

# **National Forensic Sciences University**



## **TA-II Assignment**

**Subject: Introduction to Forensic Science and law**

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## **Q-1. Write a short note on the following: (any 3)**

### **a) Punishment**

- It is the infliction of some kind of pain or loss upon a person for a misdeed. It can take many forms ranging from capital punishment, flogging, forced labour, and mutilation of the body to imprisonment and fines.
- Chapter III, Section 53 of IPC, 1860 defines the punishment to which the offenders are liable.
- Punishments are of six types- Death, Imprisonment for life, Imprisonment (Rigorous and Simple), forfeiture of property, and fine.

### **b) Constitution of India**

- The Constitution of India is considered to be the supreme law of the country, as it puts forth the framework of fundamental political principles. It establishes the structure, procedures, powers, and duties of the government and mentions the fundamental rights, directive principles, and duties.
- The constitution declares India as a Sovereign, Socialist Democratic, and Republic with a parliamentary form of government. The Indian Constitution shows the Federal as well as Unitary System.

### **c) Civil and Criminal Courts**

- Civil Court:
  - Civil court deal with the general law which solves disputes between 2 organizations or individuals. As per Civil law, the wrongdoer will have to compensate the affected organization or individual.
  - Civil law deals with Property, Money, Housing, Divorce, custody of a child in the event of divorce, etc.
- Criminal Court
  - Criminal Court deals with offenses that are committed against society. It met out varying degrees of punishment commensurate with the crime committed.
  - Criminal Law will deal with serious crimes such as murder, rape, arson, robbery, assault etc.

## Q-2) Attempt any 2 questions-

### a) Difference between Cognizable and Non Cognizable Offences

Cognizable Offences	Non-Cognizable Offences
<ul style="list-style-type: none"><li>➤ Cognizable offences are those in which the investigating authority can arrest the accused without an arrest warrant.</li></ul>	<p>Non-cognizable offences are those in which the investigating authority can not arrest accused without an arrest warrant.</p>
<ul style="list-style-type: none"><li>➤ Permission of the court is not required. Investigation can be initiated as soon as an FIR is filed.</li></ul>	<p>Permission of court is required. Investigation can begin only after the court issue an order.</p>
<ul style="list-style-type: none"><li>➤ Cognizable offences are serious crimes.</li></ul>	<p>Non-cognizable offences are less serious.</p>
<ul style="list-style-type: none"><li>➤ It is defined in the section 2(c) of the Criminal Procedure Code, 1973.</li></ul>	<p>It is defined in Section 2(I) of Criminal Procedure Code 1973.</p>
<ul style="list-style-type: none"><li>➤ Example: Murder, theft, Kidnapping, etc</li></ul>	<p>Example: Assault, cheating, defamation etc</p>

## **b) Define Forensic Science and explain its nature and scope.**

### ➤ Forensic Science

- Forensic: The word forensic means **before the forum**. The term originates from roman times where criminal charges are meant to be presented before a group of public individuals in the forum.
- Forensic Science is the amalgamation of all the sciences used for judicial purposes.
- It is the application of scientific technology to supply accurate and objective information reflecting the events that occurred during a crime.
- In other words, it is the application of scientific knowledge to legal problems.
- It is the process of identifying, analysing and comparing the material evidence.
- It establishes the link between the crime, the criminal, the victim, the weapon of the offence, the place and the time of occurrence.
- It may be a simple identification of the presence of a criminal to the complicated profiling. (For example- from obvious evidence to complex DNA, molecular biology)

### ➤ Nature:

- Application of broad spectrum of sciences to answer questions of interest to a legal system.
- This may be in matters relating to criminal law, civil law and regulatory laws.
- It may also relate to non litigious matters.

### • Scope:

- Scope is everywhere where there arises a question of interest to a legal system.
- Preparation for Arguments on charge (Interpretation of M.L.C, Postmortem reports & other forensic reports help the Lawyer to argue on charge)
- Preparation for the cross-examination of the witnesses (Forensic Experts, Medical Experts, Doctors etc.)

### **Q-3. Elaborate on any two:**

#### **b) Indian Penal Code**

##### ➤ Indian Penal Code

- The Indian Penal Code in its basic structure is a document that consists of the list of all the punishments and the cases that a person who commits any kind of a crime is to be held liable and charged with.
- It covers any Indian citizen or a person of Indian origin. The exception to this document is that any kind of military or armed forces crimes cannot be charged on the basis of the Indian Penal Code.
- They have a different dedicated list of laws and the Indian penal code cannot supersede any part of it.
- The Indian penal code IPC is the main criminal code of India. It extends to the whole of India except to the state of Jammu and Kashmir.
- The introductory draft of the Indian penal code was formulated in the year 1860 and this was done under the supervision of the First law commission which was chaired by Lord Macaulay.
- The first penal code came into existence in the year 1862 and since then number of amendments have been made in the code.
- It is a comprehensive code that intends to cover all the substantive aspects of criminal law.
- In Jammu and Kashmir the Indian penal code is known as Ranbir penal code (RPC)

##### ➤ Objective of IPC

- The objective of this Act is to provide a general penal code for India.
- Though not an initial objective, the Act does not repeal the penal laws which were in force at the time of coming into force in India.

- This was so because the code does not contain all the offences and it was possible that some offences might have still been left out of the code, which was not intended to be exempted from the penal consequences.
- Though this code consolidates the whole of the law on the subject and its exhaustive on the matters in respect of which it declares the law, many more penal statutes governing various offences have been created in addition to the code.

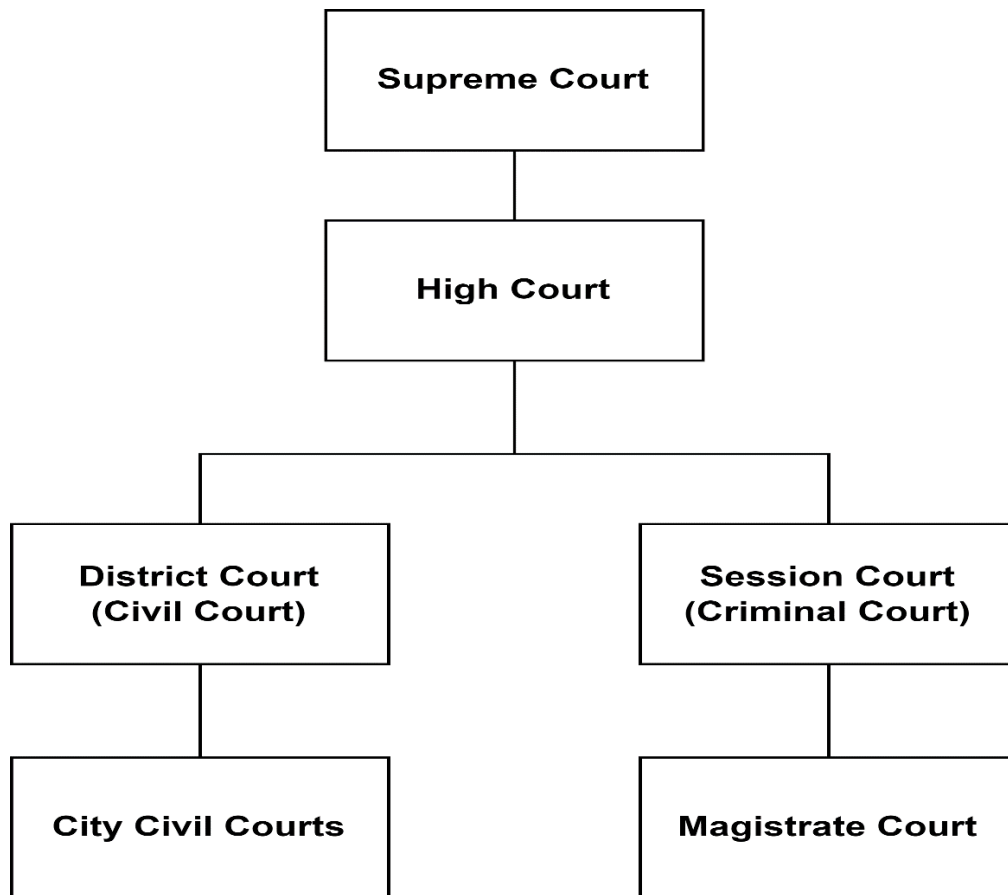
➤ Structure of IPC

- The Indian Penal Code 1860, subdivided into twenty three chapters, comprises five hundred and eleven sections.
- The Code starts with an introduction, provides explanations and exceptions used in it, and covers a wide range of offences.

➤ Some of the sections of the Indian Penal Code stated below:

- IPC 44: Any harm whatever illegally caused to any person, in body, mind reputation or property.
- IPC 88: Act not intended to caused death, done by consent in the good faith
- IPC 89: Act done in good faith for benefit of child or insane person, by or by consent of guardian.
- IPC 191: Giving false evidence
- IPC 375 : A man is said to commit a rape who has sexual intercourse with a women.

### c) Hierarchy of courts in India



#### ➤ Supreme Court:

- The Supreme Court has original, appellate and advisory jurisdiction. Its exclusive original jurisdiction includes any dispute between the Centre and State(s) or between States as well as matters concerning enforcement of fundamental rights of individuals.
- The appellate jurisdiction of the Supreme Court can be invoked by a certificate granted by the High Court concerned in respect of any judgment, decree, or final order of a High Court, in both civil and criminal cases, involving substantial questions of law as to the interpretation of the Constitution or any law.

- Under Article 141 of the Constitution, all courts in India are bound to follow the decision of the Supreme Court as the rule of law.
- Further, Article 142 of the Constitution empowers the Supreme Court to pass any order as may be necessary for doing complete justice between the parties.

➤ High Court:

- High Courts have jurisdiction over the States in which they are located.
- There are at present, 25 High Courts in India. However, few of the High Courts have jurisdiction over more than one State or Union Territories: Bombay (Mumbai) High Court, Calcutta High Court (Kolkata), Guwahati High Court, High Court of Judicature at Hyderabad, Madras (Chennai) High Court and Punjab and Haryana High Courts.
- High Court decisions are binding on all the lower courts of the State over which it has jurisdiction.

➤ District Court & Session Court:

- Next to the high court, District and Session Court is functioning for citizens of India.
- District Courts in India take care of judicial matters at the District level.
- Headed by a judge, these courts are administratively and judicially controlled by the High Courts of the respective States to which the District belongs.
- The District Courts are subordinate to their respective High Courts.



➤ Magistrate Court:

- Every district has one magistrate court.
- In this magistrate court, one chief judicial magistrate is appointed.
- The main function of this court is to deal with the criminal cases.
- The punishment given by magistrate are:
  - i) 3 Years Prison.
  - ii) Minimum fine amount Rs.5000.

#### **Q-4. Explain in detail Principles of Forensic Science.**

##### ➤ Principles of Forensic Science

- Law of Individuality
- Law of Exchange
- Law of Progressive Change
- Law of Comparison
- Law of Analysis
- Law of Probability
- Law of Circumstantial Facts

##### 1) Law of Individuality.

**“ Every object, natural or man-made, has an individuality which is not duplicated in any other object or in other words No two things in this universe are alike even when they are manufactured in the same machine one after the other”**

- There are small flaws in the materials, through mixing of raw material; fluctuation in electricity; wear and tear defects of the machine; in the arrangement of the crystals, imperfect stamping or due to inclusion of some extraneous matter. These individual characteristics can be useful in distinguishing intra and inter batch variations
- The law of individuality has fundamental importance and form the basis for forensic identification. Anything and everything involved in a crime has individuality. If the same is established, it link the crime and the criminal.

##### 2) Law of Exchange

**“Every Contact leaves a Trace”**

- Point of entry: If a criminal enters the premises through a ventilator, he leaves his footprints/fingerprints in dust on the shelf

- At crime scene: While committing a crime, if he breaks a window or a door, the culprit leaves its mark over the wooden frame or the burglar who opens the safe by using an explosive or by any other means – hammering etc., leaves the area around and the clothes (including shoes) covered with insulating material as well as some exploded and unexploded material.
- Point of exit: After committing the crime when the criminal tends to leave the crime scene, he is most likely to leave and carry some minute traces for example his footprints at the point of exit. It is although very rare that he dares to or neglects to leave or carry gross objects or traces on a thorough search. These trace evidences left owing to the principle of exchange; help to connect the crime and the criminals as effectively as the bigger objects or traces.

### 3) Law of Progressive Change

#### **“Everything changes with the passage of time”**

- The criminals undergo several progressive changes with time. If he is not apprehended in time, he becomes unrecognizable except perhaps through his fingerprints, bone fractures or any other characteristics of permanent nature, which may or may not be always available, therefore not dependable.
- The scene of crime also undergoes rapid changes. The weather, the vegetable growth, and the living beings (especially human-beings) make extensive changes in comparatively short periods (longer the delay in examining the scene, greater will be the changes. After some time, the scene may become unrecognizable).
- The evidences involved in crime may be affected by external conditions, change gradually like the firearm barrels loosen, metal objects rust, the shoes or shoe prints suffer additional wear and tear and the tools acquire new surface patterns. The degree of change

depends upon the time, the upkeep and the use or the misuse of the particular object. In course of time the object may sometimes lose all practical identity vis-à-vis a particular crime.

#### 4) Law of Comparison

**“Only the likes can be compared”**

- It emphasizes the necessity to provide like/similar type of samples and specimens for comparison with the questioned items.
- Examples-Murder cases, Contested document cases, Hair analysis, etc.

#### 5) Law of Analysis

**“The analysis can be no better than the sample analyzed”**

- Improper sampling, contaminations render the best analysis useless. This principle emphasizes on the necessity to collect proper sample and properly packed for effective use of experts.
- Example- Rape cases, etc.

#### 6) Law of Probability

**“Probability is a mathematical concept, which determines the chances of occurrence of a particular event in a particular way out of a number of ways in which the event can take place or fail to take place with equal facility”**

- If P represents probability, Ns the number of ways in which the event can successfully occur (with equal facility) and Nf the number of ways in which it can fail (with equal facility), the probability of success is given by the formula:
- $P = \frac{N_s}{N_s + N_f}$

## 7) Law of Circumstantial Facts

### **"Facts don't lie"**

- The dependence on the oral evidence is placed in accordance with the observations of eyewitness. Although, experiences and experiments have repeatedly proved that sometimes these can be unreliable.

**Q-4. Write a well explained case study on any type of crime happening in India. Explain the whole case study and also the verdict of the case (if declared) and mention the acts under which the accused was punished.**

**UNION OF INDIA v. K.A. NAJEEB, (2021)**

Case no: [(2021) 3 SCC 713]

Date of Judgement: 01/02/2021

**Facts:**

One Professor TJ Joseph while framing a Malayalam question paper for the second semester of B.com exam at the Newman College, Thodupuzha, included a question which was considered objections against some particular religion by certain sections of society.

On 04/07/2010 at about 8AM, Najeeb with a group of people with a common objective, attacked the victim professor Joseph when he was returning home with his mother and sister after attending Sunday mass at a local Church. Over the course of the attack, they forcefully intercepted the victim's car, restrained him and chopped off his right palm with choppers, knives, and small axe. Country made bombs were also hurled at bystanders to create panic and terror in their mind and to prevent them from coming to help of the victim. An FIR was consequently lodged against the attackers by the victim's wife under sec 143, 147, 148, 120B, 341, 427, 323, 324, 326, 506(H), 307, 149 of IPC. and sec. 3 of Explosive Substances Act. As per records, over the course of investigation it emerged that the attack was part of large conspiracy and pre-planned.

Najeeb was arrested on 10/04/2015 and chargesheet was re-filed by the National Investigation Agency (NIA) against him.

Between 2015 to 2019, he applied for bail in front of the NIA special Court for 6 times, but each time the bail was rejected on the grounds of section 43D (5) of the act given that he was prima facie accused in the case.

Against this order of the special court, he filed an appeal in the Kerala High Court. The High Court noticed the fact that he has spent the last more than 5 years in judicial custody without a trial and recognized his right to speedy trial and access to justice protected under article 21 of the Constitution. Following which he was granted bail by the Kerala High Court in 2019 due to delay in trials.

Against this order of the High Court, an appeal was filed in the Supreme Court by the NIA stating that normal criminal laws will not apply on the statutory restrictions provided under the UAPA act i.e., Section 43D (5).

**Issue:**

- Whether restriction Section 43D (5) of UAPA applicable on violation of Article 21?
- Whether refusal of bail is mandatory where the suspect is prima facie guilty?
- Whether bail can be challenged without any specific grounds?

**Judgement:**

Even though the accused has been declared prima facie guilty by the NIA and there is provision under Section 43D (5) of UAPA to deny bail.

However, the courts can grant bail if the provisions under any law are violating the constitution rights of the accused, and in the present case by the facts put forth, it is crystal clear the hon'ble Supreme Court that the 'right to speedy trial ' has been violated.

Furthermore, Section 43D (5) has no precondition to restrict the accused to commit another crime, and it is just another way to delay the bail. therefore, the Supreme court concluded by upholding the decision of the High court and also found the special leave petition unmaintainable.