

**UNIVERSITY OF COLOMBO, SRI LANKA**

**FACULTY OF LAW**

**BACHELOR OF LAWS EXAMINATION, YEAR III - 2019**

**LAW OF EVIDENCE AND PROCEDURE**

(Three Hours)

Total Number of Questions: 07

Answer any **FOUR** questions only.

(Candidates will be penalised for illegible handwriting.)

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1. Raja was found dead in his Colombo apartment with multiple stab wounds. Referring to the provisions of the Evidence Ordinance and case law, discuss whether the following facts are relevant or otherwise:
  - a. Raja's driver Silva had purchased a knife a week prior to the former's death, but it is no longer in his possession.
  - b. Silva claims that he took Raja's estranged wife Kamani to Katharagama on the day of the incident.
  - c. Kamani has a receipt issued by a guesthouse to prove that she was in Katharagama on the day of the incident but according telecommunication evidence, Kamani's mobile phone had never been used in Katharagama on that day.
  - d. Kamani has received 15 million Rupees from Raja's life insurance policy three weeks after Raja's death. Five years ago, Kamani had received 10 million Rupees insurance payment after her first husband mysteriously drowned in his swimming pool.

2. Jayasiri has been indicted for robbery and murder. Previously Jayasiri had given a statement to the Magistrate admitting that he had robbed a house and stabbed the house owner. Giving this statement, Jayasiri had revealed the place where he hid the knife which was used for the murder. The prosecution attempts to submit Jayasiri's statement given to the Magistrate and the knife as evidence. Jayasiri claims that the police officers told him: 'Admit that you killed the house owner and we will let you go'. He further adds that the police officers stood next to him during the recording of his statement by the Magistrate.

Referring to the relevant sections of the Evidence Ordinance and case law, discuss the admissibility of the evidence relied upon by the prosecution and the defense of Jayasiri.

3. Referring to the relevant case law and statutory authorities, comment on the following statements:
  - a. The Prevention of Terrorism Act has introduced drastic changes to the law concerning the admissibility of statements recorded by the police as substantive evidence in court.
  - b. The law related to corroboration is not uniform because the requirement of corroboration depends on the type of the offences or evidence; e.g. sexual offences, retracted confessions, evidence of a co-accused or an accomplice as a witness.
4. Kumara is accused of the double murder of Mawdan and Chathura. Mowdan died immediately at the scene of crime and Chathura died a day after in the hospital. Before his death Chathura gave the following statement to the police: 'Kumara attacked Mowdan with a sword and Mowdan collapsed. I ran towards Mowdan to rescue him but Kumara then turned to me and stabbed me with the sword.' Referring to the relevant provisions of the Evidence Ordinance and case law discuss the admissibility of Chathura's statement to the police.

5. Answer either **A OR B only**.

A) Discuss the following scenarios referring to the relevant provisions of the Evidence Ordinance and case law:

- i. David is accused of having in possession of 6 grams of heroin. During the trial, the prosecution questioned the accused about two previous incidents involving him in drug trafficking. While the defence did not object to this, the evidence of the previous drug related incidents was permitted to get into the case record.
- ii. Raymond is a computer graphic technician. He had worked with a team of archaeologists and forensic scientists in Egypt for five years reconstructing the faces of the mummies found in a burial site, mainly using computer soft wear. Raymond helped a police team in Sri Lanka identifying a decomposed body by graphically reconstructing the face of the victim using the computer software which he had used in Egypt.

**OR**

B)

- i. 'The burden of proof on the prosecution never shifts to the accused and he is under no obligation to prove his innocence or adduce evidence in his defence or to make any statement.' Referring to the provisions of the Evidence Ordinance and case law comment on the above statement.
- ii. Section 114 of Evidence Ordinance provides: 'The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business in their relation to the facts of the particular case.'

Referring to the provisions of the Evidence Ordinance and case law comment on this section.

6. 'It is alleged that the rights enjoyed by the subjects in respect of bail has been curtailed by the Bail Act, No. 30 of 1997. Under the Act, granting of bail in respect of bailable offences is now restricted by adding a phrase "subject to provisions hereinafter provided". Do you agree? Give reasons for your answer with the support of relevant authorities.
  
7. What are the circumstances in which a peace officer may arrest any person without a warrant in Sri Lanka? How does the arresting officer fulfil the requirement that he has entertained reasonable suspicion over the activities of the arrestee? Support your answer with relevant statutory provisions and case law authorities.

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