legal 20 definitions/concepts.

A 'Common intention' and 'Common object'

B 'Confession' and 'Extra Judicial Confession'

C 'Preparation to commit an offence and 'Impossible attempt to commit an offence'

D 'Criminal breach of trust' and 'Cheating'

Q.5 Write short notes on any two of the following. 10

A 'Relationship in the nature of marriage' under the **Protection of Women from Domestic Violence Act, 2005**.

B Criminal misconduct as per the **Prevention of Corruption Act, 1988**.

C Disposal of seized narcotic and psychotropic substances.

D *Res gestae*
