

**CHHATTISGARH
JUDICIAL SERVICE
EXAMINATION (MAINS) 2020**

Time : 3 hrs.

Marks : 100

1. Read the following carefully and write judgement after framing necessary issues : [40]

Plaintiff's Pleadings :

(i) The plaintiff filed a suit for recovery of Rs. 25,000/- on the basis of a pronote dated 22.10.2009. The case of the plaintiff is that the defendant is a rice mill owner. He borrowed a sum of Rs. 25,000/- from him for his business and executed a pronote, Ex. P1, dated 22.10.2009, agreeing to repay the said amount with interest at the rate of 18 per annum. The said amount of Rs. 25,000/- was paid to the defendant by way of cash by the plaintiff. In spite of repeated demands made by the plaintiff the defendant did not pay the amount, hence, notice dated 22.5.2012. Ex. P2 was issued. The defendant had received the notice. Even after receipt of the said notice, the defendant has not paid any amount.

Defendant's Pleadings :

(ii) The defendant filed written statement and denied the plaintiff's averments. The case of the defendant is that the plaintiff was running a chit fund in which defendant had subscribed some chits and availed chit amount in the beginning. Before making the payments, the plaintiff insisted him (i.e. defendant) to execute pronotes towards security for repayment of the balance chit installments and obtained defendant's signature not only on the suit pronote but also on other three pronotes. After the discharge of the chit amount, the defendant requested the plaintiff to return the pronotes, but he did not return the same on the ground that the pronotes were in the custody of his partner Sampath. According to the defendant one of the said pronotes was used for filing this suit. The defendant prayed for dismissal of the suit.

Plaintiff's Evidence :

(iii) The plaintiff examined himself and proved Exs. P1 to P3. The plaintiff deposed that on 22.10.2009, the defendant borrowed a sum of Rs. 25,000/- and executed the suit pronote Ex. P1, dated 22.10.2009 which bears the signature of the defendant. Ex. P2 is the notice issued by the plaintiff through his lawyer calling upon the defendant to pay the outstanding amount and Ex. P3 is the acknowledgement.

Defendant's Evidence:

(iv) The defendant examined himself. He deposed that the suit pronote and other pronotes were executed as security for repayment of the chit amount payable by him to the plaintiff. Plaintiff was conducting the chit unauthorisedly. Though the amount payable towards the chit was in fact fully paid, the plaintiff has not returned the pronote, including the suit pronote, executed by him. Ex. D1, dated 27.5.2012 is the reply notice to Ex. P2, Ex. D2 is the acknowledgement of the plaintiff.

Arguments Plaintiff :

(v) On behalf of the plaintiff it has been argued that the defendant has admitted his signature on Ex. P1, pronote. Even assuming that the suit pronote was executed as security for repayment of the chit amount and when according to the defendant the entire chit amount was paid, the defendant has not chosen to call upon the plaintiff to return the said pronotes; that even in reply of Ex. D1, the defendant has not stated that the entire chit amount payable by him to the plaintiff had been said in full. That no evidence was led by the defendant to prove that the pronote was executed as security for repayment of chit amount. The defendant has miserably failed to prove that the suit pronote was executed as security for repayment of chit amount. Therefore, the plaintiff is entitled to the decree sought for by him.

(vi) It has been also argued that since the defendant has admitted the execution of the suit pronote, Ex. P1 and admitted his signature on. Ex. P1 therefore, the presumption under Section 118 of the Negotiable Instruments Act is in favour of the plaintiff.

Arguments Defendant :

(vii) On behalf of the defendant it has been argued that he did not receive Rs.25,000/- as alleged by the plaintiff and his signatures were obtained by the plaintiff in blank pronotes as security for repayment of chit amounts. He has paid the entire amount due towards the chit transaction but the plaintiff and his friend Sampath refused to return the suit pronote to him.

2. Read the following carefully and write judgement after framing the necessary charges :[40]

On 30.09.2013 Rajkumari was on duty in the office of the Chief Reservation Supervisor, Bilaspur and she had received a sum of Rs. 1,77,560/- One lakh seventy seven thousand five hundred sixty) as cash and vouchers against making reservations in trains on that date, but she did not deposit the said amount. Next day, on 01.10.2013 at 10:30 a.m. when cash was compared, sum of Rs. 1,77,560/- One lakh seventy seven thousand five hundred sixty was found to be less. On being inquired from Rajkumari, she told that after discharged of her duty in the last night, she had handed over the cash of Rs. 1,77,560/- One lakh seventy seven thousand five hundred sixty) to her colleague (Mahesh) who was working at Counter No. 13. But, Mahesh also forgot to deposit the amount. On 01.10.2013, in the morning shift, Roshani Swas on duty on Counter No. 13. From the footage of CCTV, it was found that at 9:58 a.m. from the drawer of Counter No. 13. Roshan took out the money and wrapping the money with a red cloth she took the same with her out of the Counter and went out of the office. A report was made by one Virendra Singh. On the basis of the said report, the offence has been registered. During the course of investigation, it was found that out of that money, Roshani gave a sum of Rs. 1,69,665/- (One lakh sixty nine thousand six hundred sixty five to Ragani for hiding. On the basis of memorandum statement of Ragani, cash of Rs. 1,69,665/- (One lakh sixty nine thousand six hundred sixty five) was seized from her. On completion of the investigation, a charge-sheet was filed against Roshani and Ragani.

It was the defence that they are Falsely implicated in this case.

Prosecution examined complainant Virendra Singh (PW-1), Mahesh (PW-2), Rajkumari (PW-3) and Kishan Kumar (PW-4) from whom CCTV footage seized, witnesses (PW-5) and (PW-6) are

the witnesses of memorandum of the Roshani and Ragani and seizer of the cash by Investigating Officer (PW-7).

3. (i) निम्नलिखित हिन्दी गद्यांश का अंग्रेजी में अनुवाद कीजिए :

Translate the following Hindi passage into English:

[10]

(a) मोटे तौर से साक्षी से इस बात की आशा नहीं की जा सकती कि उसकी स्मरण शक्ति फोटोजनिक होगी और वह घटना के ब्यौरे को स्मरण कर लेगा।

(b) साक्षी उस घटना के बारे में पहले से अनुमान नहीं लगा सकता जिसमें प्रायः आश्चर्य का तत्व मौजूद रहता है। इसलिए मानसिक क्षमताओं के सम्बन्ध में इस बात की आशा नहीं की जा सकती कि वे ब्यौरे को आत्मसात् करने में समर्थ होंगे।

(c) परीक्षण की शक्ति एक व्यक्ति से दूसरे व्यक्ति में भिन्न होती है। जिस बात की ओर कोई एक व्यक्ति ध्यान दे सकता है, दूसरा व्यक्ति उस ओर ध्यान नहीं दे सकता।

(d) मोटे तौर से लोग किसी बातचीत को परिशुद्धता के साथ स्मरण नहीं रख सकते और जिन शब्दों का उन लोगों ने उपयोग किया था या उन्होंने सुना था, उसे अविकल रूप से बता नहीं सकते।

(e) मामूली तौर से साक्षी से यह आशा नहीं की जा सकती कि वह ऐसे घटना क्रम को परिशुद्धता के साथ स्मरण कर सकेगा जो कि तेजी के साथ घटती है या जो थोड़े समय में घट जाती है।

(ii) निम्नलिखित अंग्रेजी गद्यांश का हिन्दी में अनुवाद कीजिए :

[10]

Translate the following English passage into Hindi:

Once in a claim petition filed by the other claimant arising out of the same accident, it has been held that Insurance Company is liable to indemnify the owner and is jointly and severally liable to pay compensation, then the said finding would be binding. Only if any new evidence is led by parties, only then it would be possible for the Claims Tribunal to give a finding at variance with the findings recorded in earlier claim petition arising out of same accident. <https://www.pyqonline.com>

Non-bringing the legal representatives of the deceased driver of the offending vehicle do not affect adversely the petition. It does not result in abatement of the claim petition in toto because the owner of the offending vehicle is made vicariously liable for the act of his employee, i.e. driver, therefore, once it is held that the driver of the offending vehicle was rash and negligent and was responsible for the accident, then the owner of the vehicle would automatically become liable to pay compensation for the rash and negligent act of his driver. For the purpose of payment of compensation, the owner of the offending vehicle can be kept in the category of legal representative of the driver.

छत्तीसगढ़
व्यवहार न्यायाधीश
मुख्य परीक्षा वर्ष - 2020

समय : 3 घण्टे

पूर्णांक : 100

Missing question

(vi) यह तर्क भी दिया गया था कि चूँकि प्रतिवादी ने वादग्रस्त प्रॉमिसरी नोट प्र. पी. 1 का निष्पादन स्वीकार किया है और प्र.पी. 1 पर अपने हस्ताक्षर स्वीकार किए हैं, इसलिए धारा 118 नेगोशिएबल इंस्ट्रुमेंट्स अधिनियम के अंतर्गत उपधारणा वादी के पक्ष में है।

तर्क प्रतिवादी :

(vii) प्रतिवादी की ओर से यह तर्क दिया गया कि उसने वादी के द्वारा किए गए अभिवचनों के अनुसार 25,000 /- रुपये प्राप्त नहीं किए थे और उसके हस्ताक्षर वादी ने कोरे प्रॉमिसरी नोट्स पर चिट राशि के पुनर्भुगतान की सुरक्षा करवायी थी। वह चिट संव्यवहार के पेटे बकाया सम्पूर्ण राशि का भुगतान कर चुका है लेकिन वादी और उसके मित्र सम्पथ ने वादग्रस्त प्रॉमिसरी नोट उसे वापस लौटाने से इंकार कर दिया ।

2. निम्नलिखित का सावधानी से पठन करें तथा आरोप निर्मित करके निर्णय लिखें : [40]

दिनांक 30.09.2013 को राजकुमारी मुख्य आरक्षण पर्यवेक्षक, बिलासपुर के कार्यालय में काम पर थी। उसने उक्त तिथि को ट्रेनों में आरक्षण करने के विरुद्ध नकद एवं व्हाउचर के रूप में रुपये 1,77,560 (एक लाख सतहत्तर हजार पाँच सौ साठ) की धनराशि प्राप्त की थी, किन्तु उसने उक्त धनराशि को जमा नहीं किया। अगले दिन 01.10.2013 को 10:30 बजे पूर्वान्ह जब नकद की तुलना की गयी, रुपये 1,77,560 (एक लाख सतहत्तर हजार पाँच सौ साठ) की धनराशि को कम पाया गया। राजकुमारी से पूछने पर उसने कहा कि बीती रात अपने काम से निवृत्त होने के बाद उसने अपने साथी महेश जो काउंटर संख्या 13 पर कार्यरत था, को रुपये 1,77,560 (एक लाख सतहत्तर हजार पाँच सौ साठ) की नकद धनराशि को सौंपा था, लेकिन महेश भी धनराशि जमा करना भूल गया। 01.10.2013 को

प्रातः कालीन पाली में रोशनी काउंटर संख्या 13 पर कार्यरत थी। सी.सी.टी.व्ही. की फुटेज से यह पाया गया कि 9:58 बजे पूर्वान्ह काउंटर संख्या 13 की दराज से रोशनी ने धन निकाला तथा लाल कपड़े में धन लपेटते हुए वह उसी को अपने साथ लेकर काउंटर से बाहर निकली तथा कार्यालय के बाहर चली गयी। वीरेन्द्र सिंह द्वारा रिपोर्ट की गयी। उक्त रिपोर्ट के आधार पर अपराध पंजीकृत किया गया। अन्वेषण के दौरान यह पाया गया कि उस धन में से रोशनी ने रुपये 1,69,665 (एक लाख उन्नहतर हजार छह सौ पैसठ) रागनी को छिपाने के लिए दिया था। रागनी के ज्ञापन कथन के आधार पर उससे रुपये 1,69,665 (एक लाख उन्नहतर हजार छह सौ पैसठ) नकद अभिग्रहित किया गया। अन्वेषण पूरा होने के बाद रोशनी एवं रागनी के विरुद्ध आरोप पत्र प्रस्तुत किया गया।

प्रतिरक्षा का यह तर्क था कि उन्हें इस मामले में मिथ्या रूप से आलिप्त किया गया है।

अभियोजन ने रिपोर्टकर्ता वीरेन्द्र सिंह (अ० सा०1), महेश (अ०सा०2), राजकुमारी (अ० सा०3) एवं किशनकुमार (अ०सा०4), जिससे सी.सी.टी.व्ही. फुटेज वाले हार्डडिस्क को अभिग्रहित किया गया था, साक्षी (अ०सा०5) एवं (अ०सा०6) जिनके समक्ष रोशनी एवं रागनी के मेमोरेण्डम कथन अभिलिखित किए गए थे तथा धनराशि अभिग्रहित की गयी थी एवं मामले के अनुसंधान अधिकारी (अ०सा०7) के कथन कराये गये हैं।

3. (i) निम्नलिखित हिन्दी गद्यांश का अंग्रेजी में अनुवाद कीजिए : [10]

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(b) साक्षी उस घटना के बारे में पहले से अनुमान नहीं लगा सकता जिसमें प्रायः आश्चर्य का तत्व मौजूद रहता है। इसलिए मानसिक क्षमताओं के सम्बन्ध में इस बात की आशा नहीं की जा सकती कि वे ब्यौरे को आत्मसात् करने में समर्थ होंगे।

(c) परीक्षण की शक्ति एक व्यक्ति से दूसरे व्यक्ति में भिन्न होती है। जिस बात की ओर कोई एक व्यक्ति ध्यान दे सकता है, दूसरा व्यक्ति उस ओर ध्यान नहीं दे सकता।

(d) मोटे तौर से लोग किसी बातचीत को परिशुद्धता के साथ स्मरण नहीं रख सकते और जिन शब्दों का उन लोगों ने उपयोग किया था या उन्होंने सुना था, उसे अविकल रूप से बता नहीं सकते।

(e) मामूली तौर से साक्षी से यह आशा नहीं की जा सकती कि वह ऐसे घटना क्रम को परिशुद्धता के साथ स्मरण कर सकेगा जो कि तेजी के साथ घटती है या जो थोड़े समय में घट जाती है।

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