

BOARD OF DEPARTMENTAL EXAMINATION

PAPER 2

Session - DEC - 2017.

**CRIMINAL CASE
FOR IAS/HAS OFFICERS**

TIME: 3 HOURS

MAXIMUM MARKS: 100

NOTE:

Candidates can consult the Criminal Procedure Code, with or without commentary.

Question No. 1

Examine the legality of the order passed by the Magistrate in the following cases:

- a. An information is laid before the Sub Divisional Magistrate, Chamba, through police, that a group of persons has decided to go to Tissa which will indulge in acts that may lead to breach of public peace. The Police produces 10 persons who are arrested from the Bus Stand Chamba ready to board a bus to go to Tissa after buying tickets for Tissa. Police reports that some more people of one community were expected to assemble there later in the evening to erect a place of religious worship after demolishing the place of religious worship belonging to another community. Police demands that suitable action should be taken against these persons. The Magistrate considers the information, finds it credible and directs the Police that since the anticipated acts are to take place in Tissa Sub Division, the group of people should be taken in police custody and produced before the Sub Divisional Magistrate, Tissa.

05 marks

- b. An information is laid before a magistrate that the respondent has dug a trench near the public path and there is danger of people falling into it during the night. The police seek an order directing the person concerned to fill it up properly with muck and level it. The Magistrate issues Conditional Order u. s. 133, follows the procedure, inquires into the matter and finds that the complaint/information is correct. He, however, passes the order directing the Respondent to fence it and refuses to order that the trench be filled up to abate the nuisance.

05 marks

- c. An information is laid before the SDM regarding the obstruction to a public path. The opposing party objects and denies existence of a public path. Enquiry is initiated by SDM, evidence of both the parties is recorded. At that stage an application for local inspection is filed by the complainant to verify the situation at the spot. Magistrate allows the application and visits the spot himself where he finds that the path has, in fact, been blocked. He orders the removal of the blockade on the spot and supervises the same.

05 marks

- d. An information is laid before the magistrate that Mr. A (the person produced before him) has threatened to assemble a group of persons to forcibly evict a tenant and there is likelihood of breach of public peace. On the receipt of this information magistrate starts proceedings u. s. 107 Cr. P.C.; issues notice to Mr. A under Section 111 Cr. P.C.; starts inquiry and records evidence of both parties as in summons case and finds that the information is true. He, therefore, asks Mr. A to furnish Security with one surety for good behaviour for a period of six months to avoid any untoward incident.

05 marks

- e. An information is laid before the SDM on 4th of June, 2016 that the person produced before him is likely to commit the breach of peace. The magistrate conducts an enquiry and passes final order on 3rd October, 2016 asking the person to furnish the bond of Rs. 10,000/- with one surety for maintaining peace for one year starting from 4th June, 2016. The prosecution contends that the order should have been passed from 3rd October, 2016 and not from 4th June, 2016.

05 marks

- f. Police produces a person before the SDM with the allegations that he had run away on seeing the police and when apprehended failed to disclose his identity properly. A prayer is made for directing the person to execute the bond for good behavior. Magistrate conducts an enquiry and asks the person to furnish bond for good behavior for a period of one year.

05 marks

- g. An information is laid before the SDM that the respondent is running a brothel in a residential area which is causing nuisance to the inhabitants. Magistrate after conducting the enquiry refuses to take action under Section 133 Cr. P.C stating that the matter did not fall within his purview.

05 marks

- h. An information is laid before the SDM that a building was obstructing the view of the persons driving on the Highway and there is every possibility of head on collision due to the obstruction. Magistrate passes an order after enquiry directing demolition of the entire building.

05 marks

Question Number 2

An information is laid before the Sub Divisional Magistrate, Paonta Sahib that a procession of Tazia will be taken out by the Muslim community which will pass from the road in front of a Hindu Temple where many Hindus have gathered with the intention to oppose the movement of Tazia and there is an apprehension of a riot if the procession is allowed to be taken from the road before the temple.

- a. Assume that you are SDM, Paonta Sahib and you find that the Hindus have indeed gathered to oppose passing of Tazia procession. Pass final order in this case under appropriate Section of Cr. P.C.

20 marks

Question No. 3

Information is laid before SDM Shimla (Urban) that a meeting of a student organization belonging to a particular political ideology is going to be held on the following day in the meeting hall of the HP University which can lead to riot. The report is made against the President and Secretary of the Campus Unit of the said student organization and also against all the members of the student organization. The police witnesses, university staff and the witnesses belonging to the opposing student organization testify about the graveness of the situation. The Magistrate, after examining the witnesses on oath, is convinced about the need for immediate measures and he passes an order prohibiting the holding of the meeting.

- a. Comment on the legality of the Oder passed by the SDM Shimla (Urban).

10 marks

- b. Assuming that you are the SDM Shimla (Urban) what order you will pass on the Daily Order Sheet based on the information and testimony of witnesses examined.

20 marks

Question No 1

An information is laid before the SDM, Kangra that a dispute has arisen between two brothers after the death of their father regarding a residential house which can lead to a breach of peace. The information is laid before the Magistrate by the police based on a complaint filed by Mr. A (elder brother) against Mr. B (younger brother). The SDM issues notice to the parties under Section 145 Cr. P.C. Mr. B, when he appears before the SDM, produces an order of the Civil Court granting injunction in his favour and prays that proceedings be withdrawn.

- a. Pass appropriate order as SDM, Kangra.

10 marks