

THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LL. B DEGREE PROGRAMME- LEVEL 4
 FINAL EXAMINATION -2017/2018
 LLU4806 /LWU2312– CRIMINAL LAW
 DURATION – 03 HOURS



Date: 26th February 2020

Time: 9.30 a.m. – 12.30 p.m.

Students will be penalized for illegible handwriting

Answer **FIVE** questions only

1. (a). “A mistake of fact leads a person to bring about a criminal consequence as the result of voluntary conduct, but without awareness that the result he produces is criminal at all....”

(Peiris G.L, *General Principles of Criminal Liability in Ceylon*, Page 48.)

Does the above statement reflect the true sense of the defence of mistake of fact as stated in the Penal Code of Sri Lanka?

Critically evaluate this statement with reference to case law and statutory provisions.

(12 marks)

- (b). Can an accused person claim the above mentioned defence against any statutory offence?

Discuss in the light of the doctrine of strict liability and its application in the penal law of England and Sri Lanka.

(08 marks)

(12+08=20 marks)

2. Saman planned to kill his wife Dilki with the intention of marrying another woman with whom he had a love affair. He briefed his plan to a close confidante of him Chaminda and requested his assistance in realizing the plan. Saman promised to pay Rs. 300,000/= to Chaminda upon completion of the task. Chaminda suggested to kill Dilki by poisoning and provided a vial of poison. Next day, Saman prepared two glasses of fruit drinks mixing the poison in one glass. After handing over the poisoned drink to Dilki who was watching TV with their 2-year-old daughter playing by her side, Saman left the room and waited in the garden. A few minutes later, Saman heard Dilki's screams for help and rushed to the room where she was. Saman was shocked to find their daughter fallen on the floor unconscious. The child was rushed to hospital where she died upon admission.

Later it was revealed that Saman's daughter had taken the glass of poisoned drink from Dilki and consumed it.

Saman and Chaminda are charged with murder.

Discuss their culpability citing relevant statutory provisions in the Penal Code of Sri Lanka and case law. (20 marks)

3. Pramod, a trainee site supervisor of a construction company started a relationship with Menaka, a girl who was employed as the receptionist of the same company. One Friday evening Pramod invited Menaka to go out for dinner at a famous restaurant in the town. While dining Pramod asked a waiter to take photos of Pramod and Menaka who sat very close to each other. Pramod saved the photos in his mobile phone. A few days later Pramod left the company. One day he called Menaka on the phone and demanded Rs. 500,000/= immediately and threatened that if Menaka did not accede to his demand, he would send those photos to Kevin to whom she is engaged to marry. The following day Menaka pawned her gold jewellery and handed over Rs.300,000/= to Pramod in fear of being disgraced and losing her fiancé.

Can Pramod be charged with any offence under the Penal Code of Sri Lanka? Discuss.

(20 marks)

4. Sisira attacked Wimal with an empty bottle over a heated argument at a beach party and Wimal fell unconscious on the beach. Sisira withdrew from the scene swearing to destroy Wimal. Other two companions of Wimal and Sisira who were intoxicated due to excessive consumption of liquor, dragged Wimal and left him by the edge of the sea. Later at night, Wimal drowned when the tide came in. Wimal's body was found next morning.

Sisira and his two companions were charged with causing Wimal's death by drowning.

Discuss the criminal liability of Sisira and his two companions with reference to the theory of causation. Support your arguments with case law.

(20 marks)

5. Sujith was charged with kidnapping Hiruni, a girl of 14 years from her lawful guardianship. As the defence counsel for Sujith, discuss the validity of the following defences with reference to relevant statutory provisions and case law.

- i. Hiruni invited Sujith to elope with her and having left her home on the pretext of going to a tuition class, she met him at the gate of the class.
- ii. Hiruni had made Sujith believe that her age is 18.
- iii. Sujith had only invited Hiruni to go for a movie at the 'City Centre Cinema' with the intention of sending her back home in the evening.

(20 marks)

6. Chathura, who is a waiter at the 'City Restaurant' saw a tablet computer on a table which was left by a customer. Not venturing to pick it up immediately for fear of being caught, Chathura switched off and hid the tablet computer behind the waste bin. He thought it would never be found by the owner and intended to take it later from the hiding place when he goes off duty.

Has Chathura committed any criminal offence under the Penal Code of Sri Lanka?

Discuss.

Support your arguments with appropriate case law and statutory law. (20 marks)

7. Explain

(a). the nature and difference between exculpatory pleas and mitigatory pleas

and

(b). the applicability of mitigatory pleas available for the offence of murder

as stated in the Penal Code of Sri Lanka.

(10x2=20 marks)

8. Discuss the origin of the defence of infancy under ancient Roman Law. Compare its application in the light of the modern context of criminal law in England and Sri Lanka.

(20 marks)

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