

प्रेषक,

दिनेश कुमार शर्मा III
जनपद न्यायाधीश, लखनऊ।

सेवा में,

क्लस्टर जोन, लखनऊ में नियुक्त/
प्रतिनियुक्त समस्त जिला जज/
न्यायिक अधिकारीगण

विषय— चतुर्थ चरण की क्लस्टर ट्रेनिंग हेतु अनुमोदित विषयों/प्रश्नों के
उत्तर तैयार कर प्रेषित किये जाने के सम्बन्ध में।

महोदय,

सादर अवगत कराना है कि न्यायिक प्रशिक्षण एवं अनुसंधान संस्थान, लखनऊ द्वारा चतुर्थ चरण की क्लस्टर ट्रेनिंग हेतु आपराधिक विषयों से सम्बन्धित 6 टॉपिक व सिविल विषयों से सम्बन्धित 5 टॉपिक चयनित कर इन विषयों के सम्बन्ध में प्रश्न तैयार किये गये हैं, जिनकी सूची इस पत्र के साथ सादर अवलोकनार्थ संलग्न है। न्यायिक प्रशिक्षण एवं अनुसंधान संस्थान द्वारा दिये गये निर्देश के अनुसार इन सभी विषयों पर सभी न्यायिक अधिकारियों द्वारा अपने-अपने अलग-अलग उत्तर तैयार कर जनपद न्यायालय को प्रेषित किये जाने हैं, जिन्हें समेकित कर प्रत्येक प्रश्न के सम्बन्ध में उत्तर जनपद न्यायालय की तरफ से दिनांक 10.03.2021 तक प्रेषित किया जाना है।

अतः आपसे अनुरोध है कि आप संलग्न सूची के प्रत्येक प्रश्न के सम्बन्ध में अपना उत्तर दिनांक 05.03.2021 तक अधोहस्ताक्षरी को उपलब्ध कराने का कष्ट करें, ताकि सभी अधिकारियों के उत्तरों को समेकित कर न्यायिक प्रशिक्षण एवं अनुसंधान संस्थान, लखनऊ प्रेषित किया जा सके। इस सम्बन्ध में न्यायिक प्रशिक्षण एवं अनुसंधान संस्थान, लखनऊ द्वारा दिये गये दिशा निर्देशों की प्रति भी इस पत्र के साथ संलग्न है।

यह भी अनुरोध है कि कृपया उक्त पत्र के सन्दर्भ में अपने अधीनस्थ सभी न्यायिक अधिकारियों से उत्तर प्राप्त कर निर्धारित तिथि 05.03.2021 तक अधोहस्ताक्षरी को प्रेषित करने की कृपा करें।।

सादर,

भवदीय,



(दिनेश कुमार शर्मा III)
जनपद न्यायाधीश, लखनऊ।

दि. 24.02.2021

K-01
1/10/2021
22/2/21
11/1/21
11/1/21
11/1/21

R.M.N. Mishra

H.J.S.

Director



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No.: JTRI/ 361

Dated: 22 February, 2021

To

All the District Judges,
Subordinate to the Hon'ble High Court of Judicature at
Allahabad.

Sub.: Submission of Response on Approved Topics and Questionnaire thereto for Fourth Round of Judicial Training by Way of Workshops, Refresher and Orientation Courses.

Madam/Sir.

Based on the suggestions received from the districts, six topics on the criminal side and five topics on the civil side have been selected for deliberation in the fourth round of Judicial Training by Way of Workshops, Refresher and Orientation Courses. Set of questions on each topic, as also, suggested by the judicial officers posted in different districts/sessions division have also been finalized and is being attached herewith as Annexure-1.

The fourth round of the captioned training is scheduled to be undertaken in the quarter starting from mid-March, 2021.

You are requested to kindly submit the response positively by 10th March, 2021 as per the instructions attached as Annexure-2.

Encl.: As above.

with regards,

Yours sincerely,

R.M.N. Mishra
(R.M.N. Mishra)

Copy to: The Registrar General, Hon'ble High Court of Judicature at Allahabad.

(R.M.N. Mishra)

Model officer

22/2/21

Topic-1
Criminal

Powers and duties of the court when plea of unsoundness is taken by an under trial prisoner

1. Elaborate the meaning of the phrase 'has reason to believe' used u/s 328 CrPC? What are the grounds and key consideration for the court to initiate an inquiry under Chapter XXV CrPC and what is the procedure required to be followed thereof?
2. Examine the question of unsoundness of mind by the accused under various fact situation mentioned hereunder -
 - (a) The accused is sane initially but develops the insanity subsequently during course of the trial?
 - (b) When two or more persons are tried together and several witnesses have been examined and at that stage one of the accused acquires unsoundness of mind, examine its effect on the trial?
3. Examine the effect of unsoundness of mind, vis-à-vis bail, release, discharge and other benefits or advantages that may accrue to the person taking plea of unsoundness.

Appreciation of medical evidences in 376 IPC cases in general and in circumstances where the ocular evidence and medical evidence are diametrically divergent

1. In the context of the medical examination of the victim, what is the significance of consent? Whether the victim can be subjected to the test without consent and in cases where she refuses to undergo the medical test, what would be the effect on the prosecution case?
2. Discuss the legal position, in matters where during the trial the prosecutrix turns hostile but the medical evidence supports the case of the prosecution?
3. With regard to the medical examination of the accused, consider the legal position regarding following –
 - (a) Whether the accused can be compelled to submit himself to medical examination?
 - (b) Potency test of the accused.
4. What precautions should be taken by the court, while appreciating evidence in rape cases, when there is no direct witness and the entire case of the prosecution rest upon the testimony of sole prosecutrix?

The appropriate mode of recording statement u/s 164 CrPC by the Magistrates and cautions to be observed while recording the same and its evidentiary value and role in criminal trials

1. Examine the appropriate mode of recording statement under Section 164 CrPC and the necessary precautions as are required to be observed thereunder?
2. Who all can be provided the statement recorded u/s 164 CrPC and at what stage?
3. What is the evidentiary value of the statement u/s 164 CRPC and can it form the sole ground of conviction or acquittal?
4. Under what all circumstances the Magistrate recording the statement u/s 164 CrPC be examined during trial?

Topic-6
Criminal

Legal parameters of withdrawal of prosecution as provided u/s 321
CrPC

1. What are relevant considerations for ordering withdrawal from prosecution u/s 321 /CrPC ? What is the procedure to be followed where the offence is of a nature which comes under the purview of the executive power of Union or the matter relates to damage or destruction of property of the Central Government?
2. Whether the order/prior written permission of Government for withdrawal of case is binding upon the public prosecutor, discuss the degree of autonomy on public prosecutor whilst filing an application u/s 321 CrPC?
3. Examine the role of court in the context of withdrawal from prosecution u/s 321 CrPC.

Proposed questions for the fourth round of judicial training by way of cluster

1. The pre-conditions for production admissibility of additional evidence by the Appellate Court (Order XLI Rule 27 C.P.C.)

Q-1. What are the grounds for admission of Additional Evidence before appellate Court with special reference to Due diligence and substantial cause ?

Q-2. Discuss the legal position as to admissibility of the following document at appellate stage:-

- (a) document which was not in existence during trial before trial court.
- (b) document which was not produced before the trial court despite having opportunity to produce it.
- (c) document which ought not to have been rejected or denied by trial court.
- (d) Right of opposite party to rebut or produce counter Evidence.

Q-3. Discuss the legal position as to admissibility of following oral Evidence :-

- (a) Witness not mentioned in the list of witnesses by the Parties.
- (b) Expert Witness- Survey Commissioner, Hand writing Expert etc.

2. Legal parameters in the suits for declaration of civil death.

Q-1. Discuss the legal position in relation to the following :-

- (a) Maintainability of Suit for declaration of Civil Death of a person.
- (b) Who are the necessary party in a Suit for declaration of Civil Death.
- (c) What is the effect of the Law of limitation on such Suits.
- (d) The issue of Suit valuation and Court fees.in relation to such Suits.

Q-2. Whether declaration of Civil death is a mere declaration or a substantive right under the Specific Relief Act,1963 or any other enactment ?

3. **Production, Impounding and Return of Documents (Order XIII CPC)**

Q-1. When and on which ground question of Production, Impounding and Return of Documents should be decided ?

Q-2. Can any document which was not included in the list of documents be taken on record? What is the fate of such document, if produced after the conclusion of evidence?

4. **Jurisdiction of the Civil Court and Revenue Court with respect to land used for agriculture**

Q-1. Discuss the law relating to jurisdiction of Civil and Revenue Courts in respect to the following matters :-

(a) Where Agricultural land with construction on it not declared as abadi under Section 143 UPZA & LR, 1950 Act and now Section, 80 of U.P. Revenue Code, 2006.

(b) Where a Suit for Partition is filed comprising of agricultural and residential property together.

(c) Suit for cancellation of sale deed in respect of agricultural land by unrecorded tenure holder.

(d) Void and Voidable Document .

Q-2. What is the stage of raising a plea regarding want of jurisdiction? Whether it can be allowed at the stage of execution?

Q-3. Whether civil court refer a matter to revenue court for the purpose of determination of nature of the land?

5. **Order 12 CPC**

Q-1. Discuss the law in relation to following issues-

(a) Admission of facts in pleadings.

(b) Admission of documents.

Q-2. Whether a court can pass a decree on mere admission made under Order XII Rule 6 CPC?

Instructions For Fourth Round Cluster Training

For making the deliberations in the course of organization of the 'Judicial Training by Way of Workshops, Refresher and Orientation Courses' more effective and meaningful the Hon'ble Supervisory Committee, JTRI has been pleased to direct as under:-

1. Each and every officer shall prepare their responses to each and every question, as have been formulated.
2. A consolidated response on the questionnaire shall be prepared by every judgeship, under the supervision of the District Judge. This would mean that though every officer would be required to prepare his/her own response, but the district has to prepare one consolidated response for the concerned district, a copy of which, as mentioned herein under, has to be prepared.
3. The consolidated response so prepared by the judgeship, should be in the same order of the topics and the question included under a particular topic. This would mean that the response would be in two parts, one covering the topics on the criminal side and the other covering the topic on the civil side.
4. The response thus prepared in two parts, should have proper indexing and pagination. The same font should be used for the entire part of the response.
5. Three (03) sets of the response in hardcopy be prepared. One set should be provided to Hon'ble the Administrative Judge and Hon'ble the Judge-In-Charge- Cluster Training of the concerned district and one set should be transmitted to the JTRI. Thus, each district of a cluster as mentioned hereinabove would ensure to provide the response separately.
6. The officers/district should ensure that there is no verbatim copying of the response from different sources and the response should be the original effort of the officer/district concerned.

7. There would be no pre-determination/nomination of the officer, who would be making the presentation, on the day, on which the training programme is organized for the particular cluster. Rather, all the officers, of the District Courts, should be prepared and any officer may be picked randomly and will be required to make the presentation. **Thus, it is clarified, that any judicial officer may be randomly asked to make the presentation.**
8. The presentation should not be through a bare reading of the prepared response, but, should be made in brief, based on the understanding of the issue involved. The text, as far as possible, should be referred only for the purpose of citing any legal provision or a leading case/decision on the matter.
9. The District Judges of the cluster should remain in constant touch with the Hon'ble Administrative Judge and the Hon'ble Judge-In-Charge Cluster Training and fix the date for the organization of the training programme of the particular cluster. The date so fixed, be duly intimated to the Hon'ble High Court and the JTRI.
10. The District Judges may organize at least one pre-training trial in their districts, so as to ensure all officers are prepared to make presentation in terms of the requirement mentioned under point no. 7 above.

1

Topic-3
Criminal

Burden of proof in the context of S. 106 of the Evidence Act, 1872 with emphasis on its role in cases based on circumstantial evidence.

1. Whether the presumption u/s 106 Evidence Act be rebutted/discharged by the accused prior to the burden discharged by the prosecution. What will be the effect if an accused does not discharge the presumption u/s 106 Evidence Act?
2. How and when the burden of proof shifts on the accused in the matters based on recovery of incriminating articles or stolen property from the accused and "victim last seen with the accused"?
3. How the burden is cast upon the accused, being the inmate of the house to give a cogent explanation as to how the deceased died?

Topic-4
Criminal

Necessity of framing alternate charge in dowry death cases and other suitable criminal cases

1. Trace the legal position with respect to alternative charge in general and in particular whether it is necessary to frame alternate charge under Section 302 IPC in all cases involving offences under Section 304B IPC?
2. If sufficient evidence is found to convict the accused under both Sections 304B and 302 of the Indian Penal Code, whether conviction should be made only u/s 302 IPC or u/s 304 B IPC only or under both the sections?