

NALSAR

University of Law, Hyderabad

B.A., B.L. (Hons.): IV Year - VII Semester : Academic Year: 2004-2005

End-Semester Examination (October, 2004)

7.5 JUDICIAL PROCESS & STATUTORY INTERPRETATION

Total Marks: 50
Time: 2 ½ Hours

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
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1. X a married woman was caught in a compromising position with W by her husband Y. As a result of the incident Y sued For divorce on ground of adultery. Y also filed a criminal complaint against W under section 497 of the Indian Penal Code. Subsequent to the registration of the complaint X filed a petition in the Supreme Court of India challenging the constitutionality of Section 497 on the ground that it infringed her fundamental rights under sections 14, 19 and 21. In two earlier decisions namely Yusuf Abdul Aziz vs State of Bombay 1954 SCR 930 and S. Vishnu vs Union of India 1985 (1) Scale 960 the Supreme Court has found that the section was protected by article 15 (3) of the Constitution which allows the State to make special provisions for women and children.

Section 497 provides as follows

“Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both. In such cases the wife shall not be punishable as an abettor”.

Decide relying on relevant readings and canons of construction. (10 marks)

2. Comment on the legal validity and feasibility of the following legislative choices
 - (a) permitting employers to have the authority to genetically test a prospective employee before confirming appointment
 - (b) reversal of burden of proof in a charge of sexual harassment
 - (c) providing a mandatory minimum imprisonment term as punishment for marital rape
 - (d) a central legislation to deal with the problem of street hawking
 - (e) Allowing the registration of same sex relationships as civil unions with rights of inheritance to the partners of the union.(10 marks)

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3. The Union Parliament in fulfillment of its constitutional duty of promoting the welfare of the people by securing and protecting as effectively as it may a social order in which justice social economic and political shall inform all the institutions of national life enacted the Equal Opportunity in Private Establishments Act 2004. The statute laid down that all private establishments receiving either state support or recognition would in return of such support and recognition collaborate in the state affirmative action programs including reservations for scheduled castes and tribes and socially and educationally backward classes. Subsequent to the enactment the constitutionality of the statute came to be challenged by two industries one which had received subsidized land from the government and the other which had been recognized as a supplier of linen to government institutions. Present arguments for the two industries and the Union of India relying on the canons of constitutional interpretation and relevant case law. **(10 marks)**
4. X was charged of adulterating milk under the Prevention of Food Adulteration Act . Upon the sample being tested it was found that the quantity of fat in the milk was less than the lowest percentage provided under the Food Adulteration Act. The standard provided in the statute was in relation to cow, goat sheep or any other milch cattle. And X was found selling the milk of a she camel. Can X be convicted of the offence? Decide relying on relevant canons of construction and case law. **(5 marks)**
5. Illustratively explain the following
- (a) ejusdem generis
 - (b) Expressio unius est exclusio alterius
 - (c) Doctrine of pith and substance
 - (d) Intrinsic and extrinsic aids
 - (e) Repealing and validating Acts
- (10 marks)**
6. Holmes holds that for the bad man law is that which the courts do in fact. Do you agree with this proposition and what in your opinion is the significance of this statement?
- (5 marks)**

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