



جامعة السلطان الشريف علي الإسلامية  
UNIVERSITI ISLAM SULTAN SHARIF ALI  
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

**Faculty of Shariah and Law**  
**Semester II, 2014/2015 Academic Session**  
**Examination Question Paper**

**Course Code : LB 4304**

**Course Name: Criminal Procedure II**

**Course Level : Bachelor of Laws (LL.B) & Bachelor of  
Shariah Law (BSL)**

**Time : 3 hours**

**References allowed**  
**Criminal Procedure Code (Cap. 7)**

**Notes:**

- (1) Answer **Question 1 of Part A** compulsorily, and any **two questions** in **Part B**.
- (2) Illustrate your answer with statutory provisions, if any, and relevant case law authorities.

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**PART A**  
**(Compulsory Question)**

**Question 1 (30 marks)**

Lajim was charged in the Magistrate's Court at Kuala Belait for the theft of a motorcycle, an offence under section 378 of the Penal Code (Cap. 22) and punishable under section 379 of the same Code. When the charge was read to him, Lajim merely smiled and nodded his head and when asked to plead, he admitted taking the motorcycle thinking that it belonged to his good friend, Jamil, who had earlier on reported it stolen in Tutong.

Before the trial commenced Lajim had asked Darus, the police constable escorting him, as to the status of his case. Darus advised Lajim that if he admitted to the taking of the motorcycle the court would be lenient in passing sentence because the Magistrate was a no-nonsense person and it would save court's precious time.

The Magistrate, thinking that Lajim had pleaded guilty, imposed a sentence of 5 years imprisonment and a fine of \$3000 and a further \$2000 in default of payment of the fine. The criminal record revealed that Lajim had been convicted of similar offence involving a bicycle belonging to his neighbour.

- (a) Advise Lajim as to his legal rights in respect of the above case. (10 marks)
- (b) With the help of a flowchart, explain the procedures to be followed in a summary trial, should Lajim pleaded not guilty to the charge. (20 marks)

**PART B**

**Question 2 (15 marks)**

“The correct law for magistrates to apply is as follows. If you accept the explanation given by or on behalf of the accused, you must of course acquit. But this does not entitle you to convict if you do not believe that explanation, for he is still entitled to an acquittal if it raises in your mind a reasonable doubt as to his guilt, as the onus of proving his guilt lies throughout on the prosecution. If upon the whole evidence you are left in a real state of doubt, the prosecution has failed to satisfy the onus of proof which lies upon it.”

(*per* Suffian J (as he then was) in *Mat v PP* (1963) MLJ 263.)

Discuss the above statement in relation to the duty of a court to consider the evidence submitted by the prosecution and the defence at the end of the trial.

**Question 3 (15 marks)**

*Mozley and Whiteley's Law Dictionary* defines “prima facie”:

“A litigating party is said to have a prima facie case when the evidence in his favour is sufficiently strong for his opponent to be called on to answer it. A prima facie case, then, is one which is established by sufficient evidence, and can be overthrown only by rebutting evidence adduced by the other side.”

Discuss the above definition in the light of the provisions in Brunei Darussalam's Criminal Procedure Code (Cap. 7) and decided cases in similar jurisdiction.

**Question 4 (15 marks)**

- (a) If the court finds the accused guilty or a plea of guilty has been recorded and accepted, the court shall pass sentence according to law. Outline the various sentences that the court can impose.

(7 marks)

- (b) Discuss the mitigating and aggravating factors to be considered by the court before sentencing.

(8 marks)

**Question 5 (15 marks)**

Write short notes on the following:

- (a) Appeals and Revision.  
(b) Defence of alibi.  
(c) Rights of the Accused Person.

(5 marks each)

بالتوفيق والنجاح