BLOGS

Passage-Based Question on Criminal Law for CLAT PG

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Fundamental rights occupy a place of pride in the Indian Constitution. Article 21 provides “no person shall be deprived of his life or personal liberty except according to procedure established by law”. Personal liberty, thus, is a sacred and cherished right under the Constitution. The expression “life or personal liberty” has been held to include the right to live with human dignity and thus it would also include within itself a guarantee against torture and assault by the State or its functionaries.

Article 22 guarantees protection against arrest and detention in certain cases and declares that no person who is arrested shall be detained in custody without being informed of the grounds of such arrest and he shall not be denied the right to consult and defend himself by a legal practitioner of his choice.

Clause (2) of Article 22 directs that the person arrested and detained in custody shall be produced before the nearest Magistrate within a period of 24 hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the Magistrate. Article 20(3) of the Constitution lays down that a person accused of an offence shall not be compelled to be a witness against himself. These are some of the constitutional safeguards provided to a person with a view to protect his personal liberty against any unjustified assault by the State.

In tune with the constitutional guarantee, a number of statutory provisions also seek to protect personal liberty, dignity and basic human rights of the citizens. Chapter V of Criminal Procedure Code, 1973 deals with the powers of arrest of a person and the safeguards which are required to be followed by the police to protect the interest of the arrested person. Section 41, Cr. P.C. confers powers on any police officer to arrest a person under the circumstances specified therein without any order or a warrant of arrest from a Magistrate. Section 46 provides the method and manner of arrest.

Under this Section no formality is necessary while arresting a person. Under Section 49, the police is not permitted to use more restraint than is necessary to prevent the escape of the

person. Section 50 enjoins every police officer arresting any person without warrant to communicate to him the full particulars of the offence for which he is arrested and the grounds for such arrest.

The police officer is further enjoined to inform the person arrested that he is entitled to be released on bail and he may arrange for sureties in the event of his arrest for a non-bailable offence. Section 56 contains a mandatory provision requiring this police officer making an arrest without warrant to produce the arrested person before a Magistrate without unnecessary delay and Section 57 echoes Clause (2) of Article 22 of the Constitution of India.

There are some other provisions also like Sections 53 54 and 167 which are aimed at affording procedural safeguards to a person arrested by the police. Whenever a person dies in custody of the police, Section 176 requires the Magistrate to hold an enquiry into the cause of death"

Judgement Excerpt from D.K. Basu vs. State of West Bengal (18.12.1996 – SC) : MANU/SC/0157/1997

1) Which of the following judge was among the panel of judges who gave the judgment of D.K Basu .V. State of West Bengal?

a) Justice Arun Mishra
b) Justice Abdul Nazeer
c) Justice Kuldip Singh
d) Justice Pinaki Chandra Ghose

2) How many judges did the panel of the Supreme Court comprised while delivering the judgement in the above mentioned case?

a) 2 judge bench
b) 5 judge bench
c) 7 judge bench
d) 3 judge bench

3) What was discussed in the above mentioned case?

a) Established 11 mandatory guidelines with regards to arrest and to prevent custodial tortures and deaths
b) Widen the scope of Article 21 of Constitution of India
c) Discussed the Rarest of Rare Doctrine

d) None of the Above

4) Who gave a dissenting opinion in the above mentioned case?

a) Justice A.S Anand

b) No dissenting opinion was given

c) Justice Kuldip Singh

d) Justice Pinkai Chandra Ghose

5) Which chapter of CrPC, 1973 deals with the powers of the arrest of a person?

a) Chapter II

b) Chapter III

c) Chapter V

d) Chapter VI

6) Which section of CrPC, 1973 confers powers on police officer to arrest without warrant?

a) Section 38

b) Section 39

c) Section 40

d) Section 41

7) Which section of CrPC, 1973 restrains a police officer from using unnecessary power than required?

a) Section 48

b) Section 49

c) Section 50

d) Section 51

8) Which section of CrPC, 1973 states that the magistrate is required to hold an inquiry into the cause of death?

a) Section 174

b) Section 175

c) Section 176

d) Section 177

9) Which of the following cases deals with custodial violence?

a) Rudal Shah .V. State of Bihar

b) Nilabati Behera .V. State of Orissa

c) D. K Basu .V. State of West Bengal

d) All of the Above

10) Who was considered as amicus curiae in the above mentioned case?

a) Abhishek Manu Singhvi

b) Harish Salve

c) Guarav Agarwal

d) Vanshaja Shukla

11) The scope of which article of the Constitution of India has been widened in the above mentioned case?

a) Article 22

b) Article 21

c) Article 20

d) Article 15

12) Which law commission report deals with the injuries incurred in the custodial cases?

a) 112th law commission report

b) 113th law commission report

c) 111th law commission report

d) 110th law commission report

13) How many guidelines were issued in the above mentioned case?

a) 10

b) 12

c) 13

d) 11

14) Whether India has ratified the UN Convention against torture?

a) Yes

b) No

c) Has signed it but not ratified it.

d) None of the above

15) Whether Prevention of Torture Bill, 2010 has been enacted as legislation in India?

a) No

b) Yes

c) It has been passed by Lok Sabha but not in Rajya Sabha

d) None of the Above

Answers

1. Option c
2. Option a
3. Option a
4. Option b
5. Option c
6. Option d
7. Option b
8. Option c
9. Option d
10. Option a
11. Option b
12. Option b
13. Option d
14. Option c
15. Option c