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Legal Reasoning

Directions for Legal Reasoning Section: Each set of questions in this section is based on the reasoning and arguments, or facts and principles set out in the preceding passage. Some of these principles may not be true in the real or legal sense, yet you must conclusively assume that they are true for the purposes of this Section. Please answer each question on the basis of what is stated or implied in the corresponding passage. Do not rely on any principle of law other than the ones supplied to you, and do not assume any facts other than those supplied to you when answering the questions. In some instances, more than one option may be the answer to the question; in such a case, please choose the option that most accurately and comprehensively answers the question.

Passage -1

An assault is an attempt or a threat to do a corporeal hurt to another, coupled with an apparent present ability and intention to do the act. Battery is the intentional and direct application of physical force to another person without any lawful justification. Actual contact is not necessary in an assault, though it is in a battery. But it is not every threat, when there is no actual personal violence that constitutes an assault; there must, in all cases, be the means of carrying the threat into effect. With respect to battery, assault can be defined as an act of the defendant which causes the claimant reasonable apprehension of the infliction of a battery on him by the defendant. Thus, Battery occurs where there is contact with another person, and assault is used to cover cases where the claimant apprehends contact.

A battery may include an assault which briefly stated is an overt act evidencing an immediate intention to commit a battery. It is mainly distinguishable from an assault in the fact that physical contact is necessary to accomplish it. It does not matter whether the force is applied directly to the human body itself or to anything coming in contact with it. Thus, to throw water at a person is an assault; if any drops fall upon him, it is a battery. Battery requires actual contact with the body of another person so a seizing and laying hold of a person so as to restrain him; spitting on the face, taking a person by the collar, are all held to amount to battery.

False imprisonment; the word 'false' means 'erroneous' or 'wrong'. It is a tort of strict liability and the plaintiff has not to prove fault on the part of the defendant. To constitute this wrong, two things are necessary. [1]. The total restraint of the liberty of a person. The detention of the person may be either (a) actual, that is, physical, e.g. laying hands upon a person; or (b) constructive, that is, by mere show of authority, e.g. by any officer telling anyone that he is wanted and making him accompany. [2]. The detention must be unlawful. The period for which the detention continues is immaterial. But it must not be lawful. Any reasonable restriction imposed upon the movement of people won't be a false imprisonment. "Every confinement of the person is an imprisonment, whether it is in a common prison, or in a private house, or in the stocks, or even by forcibly detaining one in the public streets.

Source: Extracted (with edits and revisions) An excerpt from article titled "Assault and Battery in law of Torts", published at 'Legal Service India'.

1. A teacher suffering from arthritis problem was moving around the classroom in the course of teaching. As he was moving back to reach his chair, a student saw a scorpion moving underneath the chair and immediately rushed to attack the scorpion and, in that process, moved the chair. Meanwhile, the teacher fell down in the process of taking his seat and broke his back. A suit was filed against the student for battery. Decide

- (a) The student is not liable since he wanted to save the teacher and others from the scorpion.
- (b) The student is liable since he knew that the teacher would be taking his seat.
- (c) The student should be held additionally liable for the assault as well.
- (d) Both (b) and (c)

2. In the facts of the last question, if instead of student a colleague of that teacher would have jovially pulled the chair from under him in the Faculty Room. As a result of which, A landed on the floor. As they were good friends, without any ill will, this was done with a view to play a practical joke upon the said teacher. Consequently, the teacher landed on the floor but was fortunately unhurt. Decide the liability of the colleague of the teacher who pulled the chair.

- (a) The colleague is not liable since it was not intentional application of physical force to another person.
- (b) The colleague is not liable since there was no element of bodily hurt in the instant case
- (c) The colleague is liable since his act amounts to Battery
- (d) Both (b) and (a)

3. Vidhaan was in his car when he was approached by a police officer who told him to move the vehicle. Vidhaan did so, reversed his car and rolled it on to the foot of the police officer. The officer forcefully told him to move the car off his foot at which point Vidhaan swore at him and refused to move his vehicle and turned the engine off. Vidhaan was convicted for assaulting a police officer in the execution of his duty. Decide upon his liability as per the information provided in the passage?

- (a) He is not liable because there cannot be an assault in omitting to act and that driving on to the officer's foot was accidental, meaning that he was lacking mens rea when the act causing damage had occurred.
- (b) He is not liable as the act neither amount to an attempt nor a threat to commit a battery that amounts to an actionable tort of assault.
- (c) Vidhaan is liable for battery for having driven on to the foot of the officer and deciding not to cease the act.
- (d) He is neither liable for assault nor battery as he accidentally drove his car on the police officer's foot.

4. Karolina and Prianca were amongst the finalists of the Miss India crown, and Prianca considered Karolina to be her biggest rival. Before the Grand Finale of the competition, Prianca invited Karolina to her house and locked her inside her storeroom. Now, the storeroom had another exit, behind the cupboard, however, Karolina was unaware of the same. She sat and wept while Prianca won the crown. Later, she let Karolina out after just six hours. Is Prianca guilty for false imprisonment?

- (a) No, because there wasn't total restraint of the liberty of Karolina, she could have escaped from the other door.
- (b) Yes, because Prianca ruined Karolina's chances of winning the crown and there was malafide intention.
- (c) Yes, because Karolina reasonably believed that her freedom of movement was curtailed as she neither knew nor was reasonably expected to know about the exit behind cupboard.
- (d) No, Prianca was justified as there was no corporeal harm and intention to harm is missing.

5. Identify between assault and battery in the following two cases

[1] Vidhan's parents did not let him out of the house as the temperature outside was really high and they warned him to not go outside. Vidhan sued his parents.

[2] Vidhan was a Rockstar. During one of his concerts one of his fans threw a tailor made bouquet of rose flowers towards him which he himself build keeping maximum thrones in it. One of the thrones in the bouquet hurt Vidhan and he sued the fan.

- (a) [1] is assault and [2] is battery
- (b) [1] is battery & [2] is assault.
- (c) [1] is neither battery nor assault & [2] is assault
- (d) [1] is neither battery nor assault & [2] is battery.

6. Vidhan saw a youtube video and called Dhruv Lathi telling him to not copy his jokes or else Vidhan will beat Dhruv blue with his stick and stones. Dhruv living in Indore sued Vidhan for assault as Vidhan was known for his ill temperament. Vidhan who lived in Delhi ran away to Noida apprehending legal action. Can Vidhan be held liable for assault?

- (a) Yes, as it is very clear from the threat that Vidhan is liable.
- (b) No, Vidhan is Vidhan is not liable in the instant case.
- (c) Yes, as Dhruv was actually copying the jokes of Vidhan, he too is wrong
- (d) Yes, Vidhan should have sued for copyright violation instead of threat.

Passage -2

President's Rule refers to the suspension of a state government and the imposition of direct rule of the Centre. The central government takes direct control of the state in question and the Governor becomes its constitutional head. The Vidhan Sabha is either dissolved or prorogued. Such a situation forces the Election Commission to conduct a re-election within six months.

Article 356 of the Constitution of India gives the President of India the power to impose this rule on a state on the advice of the Union - Council of Ministers. There are some conditions that the President has to consider before imposing the rule:

- a. If the President is satisfied that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the Constitution.
- b. The state government is unable to elect a leader as chief minister within a time prescribed by the Governor of that state.
- c. There's a breakdown of a coalition leading to the chief minister having a minority support in the House, and the CM fails to prove majority in the given period of time.
- d. Loss of majority in the Assembly due to a vote of no-confidence in the House.
- e. Elections postponed on account of situations like natural disasters, war or epidemic.

Proclamation of President's Rule under Article 356 of the Constitution stands for six months. This timeframe can be extended up to three years, in phases. President's Rule can be revoked at any time by the President and this does not require Parliament's approval.

According to the 44th Amendment Act of 1978, President's rule can only be extended over a year every 6 months under the following conditions:

- i. The Election Commission certifies that elections cannot be conducted in the state concerned.
- ii. There is already a national emergency throughout India or in the whole or any part of the state.

In case President's Rule has been evoked because of a breakdown of coalition or a hung Assembly, it is not the end of the road for any political party. With the Assembly in suspended animation, stakeholders can approach the Governor any time with the required proof of support to prove majority on the floor of the House. The EC notification on the election is treated as the new Assembly having been constituted.

Source: Extracted (with edits and revisions) An excerpt from article titled "What is President's Rule", published at 'Business Standard'.

7. The Union Government has passed a law wherein a list of all the citizens of the Country has to be prepared. The preparation of the list requires the participation of all the State Governments as only the States possess such machinery which can enforce the mandate of the Union effectively. The Scheme of the Constitution of India provides that the States will assist in enforcing the laws made by the Union. The XYZ and ABC States have passed resolutions stating that they will not enforce this new law of the Union Government. Can President's rule be invoked in the States of XYZ and ABC?

- (a) Yes, since the government of the States of ABC and XYZ are not working in consonance of the Constitution of India.
- (b) No, since the President's rule cannot be imposed on the whims and fancies of the Union Government.
- (c) Yes, since there are different parties in the States and Union, the President can impose President's rule.
- (d) No, since the imposition of the President's rule is not in the hands of the Union Government. The President must take that decision.

8. Parvovirus is spreading like wildfire in the state of XYZ, with over 2 lakh people sick and 10,000 people dying. The state's administration is unable to deal with the crisis and Election commission has postponed the election in the State due to such epidemic. To stop the spread, the army will be needed. The Governor proposes that the state be placed under President's rule until elections can be held. Suggest.

- (a) No, imposing President's rule in a state with a democratically elected government in the majority is a constitutional infraction.
- (b) Yes, epidemic outbreak is a valid reason to impose President's rule to save people's lives.
- (c) No, imposing President's Rule will increase panic and spread the sickness further.
- (d) Yes, this a good opportunity for the Central Government to intervene and overturn the State Government.

9. In the above question, assume that the State XYZ has been placed under the President's Rule. Moreover, the epidemic has now reached all India level and a National Emergency has been imposed. The President's rule in the State XYZ has been extended for 6 more months. This extension has been challenged by the Chief Minister of XYZ as Constitutional. Will he win?

- (a) Yes. He will win because the President's rule cannot be extended to more than 6 months.
- (b) No. He will not win because the President's rule can be extended when there is a National Emergency already in place.
- (c) No. He will not win because the election commission has certified that election cannot be held even after 6 months of President's rule.
- (d) Both (b) and (c)

10. Which of the following cannot be inferred from the above passage?

- (a) President's rule leads to the direct control of State in the hands of Central Government.
- (b) President's rule can be extended from the initial time period when there are compelling reasons to do so.
- (c) Once the President's rule is invoked the Governor of the State is relieved of his responsibilities.
- (d) Even after the President's rule is invoked due to hung assembly, a political party can make a claim to prove majority.

11. In which of the following cases, President's Rule can be invoked?

Problem I: In the State of XYZ, no party reached the majority mark post elections. Post Poll alliances have not been possible. The President invokes the President's rule.

Problem II: Due to the War Between India and Pakistan, elections in the States have been postponed and President's rule has been imposed in the States where election were ought to be held.

- (a) Only I
- (b) Only II
- (c) Both I and II
- (d) Neither I nor II

Passage -3

A quasi-contract is an agreement that is retroactive (taking effect from a date in the past) in nature. The word 'quasi' means pseudo or partly or almost and that is why it can also be called a pseudo contract. These kinds of agreements take place between parties who have no prior contractual commitments or intention of getting into a contract. The judge simply develops the concept of a quasi-contract to rectify situations where one side acquires something at the detriment of the other side. In layman's language, this type of contract aims to prevent one party from benefiting financially in a situation while financially draining the other party. Such agreements may be enforced by the approval of the party which is responsible for providing the goods or services but it is not necessary to keep this factor in mind before enforcing a quasi-contract.

The only factor that constitutes a quasi-contract is that there lacks an understanding between parties beforehand. Quasi-contracts exaggerate one party's duties to the other party where the second party is in control of the first party's personal property. As a remedy, it is the judge's duty to impose the agreement by the law.

A second word for quasi-contracts is implied contracts. A literal meaning is attached to the term implied contract as the defendants are ordered to pay for the damages and the quantum meruit or restitution is measured as per the intensity of the wrong done. Lastly, none of the parties involved are supposed to give consent as the agreement is being established in the court, therefore, making it legally enforceable without consent. The main aim of such contracts is to make a fair decision that will, later on, turn into an outcome that is acceptable to the party that has been wronged.

The main principles on which these types of contracts work are justice, equity, and good conscience. This principle is based on a legal maxim '*Nemo Debet Locupletari Ex Aliena Jactura*' which in literal terms means no man must grow rich out of another persons' loss. The theory of unjust enrichment means that no one should be unjustly enriched at the expense of another. It also means that no person should take advantage of position of another person which causes some loss to one party and gain to another party. The theory of unjust enrichment came through English law.

Source: Extracted (with edits and revisions) An excerpt from a web portal article titled "All about Quasi Contracts and types", authored by Meera Patel '.

12. Mr. A ordered Pizza from a food delivery app XYZ. Mr. A lives on the 8th floor in the building, while his friend Mr. B lives on the 1st floor. When the delivery person arrived to deliver the pizza, Mr. B stopped him on the floor and asked him to give the pizza, and told him that the latter will deliver the pizza to Mr. A as he happens to be his brother living in the same house. When Mr. A did not get the pizza and was informed that Mr. B has received the passage in his stead, he filed a case against Mr. B. Mr. B is not his brother and lived in the adjacent flat. Is there Quasi-Contract between Mr. A and Mr. B?

- (a) There is a Quasi-contract between Mr. A and Mr. B because Mr. B was causing financial detriment to Mr. A.
- (b) There is a Quasi-Contract between Mr. A and Mr. B because Mr. B has taken advantage of Friendship of Mr. A.
- (c) There is no Quasi-Contract as the Contract is between Mr. A and the app XYZ.
- (d) There can be a Quasi Contract only between Mr. B and the app XYZ.

13. Vidhan went to his friend's home for group studies and forgot his mobile there, which is found out by his friend's brother Mr. Vidit. He kept the phone without bothering to return it. Can the Court Compel to return it?

- (a) Yes, the Court can compel Mr. Vidit to return the phone as per the principle of quasi-contract.
- (b) No, the Court can only award damages and not the phone.

(c) Yes, the Court can compel to return the phone as per the principle of Natural Justice.

(d) No, the Court cannot compel Mr. Vedit to return the phone.

14. Which of the following can be inferred from the above passage?

(a) A quasi-contract can be given effect only by a Court.

(b) A quasi contract does not require consent of the parties to come in to existence.

(c) A quasi-contract makes good the loss of one person on account of others.

(d) All of the above

15. Mr. Vidhaan ordered a dress online for his wife, as a birthday present. The delivery boy mistakenly delivered the dress to the lady in their neighbourhood, and the neighbour used the dress thinking that it was ordered by her brother. Is there an obligation on the neighbour to return the dress to Mr. Vidhaan?

(a) Yes, as a good neighbour it is their responsibility to return the dress.

(b) No, it was a mistake on the part of the delivery company so they should compensate.

(c) Yes, the neighbour must compensate as there is a quasi-contract.

(d) No, the neighbour must not accept the responsibility of someone's else's wrong when their intention was good.

16. Consider the following Problems and decided which of the following is a case of quasi-contract:

Problem 1: Mr. Vidhan promised Vedit to deliver goods to Vedit's house. But, mistakenly, Vidhan delivers goods in Vidhi's house who is a neighbour of Vedit. Vidhi consumes these goods and latter refuse to pay for them.

Problem 2: Vidhan and Vedit jointly owe some money from Vidhi. Later, Vidhan pays all money to Vidhi. But Vedit is unaware about it, then Vedit also pays some amount to Vidhi.

(a) Only I

(b) Only II

(c) Both I and II

(d) Neither I nor II

Passage -4

Agreement in restraint of trade & profession. Under section 27 of the Indian Contract Act, 1872 agreements in restraint of trade are void. Agreement in restraint of trade is defined as the one in which a party agrees with any other party to restrict his liberty in the present or the future to carry on a specified trade or profession with other persons not parties to the contract without the express permission of the latter party in such a manner as he chooses. Providing for restraint on employment in the employment contracts of the employees in the form of confidentiality requirement or in the form of restraint on employment with competitors has become a part of the corporate culture.

SECTION 27;

Every agreement by which anyone is restrained from exercising a lawful profession or trade or business of any kind, is to that extent void.

STATUTORY EXCEPTIONS:

1. Sale of goodwill:

The only section mentioned in the proviso to Section 27 of the Contract Act is that relating to sale of goodwill. It is thus stated: One who sells goodwill of a business with a buyer to refrain from carrying on a similar business, within specified local limits so long as the buyer, or any person deriving title to the goodwill from him, carries on a like business therein provided that such limits appear to the Court reasonable, regard being had to the nature of business. Provided that such limits appear to the court reasonable, regard being had to the nature of business. Apparently, the object is to protect the interest of a purchaser of a goodwill.

2. Partnership Act:

There are four provisions in the Partnership Act which validate agreements in restraint of trade. Section 11 enables partners during the continuance of the firm to restrict their mutual liberty by agreeing that none of them shall carry on any business other than that of the firm. Section 36 enables them to restrain an outgoing partner from carrying on a similar business within a specified period or within specified local limits. Such agreement shall be valid if the restrictions imposed are reasonable. A similar agreement may be made by partners upon or in anticipation of dissolution by which they may restrain each other from carrying on business similar to that of the firm. It is necessary for the validity of a restraint under Section 36 or 54 that;

1. The agreement should specify the local limits or the period of restraint, and
2. The restrictions imposed must be reasonable.

An agreement by a retiring partner not to carry on similar business on the land belonging to him and adjoining the factory of the firm, has been held to be reasonable and binding on the persons buying the land from him.

Source: Written by the content team of Vidhigya by relying upon the relevant provisions of Indian Contracts Act.

17. Vidhan and Vidit came to agreement of sale of goods. Where by Vidit was supposed to supply goods to Vidhan in the market. One of the terms mentioned that during the pendency of the agreement Vidit cannot work anywhere else or in any other business. Vidit filed a suit against Vidhan saying that the agreement is violative of Sec 27 of ICA, Decide whether will he succeed?

- (a) Yes, as the ICA under sec 27 does not allow freedom of trade and business
- (b) No. It is an agreement signed by both the parties so it is binding on them.
- (c) Yes, as the ICA under sec 27 does allow freedom of trade and business.
- (d) No. Since Vidhan was selling his goodwill of the product, hence Vidit can't do any other work.

18. Vidhan was owner of an establishment. His shop was known in the entire Indore area by its name due to the very good-quality products he sold. Vidhan wanted to relax so he sold this part of his business as a shop in one of the areas of Indore to Vidit. They signed an agreement of sale of goodwill which prohibited Vidhan from running or opening any other such shop in the Indore area. Is the term of the contract allowed by the law?

- (a) No. Once the sale deed is done the other party is free to do whatever business they want according to the law.
- (b) Yes, as the terms once agreed to both the parties are signed, they become illegal to abridge.
- (c) No. It is in prohibition of freedom of trade and business.
- (d) Yes. As it is sale of goodwill the terms can be allowed even if they look like restraint of trade and business.

19. Vidhan joined a new firm 'XYZ' as a partner. In the agreement it was mentioned that Vidhan cannot be the part of some other firm as long as he is part of 'XYZ'. After few days, Vidhan was found to be part of some other business due to which he was terminated from the post as the partner saying he violated the terms of the agreement. Vidhan sued the firm for making a deed violative of sec 27 of ICA. Decide will Vidhan succeed?

- (a) Yes, as the section 27 of ICA disallows such a term in any type of contract which is in restraint of business.
- (b) No as the section 11 of The Partnership Act prohibits any such action.
- (c) No as Vidhan was an executive partner of the firm.
- (d) Yes. Since Vidhan was exercising his right under Article 19 (1) (g) of Constitution of India which provides Right to practice any profession or to carry on any occupation, trade or business to all citizens.

20. XYZ company is the manufacturer of products like tyre cord yarn and many other essential products. XYZ invited applications for appointments in said plant. Vidhan was employed for the position of shift supervisor in the tyre cord company and entered into a contract for a term of five (05) years. After the completion of training for 9 months, Vidhan started being absent from the job and afterward Vidhan informed the company XYZ that he had resigned without giving prior written notice. XYZ rejected Vidhan's resignation and ordered him to re-join but he had already obtained another employment during that course of time. XYZ company suffered damages due to appellant because he had learned the company's trade secrets during his training period. Therefore, XYZ wanted an injunctive relief (injunctive relief is a court order for the defendant to stop a specified act or behaviour) to restrain him from obtaining employment from any rival company. Decide.

- (a) Vidhan said that this agreement and this clause of restraint on trade is against public policy interest at large.
- (b) The negative covenant was reasonable and it was necessary to protect the XYZ's interest from huge loss.
- (c) Vidhan couldn't have learned any business secret during his training as a shift supervisor.
- (d) Vidhan must be allowed to continue his job if he promises not to release the trade secret.

21. Vidhan, Vidit and Vidyut had established a firm 5 years ago in Indore. Vidhan plans to leave the firm and so wishes he do so to his other two partners. According to the partnership deed they had made a provision that the partner leaving the firm cannot do any similar kind of business in the Madhya Pradesh state. The deed did not mention any time period for which the restriction was to be held. Vidhan planned to start a business in Ujjain district near Indore after almost a decade. Vidit and Vidyut sue Vidhan for breaking the terms of their partnership deed. Vidhan disagrees. Decide.

- (a) Vidhan would be stopped from doing his business in Indore as the deed he signed stops him from doing so.

- (b) Vidhan wouldn't be stopped from doing any business under sec 27 of ICA
- (c) Vidhan would be stopped as the terms were clear to him and he worked with the firm for a good long five years.
- (d) Vidhan wouldn't be stopped as the restriction seem unreasonable.

Passage -5

India is one of the few countries in the world that has yet to criminalise marital rape. The issue has been the subject of much debate of late in a country whose courts have increasingly been delineating the right to individual autonomy as a right that is to be cherished and protected. The exception, like many penal laws in India, continues to exist on our statute books as a colonial hangover. It stems from outdated notions of the relationship between a man and his wife, first crystallised by British jurist Sir Matthew Hale. In an unsupported, extra-judicial statement made in 1736, he said "*but the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband, which she cannot retract.*". This statement, which came to be known as Hale's Principle, formed the basis for the marital rape exception and was followed in England for many years.

It was not until 1992, in Regina (Respondent) and R. (Appellant) that the landscape of marital rape changed in the United Kingdom. In this case, a man was convicted of attempting to rape his wife, and later challenged the decision. However, the conviction was upheld by the House of Lords, with Lord Justice-General Lord Emslie said, "*Nowadays, it cannot seriously be maintained that by marriage, a wife submits herself irrevocably to sexual intercourse in all circumstances.*"

In the following years, many Common Law and Civil Law countries framed laws criminalising marital rape. In fact, there are only around 32 countries around the world that are yet to take a call on criminalizing marital rape. Most of these are developing countries.

Section 375 of Indian Penal Code (IPC) criminalises the offence of rape and its definition includes both sexual intercourse and other sexual penetration. The term 'marital rape' is not expressly defined under the Code, but Exception 2 of Section 375 excludes the application of this Section 376 when it comes to sexual intercourse or sexual acts between a husband and wife.

Significantly, the Supreme Court in **Independent Thought v. Union of India**, stuck down the said Exception insofar as it relates to a girl child below 18 years. The Court opined that the "right of such a girl child to bodily integrity and to decline to have sexual intercourse with her husband has been statutorily taken away and non-consensual sexual intercourse with her husband is not an offence under the IPC."

In **Nimeshbhai Bharatbhai Desai v. State of Gujarat**, Justice JB Pardiwala held, "The total statutory abolition of the marital rape exemption is the first necessary step in teaching societies that dehumanized treatment of women will not be tolerated and that the marital rape is not a husband's privilege, but rather a violent act and an injustice that must be criminalized.".... Regarding concerns that abolishing the provision might pose a threat to institution of marriage, court observed that "It has long been time to jettison the notion of 'implied consent' in marriage. The law must uphold the bodily autonomy of all women, irrespective of their marital status."

In August 2021, the Kerala High Court in a significant judgment said that marital rape, although not penalized in India, would be a good ground for divorce.

Source: Extracted (with edits and revisions) An excerpt from article titled "Controversy around Marital Rape", published at 'Bar and Bench'.

22. Vidhi who is 15 years old has been wedded to Vidhaan under pressure from her family. Vidhaan is 28 years old. He has been compelling her to submit to him for sexual intercourse on numerous occasions. Vidhi wishes to bring a case against Vidhaan for marital rape. Choose the correct option:

- (a) Vidhaan may be charged as the exception to Section 375, IPC has been stuck down by the Supreme Court to girls below the age of 18.
- (b) Vidhaan may be charged as he has not been treating Vidhi with proper care and attention.
- (c) Vidhaan may not be charged as he has been exempted under Section 375, IPC.
- (d) None of the above.

23. Suppose in the facts of the above question, what would be the position if Vidhi was not opposed to Vidhaan's advances but revealed them to a friend of hers. This friend then tells the police seeking to lodge an FIR in the name of Vidhi against Vidhaan. Choose the correct option:

- (a) Vidhi can allow her friend to file an FIR in her name.
- (b) Vidhaan has committed a crime and will be punished accordingly.
- (c) Vidhaan is exempted under Section 375, IPC and cannot be charged.
- (d) Cannot be determined, inadequate information

24. Vidhi has been married to Vidhaan for a long period of time. She has been the subject of marital rape by Vidhaan for as long as she can remember. After 20 years of marriage, Vidhi seeks legal counsel on whether approaching the courts will render any help. The counsel she has sought advice from says that the Courts will not be in favour of giving Vidhi any relief as the mindset of the Court is to not discontinue the practice of marital rape as it has been clearly exempted under Section 375. Choose the correct option about the counsel's opinion about the judicial mindset.

- (a) The counsel is correct as the role of the Courts is to uphold the law.
- (b) The counsel is incorrect as marital rape is an outdated practice and the Court will not allow any outdated practice to continue.
- (c) The counsel is incorrect as the Courts have observed that the first step towards removing the dehumanized treatment of women is by removing the exemption allowing for marital rape.
- (d) None of the above.

25. In the facts of the above question, suppose the lawyer advising Vidhi says that the Court's outlook towards marriages is to remain clear and leave the sanctity of marriages untouched. Choose the correct option:

- (a) The counsel is incorrect as the Courts have observed in the past that the notion of implied consent needs to be revisited.
- (b) The counsel is correct as the Courts in England have changed the law and India is not likely to follow the same.
- (c) The counsel is incorrect as marital rape is an outdated practice and the Court will not allow any outdated practice to continue.
- (d) None of the above.

26. Which of the following statements is the author of the passage most likely to disagree with?

- (a) Western countries have yet to change their laws relating to marital rape.
- (b) The concept of marital rape has come to the fore in present times as part of discussions on individual autonomy.
- (c) Sir Mathew Hale was behind the promulgation of the concept of marital rape.
- (d) None of the above.

27. Which of the following statements can be inferred from the passage?

- (a) Marital rape does not constitute a husband's privilege but is rather an act of violence against women.
- (b) Present discussions surrounding personal autonomy are welcomed as they bring light to regressive practices.
- (c) The time for abolishing marital rape is now as the Courts believe.
- (d) All of the above.

Passage -6

The definition of character is tricky, because most people associate character with moral qualities. That is part of the definition, but not the whole. Character also includes non-moral characteristics, behavioural tendencies, and patterns of life. Character is a pattern of any kind of behaviour.

Character evidence means evidence related to the character of a person. It played a pivotal role both in civil and criminal law. The conduct and character of a man was used to determine guilt since centuries. However due to evolution in law and judiciary, evidentiary value and reliance on character has decreased, the general principle being - it is difficult to establish poor character, further judging by character would mean deviation from facts of the case to an ambiguous and subjective matter. No conviction can be based on the character of a person as it would imply judging the past action or personal life of a person. The term 'character' can be broken down into two things: reputation and disposition, where the former means the opinion that people, in general have of that person and the latter means the habitual behaviour of a person.

In respect to the character of a person in a suit, it is relevant to establish that the character of the person is relevant to the issue in the case. When a party's general character is itself an issue, proof must necessarily be received of what general character is. However, if general character is not an issue but is used to support some other issues, that shall be excluded. The general exclusion of character evidence is made on the grounds of public policy, since this might affect the party adversely even though the character evidence may have no relevance in the case, which they possibly cannot be prepared to defend in a Court. The general principle also states that evidence to prove 'good character', to establish improbability of commission of crime is also excluded. The purpose of Court is to judge the matter in front of it not the character of a person. This refers only to the character of those who are party to the suit, not on the witness as in their case, evidence of their character can be given. However, if there is some evidence which has a direct impact on the case, then such evidence, character or otherwise, will be allowed.

Source: Written by the content team of Vidhigya by relying upon the relevant provisions of Indian Evidence Act and related judicial precedents.

28. Vidhaan has been held guilty for the offence of theft several times throughout his lifetime. He is currently being prosecuted for the offence of stealing bread from the local shopkeeper. Can evidence of his previous convictions be acceptable in the present case?

- (a) Yes, it can be acceptable as previous convictions in the same type of offence shows that Vidhaan is guilty for the offence of theft.
- (b) Evidence of previous conviction can be acceptable as the judge must be aware of how Vidhaan has been in his past.
- (c) Evidence of previous conviction can be acceptable but it is up to the judge whether he accepts it or not.
- (d) Evidence of previous conviction cannot be acceptable as his present trial of theft has no relation to his previous convictions.

29. Vidhata is being prosecuted for the offence of cheating. During the trial, Vidhata calls upon his friend Mr. Asatya to give evidence for him. The defence wants to give evidence that Asatya has been previously convicted of giving false evidence in trials like these. Can such evidence against Asatya be given?

- (a) Character evidence cannot be given and thus evidence relating to Asatya's character also cannot be given.
- (b) Character evidence can be given as Asatya is a mere witness.
- (c) Character evidence can be given as character of Asatya is directly relevant to the offence in question.
- (d) Both (b) and (c)

30. Vidhutt is being prosecuted for causing an accident by negligence in maintaining his car. During the trial the prosecution wants to give evidence of Vidhutt being a drunkard. Can such evidence be admissible?

- (a) Vidhutt being a drunkard is directly related to him being negligent and therefore the evidence can be given.
- (b) Vidhutt being a drunkard is indirectly related to him being negligent and therefore the evidence can be given.
- (c) Vidhutt being a drunkard is having no effect on him being negligent in the present case and therefore evidence cannot be given.
- (d) Both a and b

31. As per the information provided in the passage, if in the facts of the last question, prosecution wants to give the description of the accused as a habitual law breaker. Whether such evidence be considered character evidence? If yes, will it be allowed?

- (a) This is character evidence and therefore it will not be allowed.
- (b) This is not character evidence and therefore it will be allowed.
- (c) This is character evidence but still it will be allowed.
- (d) This is not character evidence and therefore it will not be allowed.

32. Which of the following is true in the context of the passage?

- I. When a party's general character is not in question, proof must necessarily be received of what general character is.
- II. When a person is judged by his character, it means that he is not judged on the basis of facts of the case and therefore there is a scope that the judge may become arbitrary.
- III. Character evidence does not hold the same importance as it did in the earlier times.

- (a) Both I and II.
- (b) Both II and III.
- (c) Only III.
- (d) I, II and III.

33. X, Y and Z are being prosecuted for gang rape of one Ms. A. During the proceeding, the advocate for X, Y and Z, Mr. Vidhaan, wants to give evidence stating Ms. A was a woman of loose character, had multiple sexual partners and often times had sexual intercourse with more than one partners at the same time. Assuming the point of 'multiple sexual partners' and 'sexual intercourse with more than one partners at the same time' is true, will the court allow evidence of such facts?

- (a) Since what has been stated by the advocate is true, it will be allowed.
- (b) Since it is a very heinous offence, such evidence should not be allowed.
- (c) Since the evidence has no relation to the case, such evidence should not be allowed.
- (d) Since what has been stated by the advocate is true, it should be noted by the judge.

34. Vidhush is being prosecuted for causing an accident by negligence. During the trial the prosecution wants to give evidence of Vidhush being inebriated on the night of the accident. Can such evidence be admissible?

- (a) Vidhush being inebriated may be directly related to him being negligent and therefore the evidence can be given.
- (b) Vidhush being inebriated shows a general character of his personality. Therefore, it cannot be allowed.
- (c) Vidhush being inebriated is evidence about his character. Therefore, it cannot be allowed.
- (d) Both b and c

Passage -7

The recent killing of gangster Vikas Dubey by the Uttar Pradesh Police has put the spotlight back on encounters or executive killings. The legality of police action in such circumstances has been debated for long, and a legal framework was put in place with the intention of establishing accountability. The Supreme Court and the National Human Rights Commission (NHRC) have framed guidelines that are to be followed in cases of custodial deaths.

In 1993, the Commission had issued general guidelines that every case of custodial death must be intimated to it within 24 hours. Further, the post mortem reports, inquest requests, and other related documentation was to be sent to the human rights watchdog to ascertain its reliability within two months of the incident.

If a death is prime facie found to be a case of death that took place unlawfully, the Commission would grant compensation to the victim's kin and penalise the errant state and its officials, it was decided.

In 1997, then NHRC chairperson M N Venkatachalaiah, in a letter addressed to chief ministers of all states, had emphasised that a policeman, if found responsible for a custodial death, would have the same defences available in law that are available to the common man, and would have no special protection.

Essentially, this meant that for every case of custodial death, the concerned officers would be on trial, and their actions would not constitute an offence in only two circumstances: a) if they have killed the individual in order to protect themselves and, b) if use of force extending to death is necessary for making an arrest.

In such case, a FIR is registered under Section 302 of the Indian Penal Code which penalises culpable homicide. The Indian Evidence Act puts the burden of proof on the defence — the police in this case — to prove that the offence was not committed.

The verdict in the public interest litigation, which was decided in 2014 mandated that every custodial death would be probed by a magistrate as per Section 170 of the Cr.P.C.

The court also issued several guidelines on holding an independent investigation into the encounter. The court said that the investigation shall be conducted by the CID or police team of another police station under the supervision of a senior officer at least a level above the head of the police party engaged in the encounter.

Source: Extracted (with edits and revisions) An excerpt from article titled "Encounters: What rules the law lays down, and why they are flouted", published by The Indian Express.

35. Vidhan was arrested by Police on charges of robbery. He was kept in judicial custody for about 2 months. One day, police while interrogating Vidhan, resorted to 3rd degree torture. Due to this torture, Vidhan died. Decide whether police action is liable?

- (a) Police is liable for culpable homicide of Vidhan.
- (b) Police is liable for murder of Vidhan.
- (c) Police is not liable as they were acting in good faith under superior orders.
- (d) Police is not liable as force used in necessary to make Vidhan confess the crime.

36. Consider in the above situation, before police resorted to violence, Vidhan attacked at policemen with knife. So, as a natural corollary to human senses, policemen retaliated. Due to attack by policemen, Vidhan died. Will police be liable?

- (a) Police will be liable for murder of Vidhan.
- (b) Police will be liable for culpable homicide of Vidhan.
- (c) Police will not be liable as their act was accidental and lacks intention.
- (d) Police will not be liable as act was done in private defence.

37. Vidhi was arrested under UAPA Act and was kept in police custody. Vidhan was posted as inspector in the concerned premises and was in charge of custody. Vidhan received some intelligence that Vidhi is a very dangerous terrorist and can inflict damage to nation, even while inside custody. So, he shoots her in forehead leading to instant death of Vidhi. Vidhan claimed defence that he was a public servant and was acting in good faith and thus he should not be made liable. Decide whether the defence taken will protect him provided that defence was a valid and strong defence.

- (a) Yes, action was taken in good faith by public servant with good motive in this case.
- (b) Yes, action was taken to for protection of national security and integrity in this case.
- (c) No, defences available to public servants are not available to Vidhan in this case.
- (d) No, action was taken with bad intention, yet motive was good in this case.

38. Vikas was a proclaimed terrorist under UAPA Act. He was arrested in Indore by police. While he was in transit to Khanpur, he was killed by way of an encounter. Police claimed that Vikas ran away after snatching a gun from policemen and even shot at them. In defence, they fired upon him, which lead to his instant death. Assuming that the factual matrix narrated by police is verified to be true, was death illegal?

- (a) Death was legal as it was done by police in order to protect them.
- (b) Death was illegal as principle of innocent till proven guilty was ignored.
- (c) Death was legal as Vikas was a terrorist under UAPA.
- (d) None of the above.

39. Why according to the author, encounter laws are flouted?

- (a) Law is tilted in favour of policemen and their actions are deemed to be taken in good faith.
- (b) Investigation process is cumbersome as police has to investigate where they themselves are guilty.
- (c) Excessive defences are available to policemen for justifying encounters.
- (d) Both (a) and (b).

40. Which among the following is the correct inference / inferences drawn from the passage?

- (a) M N Venkatachalaiah, advocated preferential treatment to the policemen facing allegation of custodial death.
 - (b) In the case of custodial violence the burden of proof is on the prosecution i.e the police .
 - (c) Barring exceptional situations like urgent necessity of self-defence or use of excessive force for causing arrest, the custodial death will make the policemen liable for the offence of culpable homicide.
 - (d) None of the above
-

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