

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION, YEAR I (REPEAT) – 2018

CRIMINAL LAW

(Three Hours)

Total Number of Questions: 07

Answer **FOUR** questions only **including the compulsory question No.1.**

(Candidates will be penalised for illegible handwriting.)

1. (i) Describe the importance of the case *Van Der Hulst v. The Attorney General* [1989]
(1) Sri L.L.R 204
 - (ii) X, who gets drunk in a party, drives home early morning. He does not stop his car for the red signal light for the vehicles in a pedestrian crossing and knocks down a pedestrian as a result. X pleads that he could not differentiate between red and green signal lights due to his state of drunkenness.
Is X entitled for any defence under the Penal Code of Sri Lanka?
 - (iii) R prepares his Criminal Law assignment using the computer available in his University computer lab. S, a batch mate of R, uses the same computer soon after R leaves the lab. S finds R's assignment in the computer and copies it.
Has any offence been committed in the above scenario? Discuss.
 - (iv) A and five friends of his go for a movie of their favourite idol on the first day of its release. They are disappointed to see the 'house full' board at the cinema theatre well ahead of time. They throw stones at the theatre and few glasses are broken as a result.
Discuss the criminal liability of A and the other five friends.
 - (v) Describe the elements necessary to prove the offence of criminal breach of trust.
2. Thisera, a former employee of M/s. Star Biscuits Ltd (company) was dismissed from services due to misconduct. Two days after such dismissal he went to the factory of the company at late night. He was spotted outside the ware house within the company premises by a security guard. As Thisera was neither able to give an answer to the question as to how he entered the premises nor give a valid reason for his visit, he was handed over to the police. On search of his pockets and belongings, it was found that he possessed a bottle of kerosene oil and a box of matches.
Can Thisera be charged for attempting to commit any Offence?

Discuss quoting appropriate principles, statutory provisions and case law.

3. "... there has for centuries been a presumption that Parliament did not intend to make criminals of persons who were in no way blameworthy in what they did. That means that whenever a section is silent as to *mens rea* there is a presumption that, in order to give effect to the will of Parliament, we must read in words appropriate to require *mens rea*. . . . it is firmly established by a host of authorities that *mens rea* is an essential ingredient of every offence unless some reason can be found for holding that that is not necessary." Per Lord Reid in *Sweet v Parsley* [1970] AC 132; [1969] 2 WLR 470.

Critically evaluate the above statement in the light of the doctrine of strict liability.

4. Raja was a diabetic patient. One evening while he was returning home in his motor bicycle and he felt faintish. He stopped the motor bicycle and went to a nearby grocery shop. He grabbed a slab of *Cadburys* chocolate and a can of *Red Bull* and ran away. On a search he was found sitting in a nearby park and enjoying the chocolate and the drink.

Discuss the criminal liability of Raja with reference to the provisions of the Penal Code and decided cases.

5. Rex was a notorious person in a village. One day Somapala, a neighbor of Rex, came to the land of Rex to collect some coconuts. Silva who was not in good terms with Somapala saw this. Silva immediately informed Rex that there were some monkeys in his land behind the bushes and they destroy plants. Rex shot at the bush and Somapala who was behind the bush was injured. Kamal and Nigam, two neighbours, rushed to Rex's land on hearing gunshot sound and made inquiries. Rex immediately rushed to the house and brought a sword and cut Kamal's right hand. Kamal's hand was impaired as a result. When Nigam attempted to defend Kamal, Rex attacked Nigam, injuring his eye. Neighbours intervened and Somapala, Kamal and Nigam were admitted to the hospital nearby. Somapala succumbed to his injuries upon admission to the hospital. Doctors informed that Kamal's right hand cannot be restored and Nigam would get his vision back in three weeks of time.

Discuss the offences committed by Rex and Silva under the Penal Code of Sri Lanka quoting decided cases.

6. (i) Sentencing is essential to implement penal laws of a country effectively. However, there should be clear policy indicative of objectives in imposing any sentencing. If not, the community may not accept sentencing and lose confidence in the criminal justice system.

Do you agree with above statement? Discuss.

- (ii) Proving of 'mistake' as a defence in criminal cases requires establishment of essential ingredients.

Discuss with reference to appropriate penal laws and case laws.

7. Kamala, a fourteen years old girl developed a relationship with Rihan. On the day of incident Rihan asked Kamala to meet him without telling anyone. However, Kamala told her friend Sumana about it. Rihan took Kamala in his motor bike to a place unknown to Kamala. Once they entered the place Kamala realized that it was a guest house. Rihan took her inside a room where two friends were already there. Since she felt uncomfortable she decided to leave the place, but Rihan locked the door. Rihan, with the help of his friends, injected a drug to make her unconscious. Since Kamala did not come home after classes, her parents contacted Sumana who revealed Kamala's relationship with Rihan and their meeting on the particular day. Kamala was later found lying unconscious by the road. There were no visible injuries in her body, but blood stains were found on her frock.

Discuss the criminal liability of Rihan and his two friends with reference to appropriate authorities.

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