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THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL.M IN CRIMINAL JUSTICE ADMINISTRATION – LEVEL 10- 1st Year
FINAL EXAMINATION – 2017/2018
LLPA605/LWP2305 - CRIMINAL PROCEDURE
DURATION –03 HOURS



Date: 12th January 2019

Time: 09.30 a.m. – 12.30 p.m.

Total number of questions 06.

Answering question No. 1 is compulsory.

Answer four questions including question No.1.

Candidates will be penalized for illegible handwriting.

1. The ship named "Louisiana Brimstone" registered in the United Kingdom and flying her flag, route to Singapore carrying a commercial cargo, is sailing through the sea off the coast of Galle, Sri Lanka. On the deck of the ship a British sailor was seen shooting a French sailor with a pistol, consequent to an altercation. The whole incident of shooting was eye witnessed by a Sri Lankan fisherman on board a fishing trawler, who promptly informed the incident to the OIC Galle police station, via his radio communication equipment. The fisherman further informed that at the time of the incident, the location of the ship was at a point of **8 nautical miles** off the southern cost of Sri Lanka.

(a). The OIC of Galle police station, seeks your advice as to whether he could board the ship (with the assistance of the Navy), initiate investigations and arrest the culprit.

Advise OIC.

(b) . If the victim was a Sri Lankan citizen working on the ship would your answer be

Different?

(25 marks)

2. "The 'Right to Fair Trial' is formally recognized in international law and incorporated into criminal justice systems in the civilized world. In Sri Lanka, it is a fundamental right guaranteed by the Constitution, statutory laws, and common law principles."

Critically analyse and make suggestions for improvements.

(25 marks)

3. The law pertaining to arrest and detention has two conflicting demands - fundamental rights of an individual and the greater public interest. Critically evaluate, how Sri Lankan procedural laws pertaining to arrest and detention, endeavor to strike an equitable balance between the larger public interest and rights of individuals.

Support your answer with the relevant statutory provisions.

(25 marks)

4. (a). Are the provisions of section 14 of the Bail Act No.30 of 1997, in conflict with the guiding principle set out in Section 2.

(b). What are the vital rules pertaining to 'anticipatory bail', set out in the Indian judgments, **Gurbaksh Singh Sibbia Etc. vs State of Punjab** – (1980 AIR 1632, 1980 SCR (3) 383), and **Savitri Agarwal vs. State of Maharashtra** ((2009) 8 SCC 325)

(25 marks)

5. The independence of the Attorney- General arises from the fact that the Attorney – General must exercise the various powers and discretions vested in him, in the public interest.

Critically analyse the above statement in relation to Attorney General's,

- i. Quasi-judicial powers
- ii. Power in his discretion to enter a '*Noelle Presque*'
- iii. Power to appear and conduct the prosecutions in criminal cases
- iv. Power to summon and advise public officers and officers of the police in relation to criminal matters.

(25 marks)

6. The Attorney General had indicted Piyadasa before the High Court for committing one incident of rape against his own daughter Rupalatha, who was 18 years old at the time of the offence

Indictment contained two counts against Piyadasa, count 1 contained a charge under Section 364 Penal Code for committing the offence of rape against Rupalatha and count 2 contained a charge under section 364 A (3) of the Penal Code for committing the offence of incest against Rupalatha.

At the conclusion of the trial, the High Court Judge convicted Piyadasa on both counts and sentenced him to seven years' rigorous imprisonment for each count and ordered the sentence to run consecutively.

Critically analyse the legality of the indictment preferred by the Attorney General against Piyadasa and the sentence given by the High Court Judge.

(25 marks)