Judicial Administration Training Institute
15, College Road, Dhaka
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145th Refresher Course for the Chief Judicial Magistrates/ Chief Metropolitan Magistrates
(29/05/2022- 02/06/2022)

Oral Presentation on Case Study

All participants will be divided into 06 (six) groups, each consisting of 05 (five) members, except Group- F which will be consisting of 6 members. Each of the group-members must take part in the presentation since each member will be evaluated on her/ his individual performance and presentation skill.

Formation of the Groups

Name of the Group	Roll Number according to the serial number of GO	Assigned Case Study Number according to the Fact Sheet
A	01-05	1
B	06-10	2
C	11-15	3
D	16-20	4
E	21-25	5
F	26-31	6

[Instructions for the participants: 1) Read the problem carefully, **2)** Identify the legal and factual issues in the given circumstances, **3)** Do necessary studies to find out relevant statutes, books, commentaries and law reports, **4)** Note down arguments for and against, **5)** Form your opinion and decide the case, **6)** Prepare your presentation in prescribed/standard form (specimen format is attached herewith), **7) Send the soft copy (pdf) of the same to *research.publication.jati@gmail.com* by 30th May, 2022- 12 pm (sharp noon)** to submit the same before the panel during the session. You may have to answer questions on the relevant issues, provisions of law and legal decisions. All participants shall be at liberty to join in the open discussion after presentation. Each Participant will be evaluated out of 50 marks on the criteria mentioned in Article 6 of the Training Evaluation Guidelines. If any participant has any query regarding oral presentation on case study, he/ she is advised to send e-mail to ***research.publication.jati@gmail.com*** **]**

Case study Fact Sheet for Oral Presentation on Case Study

Problem- 1

The police found 250 bottles of Phensedyl each containing 100 ml. totaling 25 liters in the possession of an accused "A". The police seized the Phensedyl, arrested the accused and then lodged FIR. In trial, charge was framed against him under Section 19(1) Serial 3(Kha), section 19(4) and section 25 of the মাদকদ্রব্য নিয়ন্ত্রণ আইন, ১৯৯০. In course of trial the court examined 08 (eight) witnesses and the defence examined none. The Chemical Examiner, one of the prosecution witnesses, adduced his evidence before the trial Court to the effect that on examination of a bottle seized containing 100 ml. of Phensedyl sent for Chemical examination, it was found to have contained 'Chlorpheniramine Maleate' and 'Codeine Phosphate'.

The trial Court upon consideration of the materials and evidence on record convicted the accused "A" under Section 19(1) Serial 3(Kha) of the Narcotics Control Act, 1990 and sentenced him to suffer imprisonment for life. Being aggrieved, the accused preferred criminal appeal before the High Court Division. It was held by the High Court Division that in the absence of any law declaring Phensedyl contraband, the existence of codeine phosphate in Phensedyl does not make Phensedyl a schedule narcotic. This finding led to the acquittal of the accused from all the charges leveled against him.

The judgment and order of the High Court Division was challenged, by leave, in a criminal appeal before the Appellate Division, wherein the judgment and order of the High Court Division were set aside and those of the trial court were restored.

Questions:

I) Whether 'Codeine Phosphate', a derivative of codeine, are prohibited items as narcotics and whether its presence in any liquid i.e. phensedyl renders the total amount of phensedyl/liquid as narcotics.

II) Whether having possession or carrying phensedyl was punishable under Section 19(1) Serial 3(Kha) of the Narcotics Control Act, 1990 and is also punishable under section 36, Serial 7 (schedule 1, serial 4) of the মাদকদ্রব্য নিয়ন্ত্রণ আইন, ২০১৮.

Problem-2

On 01.11.2016 "M" lodged a complaint against "R" and five other persons in a Senior Judicial Magistrate Court under Section 379 of the Penal Code. "M" alleged that he constructed a Baithakkhana adjacent to the south of his homestead on the land belonging to him but "R" forcibly demolished those against his wishes and took away the structures belonging to him and out of his possession without his consent causing loss of Tk. 20.000/- thereby committing an offence under Section 379 of the Penal Code. The learned Magistrate took cognizance under section 379 of the Penal Code. After completion of the trial learned Judicial Magistrate by his judgment and order dated 9.4.2017 found the accused "R" and others guilty for committing theft punishable under section 379 of the Penal Code, convicted and sentenced them thereunder to suffer rigorous imprisonment for 15 days each and to a fine of Taka 500 each in default imprisonment for 4 days more each. "R" and other convicted persons preferred an appeal to the Chief Judicial Magistrate contending that the conviction and sentence as passed by the learned Judicial Magistrate was bad in law because the same was without jurisdiction.

***Questions*:**

I) Can a Magistrate take cognizance of an offence of theft where value of the stolen property amounts to Tk. 20000/-?

II) How the Magistrate should deal with the petition of complaint when the offence alleged of is triable by the Village Court under 1st part of the schedule to the গ্রাম আদালত আইন, ২০০৬?

Problem-3

The prosecution case is that the accused has committed the offence of murder under section 302 of the Penal Code. Charge was framed against him accordingly, and after the completion

of prosecution witnesses, the accused was examined under section 342 of the Code of Criminal Procedure, 1898. The accused produced some documents while he was examined under section 342 of the Code of Criminal Procedure. Objection was raised by the prosecution to the effect that the statement cannot be considered as evidence because the documents required formal proof for taking those into consideration.

***Question*:**

Whether the documents produced during the examination under section 342 of the Code of Criminal Procedure can be regarded as evidence within the meaning of section 3 of the Evidence Act. Assign reasons supporting your view.

Problem-4

"X" is an Assistant Superintendent of Police now serving in the Organized Crime Unit (Financial Crime), CID, Dhaka. In February 2021, "X" lodged an FIR against "A", "B" and "C" for committing offence under section 4(2)/4(3) of the Money Laundering Protirodh Ain, 2012. It was alleged that the accused criminally misappropriated the amount of twenty crore taka and consequently committed offence of Money Laundering. The police arrested the accused and produced them before the Metropalitan Magistrate concerned. Later, the accused persons made a prayer for bail before the MM, who enlarged them on bail.

The order of granting bail was challenged mainly on the ground that the MM has no jurisdiction to deal with the application for bail of an accused as he has no jurisdiction to take cognizance of an offence under the Money Laundering Protirodh Ain, 2012. Thus, the MM acted illegally in assuming the jurisdiction of a Special Judge and granting bail to the accused. It was further argued that as per section 13 of the Ain of 2012 only Special Judge is empowered to deal with the matter of bail.

Question:

Whether the order of granting bail by the learned Metropolitan Magistrate was in accordance with law or not.

Problem-5

"M" along with 09 (nine) other persons were charged under sections 302/34 of the Penal Code for killing "S". During investigation, "M" gave confessional statement under section 164 of the Code of Criminal Procedure, 1898 stating that he along with other accused persons were present at the time of occurrence, but he was merely standing as a guard while the others dealt the fatal blows which led to the death of the deceased "S". He also confessed that he took part in the jubilation of the death of the deceased victim with other accused. During trial the prosecution examined 19 (nineteen) witnesses including the doctor who had conducted the post-mortem examination. The doctor-witness deposed that there were several injuries on the person of the deceased and his death was caused due to shock and hemorrhage resulting from those injuries. Though there was no eye-witness to the occurrence, the confessional statement of "M" was proved to be true and voluntary.

After hearing the parties and considering the evidence and materials on record, the Trial Court convicted accused "M" and two others under section 302/34 of the Penal Code, 1860 and sentenced them to suffer imprisonment for life and also to pay fine of taka 20,000 (twenty thousand), in default, to suffer imprisonment for one year. Let it be mentioned here that there are circumstantial evidence against the two other accused persons to implicate them with the offence. Convict "M" thereafter preferred appeal to the High Court Division contending *inter alia* that his confessional statement was exculpatory in nature and that he had no intention to kill the deceased victim. Therefore, his statement made under section 164 of the Code of Criminal Procedure cannot be the basis of his conviction.

***Questions*:**

I) What is the nature of the statement made by accused "M" under section 164 of the Code of Criminal Procedure? Whether it can be the sole basis of proving guilt of the accused "M". Whether exculpatory statement made under section 164 of the Code of Criminal Procedure needs further corroborating evidence to find guilt of the accused.

II) Can the other non-confessing accused persons be convicted on the basis of the confession of co-accused "M" if there were no corroborating evidence against them?

III) Whether the accused "M" had common intention in committing murder of "S" as per his statement made under section 164 of the Code of Criminal Procedure.

Problem-6

The case of the complainant is that the accused 'A' being his nephew took him to the district town for arranging treatment in the hospital. After taking him to the town, the accused told him that before getting treatment from a Government hospital, an application in stamp papers is to be filed. Accused then took him to the Sub-Registrar Office and from a vendor purchased three stamp papers and obtained his Left Thumb Impressions (L.T.Is) in those blank stamp papers in connivance with other. So the accused persons have committed the offence of forgery.

After returning home, the complainant narrated this fact to his wife and thereafter a village arbitration (*salish*) was held in which the accused confessed that he obtained L.T.Is of the complainant in blank stamp papers and within 2/3 days he would return those to the complainant but those were not returned.

At the time of hearing under section 241A, an application was filed on behalf of the accused for discharging him on the following grounds:-

1. That allegation of obtaining L.T.Is even if accepted as true, no charge can be framed as blank stamp papers do not constitute a document within meaning of section 464 of the Penal Code.
2. As no document has yet been made with the blank stamp papers, the question of committing forgery does not arise at all.

***Questions*:**

(i) Whether the application for discharge may be allowed.

(ii) Whether any charge under any section can be framed.

Specimen Format for Submission

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Oral Presentation on Case Study

Case Study Number:

Submitted by:

Group Name- A/B/C/D…..

Sl.	Name of group members	Designation	Work station	Roll number

Submitted to:

Course Director

145th Refresher Course for the Chief Judicial Magistrates/ Chief Metropolitan Magistrates

Short Facts:
(Brevity is an art. Please maintain that by stemming and striking unnecessary fact. Be briefand specific as far as practicable)

Question to be decided:
(Specific question given)

Relevant laws:
The case involves following laws……

Decision: (with main reasoning)

Reasoning:
(Analysis of the facts, analysis of the law, argument for and against, decision relied)

Reference: (case laws by the AD)
(Case laws by the HCD)

Name & signature of the trainee judges

1.

2.

3.

4.

5.