

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION (online), YEAR III – 2021

Law of Evidence and Criminal Procedure
(Three Hours)

Total Number of Questions: **06**

You are required to answer **at least one question** from **Part I & II**.
Answer **THREE (03)** questions and **no more**.
(Candidates will be penalized for illegible handwriting)

Part I

1) Since the 2nd of February 2021, Virginia had been living with her 8-year-old son, Thomas, in her apartment, after separating from her husband Oliver. On the 21st of July 2021 Virginia emailed Oliver saying, ‘If you don’t pay me 50 million Rupees, I will reveal all your corrupt deals to the police’. On the 4th of August, Virginia wrote to the OIC of Kolpity Police Station complaining about Oliver’s corrupt deals and added, ‘by revealing these secrets, I have made many enemies’. On the morning of the 10th of September 2021, Virginia’s dead body with gunshot injuries was found in her apartment by Thomas. Three empty pistol cartridges were also found near the dead body. Thomas told the police: ‘On the night mom died, Dad suddenly appeared in the dark and said, ‘I have sent your mother to the devil’’. Oliver was not found by the police and his mobile phone was switched off until the 13th of September, on which day he came to Kolpity Police Station, and explained that he was in Yala and there was no mobile phone coverage in the area. Police arrested Oliver and took his gun into custody. According Denver, Oliver frequently stays in Denver’s campsite in Yala, and between 9th and 13th of September Oliver spent time at the campsite hunting and target practicing. In his statement Oliver said: ‘Virginia made too many enemies... Thomas suffers from frequent hallucinations. He has spoken about devils and angels before’.

P.T.O

If Oliver is to be prosecuted for Virginia's murder, discuss the relevancy of the aforementioned facts referring to the Evidence Ordinance No. 14 of 1895 (as amended) and decided cases.

(100% marks)

2) Sirimal was arrested by Yala forest officers (FO) on suspicion of illegal logging. During the inquiry, FO Janaka told Sirimal: 'If you tell the truth about the masterminds of the logging business, we will not charge you'. Yet, Sirimal remained silent. Later, Sirimal was handed over to the police station, at which time Assistant Superintendent of Police (ASP) Jayasena came to the station. Sirimal told the ASP: 'Chandana Sir is paying me for logging. He sells timber to Silva.' Based on Sirimal's statement, the forest officers arrested Chandana and Silva, and took Silva's timber store into the officers' custody. At the time of arrest, Silva told the police: 'I am innocent. All what I have done was purchase timber from Chandana and Sirimal.' When Sirimal, Chandana and Silva were produced before the Magistrate, Sirimal revealed: 'I was cutting the trees under Chandana's instructions ... Chandana and Silva are engaged in numerous illegal activities.'

Critically examine the admissibility of the statements of Sirimal and Silva by referring to relevant statutory provisions in Sri Lanka and case law.

(100% marks)

3) Critically analyze the following statements. Your answer should be supported by relevant authorities of the Law of Evidence.

- a. 'The term "specially skilled" (Section 45 of the Evidence Ordinance No. 14 of 1895) is not restricted to professionally trained experts'. (50% of marks)

AND

- b. 'In criminal proceedings a man's character is often a matter of importance in explaining his conduct and in judging his innocence or criminality'. (50% of marks)

4) On the 12th of August, 2021, early morning, the police entered a guesthouse in Kalutara looking for the suspects of a burglary which took place on the 10th of August, 2021 in Panadura. Sarath

and Mahela were arrested when they attempted to run away. The police found a box of gold jewelry from the wardrobe of Sarath's room. During the investigations, Sarath and Mahela said they knew nothing about the jewelry box, and that they both came from Trincomalee on the 11th of August night.

Assuming that you are the lawyer appearing for Sarath and Mahela, discuss how you would address the following matters in trial, referring to the relevant provisions of the Evidence Ordinance No. 14 of 1895 and decided cases.

- a. Burden of proof (33.3% of marks)
- b. Presumptions (33.3% of marks)
- c. Corroboration (33.3% of marks)

Part II

5) On the 19th of July 2021, a man was found gravely injured in a container yard of 'Kalu Company' in Peliyagoda. Managers of Kalu Company allegedly have informed the police that they suspect their employee Sunil of having committed this assault. Sunil lives in 'Rathu Paara' which is notorious for drug dealings and organized prostitution. Sunil's lawyers have successfully secured an anticipatory bail order on his behalf. On the 30th of July, 2021 police received a complaint from Kalu Company that one of their containers were stolen. As Sunil was entering the container yard on the morning of the 30th of July, 2021, four policemen suddenly appeared out of nowhere and pushed him to the ground. While three officers held Sunil, with his face down to the ground, one officer handcuffed him. Sunil yelled: 'Why are you arresting me? You can't arrest me. I have been given bail'. Sunil was taken into custody and produced before the Magistrate on the 2nd of August, 2021 at 4.30 p.m.

Assuming the role of Sunil's lawyer, advise Sunil about his rights and available remedies, referring to the laws applicable to arrest and bail in Sri Lanka with the support of relevant case law authorities.

(100% marks)

6) 'In construing the general principle that, for every distinct offence of which any person is accused, there must be separate charges, it has been held that the word "distinct offence" includes

offences committed on different occasions even though they may fall under the same penal provision' – Prof. G. L. Peiris, *Criminal Procedure in Sri Lanka*, p.198.

Do you agree with the above statement? Discuss your answer referring to the relevant provisions of the Code of Criminal Procedure, No.15 of 1979 and case law.

(100% marks)
