

Judicial Administration Training Institute
15, College Road, Dhaka
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146th Refresher Course for the Chief Judicial Magistrates/ Chief Metropolitan Magistrates
(05/06/2022- 09/06/2022)

Oral Presentation on Case Study

All participants will be divided into 06 (six) groups, each consisting of 05 (five) 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	26-30	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 06th June, 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

Short Facts:

One S.I. of Police along with two constables and some other persons went to the house of the informant at about midnight and enquired about his brother. His brother 'H' woke up and when he came out, the S.I. told that a case was filed against him and he should go to the Thana along with them. When 'H' requested the S.I. to show the warrant of arrest, the S.I. became furious and forcibly took him near the house of accused 'M' with whom 'H' had prior enmity and there 'H' was seriously beaten by 'M' and his associates with the assistance of the police personnel. As a matter of fact, the victim 'H' received grievous hurt by them and was taken to the hospital for treatment where he died. Later, the brother of 'H' being the informant lodged an FIR against the S.I., two constables as well as against 'M' and his associates. When charge sheet was submitted under sections 302/34 of the Penal Code against all of them, an application was filed on behalf of the S.I. and the constables contending that as no sanction of the Government was taken, they being public servants, no cognizance can be taken against them in view of the provisions of section 197 of the Cr.P.C.

Question:

Whether cognizance can be taken without sanction as required under section 197 of the Cr.P.C. Give reasons.

Problem-2

Short Facts:

On 20/02/2001, the informant lodged an FIR against six accused persons stating inter alia that there was land dispute among them and on the said date at about 1.00 PM, the accused persons being armed with dao, spade, iron etc. formed an unlawful assembly and started to cut earth from the homestead of the informant. The wife of the informant, 'X' protested for

which the accused persons attacked her. One 'M' gave a spade blow causing grievous injury to her left arm and other accused persons assaulted her. At one stage the daughter of the informant, 'Z' came out to rescue her mother 'X', at that time accused 'M' dealt a spade blow on her head and her brain matter came out and she ('Z') succumbed to death on the spot. Hearing hue and cry, the neighbours came and the accused fled away. The informant came home and knew about the occurrence from her wife. Thereafter, he lodged an FIR with the Police Station and accordingly the police case No. 21 of 2001 was started against the six accused persons for committing offence under section 143/447/323/354/379/302/34 of the Penal Code.

The I/O after completion of the investigation, submitted charge sheet against six persons under sections 143/447/323/354/379/302/34 of the Penal Code which was accepted by the concerned Magistrate and accordingly warrants of arrest (W/A) were issued against the accused persons.

Later on, one Inspector of CID referring to a letter of the Head Quarter filed an application to the concerned Magistrate seeking permission to re- investigate and have the case docket. The Magistrate allowed the application. The Inspector conducted the re-investigation and submitted supplementary charge sheet u/s 302 of the Penal Code against the wife of the informant i.e. the mother of the deceased. In the supplementary charge-sheet, he also states that during the investigation he did not find any evidence against the earlier accused persons. The Magistrate accepted the supplementary charge sheet and issued W/A against the wife of the informant and discharged the six other accused persons.

Question:

Whether the Magistrate was proper in allowing the application for the re-investigation and accepting the supplementary charge sheet and discharging the six accused persons of the previous police report. Give answer with reasons.

Problem-3

Short Facts:

Police after investigation submitted charge-sheet against six accused persons and recommended for the release of two other accused persons who were named in the FIR and the report was accepted beyond the knowledge of the informant. The informant then filed a naraji petition against that police report. The Magistrate rejected the naraji petition outright without recording the statement of the informant and affirmed the order of acceptance of the police report and thereby, released two accused persons as per the recommendation made by the police. The informant filed a revisional application before the Sessions Judge against that order. The revision was allowed and the order of the Magistrate was set aside taking the ground that rejection of the naraji petition and release of the accused was not legal.

Question:

Whether the Magistrate was right or the Sessions Judge took correct decision in the revision case.

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

Short Facts:

When the informant was offering "Esha" prayer, mother of 'J' cried out and said, "come and see what happened to my son". Then the informant came out and found 'J' lying in an injured condition. 'J' somehow uttered that he saw his father killed and the dead-body was lying in the nearby paddy field. Hearing this, the informant rushed to the field and found the dead

body. He then rushed to the Thana and lodged the ejahar. He had no detailed conversation with 'J' before lodging the ejahar. The informant did not mention any name of any assailant in the ejahar.

The informant as PW-1 stated the above facts. 'J' deposed as P.W2 and his mother deposed as P.W3. Both of these witnesses stated that out of fear of getting killed by the accused persons, they did not disclose their names immediately after the occurrence and when they disclosed their names to some co-villagers; they warned them not to disclose the names of the accused persons as they were dangerous type of men. Both the P.Ws 2 and 3 in the court clearly stated that the accused persons caused the murder.

Main argument of the defence is that as the names of the accused persons were not mentioned in the F.I.R and even P.Ws 2 and 3 did not disclose names of the accused persons to the informant, so the whole prosecution evidence are concocted. It was also argued that the accused persons have been falsely implicated out of previous enmity.

On the side of the prosecution it was argued that the reason as to why the names of the accused persons were not mentioned in the FIR has been explained by P.Ws 2 and 3 during their examination-in-chief and they had also disclosed the names of the accused persons to the investigating officer while they were examined u/s 161 of the Code of Criminal Procedure, 1898 immediately after lodging of FIR.

Question:

Whether the accused persons shall be entitled to get benefit of doubt in view of the fact that their names were not mentioned in the FIR and not disclosed to neighboring witnesses immediately after the occurrence.

Problem-5

Short Facts:

Informant 'M' lodged FIR alleging that when his hired laborers were weeding in his land (plot No. 233), the accused persons attacked the laborers and injured two laborers 'A' and 'B'. All the accused persons were charged u/s 148; some were charged u/s 325 of the Penal Code, 1860.

One of the accused of this case named 'C' lodged another FIR in which he alleged that he had been possessing plot No. 233 from a long time and on the date of occurrence, 'M' along with others forming an unlawful assembly being armed with deadly weapons attacked his laborers and caused injuries to 'D', 'E' and 'F'. In this case also, charge was framed against all the accused u/s 148 and against some u/s 325 of the Penal Code.

Both cases were tried by the same Magistrate and the accused persons of both cases were found guilty. A question arose that if the accused persons of one case are found guilty, the informant who is accused in the other case cannot be found guilty.

Question:

Whether the aforesaid decision of the Magistrate finding guilty of both the parties of case and counter case was proper. Give reasons.

Problem-6

Short Facts:

A confessional statement contains some false statement. The accused implicated himself and 2/3 others in his statement. The evidence led by the prosecution is not sufficient to prove the implication of the accused who made partly false statement.

It was argued on behalf of the accused that a confessional statement cannot be relied upon in part. The prosecution argued that if the confessional statement found to be voluntary, even if the part of the statement is not true, the other part may be relied upon.

Question:

Whether such a partly true and party false confessional statement can be relied upon to convict the maker of the statement.

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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

146th 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 brief and 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.