PART A BAR COURSE 2014

EVIDENCE LAW

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INTRODUCTORY NOTES

Purpose

The purpose of this course is to inculcate an understanding of the primary principles of the Law of Evidence and their application to hypothetical situations. The course involves 8 lectures and four seminar sessions. Lecture 1 provides the introduction to the course. Lectures 2 to 5 will be followed by 2 seminar sessions concerning the respective topics. Lectures 6 to 8 will also be followed by 2 seminar sessions concerning the respective topics. The schedule will be provided separately.

Bibliography

Local texts and reference works

- *Halsbury’s Laws of Singapore, Evidence*, vols 10 and 10(2) (LexisNexis, 2006 reissue)

Indian reference works (optional reading)


English texts (use with care because of differences between Singapore and English law)

- Paul Roberts and Adrian Zuckerman, *Criminal Evidence* (OUP, 2nd ed, 2010)

Background to the Evidence Act

Introductory Lecture

This lecture will involve a consideration of the nature of law of evidence, the scheme of the Evidence Act, the doctrine of relevancy and concepts. This outline (and other lecture outlines) should be read together with the slides presented. Certain materials have been reproduced (marked with an asterisk).

A. Sources of Law:

- Evidence Act (Cap 97).
- The common law to the extent permitted.
- Provisions in other statutes.

B. Background to the Evidence Act

- Enacted in 1893. Largely based on Indian Evidence Act 1872.
- For an historical account, see *Skandinaviska Enskilda Banken AB (Publ), Singapore Branch v Asia Pacific Breweries (Singapore) Pte Ltd and Other Appeals [2007] 2 SLR(R) 367*, at [28]-[29].
- Extracts of James Fitzjames Stephen’s *Digest of the Law of Evidence* and *Introduction to the Indian Evidence Act 1872.*

C. The Evidence Act as a code.

- Section 2(2) of the Evidence Act.
- *Shaaban v Chong Fook Kam* [1969] 2 MLJ 210

D. System of the Evidence Act.

1. Relevancy/admissibility (note the inclusionary nature of the rules). I.e., what can be proved? S 5 of the Act states that evidence may be given of ‘facts in issue’ and facts declared to be relevant by ss 6-57.

2. Modes of proof. I.e., how to prove facts? Oral, documentary, real evidence. See ss 61 and 62. Note that facts which have been judicially noticed (ss 58-59)
admitted (s 60) do not have to be proved. Documentary evidence is governed by ss 63-102 of the Act.

(3) Production and effect of evidence. I.e., who has to prove what and to what degree? See ss 103-116 read with s 3(3)-(5) and s 4(1)-(3).

(4) The rules which govern the adduction of evidence: who is capable of giving evidence? Can he be compelled to testify? Must he answer all questions? How may a witness be examined? (ss 120-67).

The following materials by Stephen are useful to gain a fuller understanding of the scheme of the Act (of which he was the draftsman): ‘Introduction to the Evidence Act, 1872’ (in particular, read the chapter entitled: ‘General distribution of the subject’) and the ‘Stephen’s Digest’ (the introductory chapter). These items are included in the materials you have been given. The complete texts may be found in the reserved books section of the library (see the reading list).

E. Relevancy and admissibility

- Facts in issue and relevant facts: the distinction.
- S 5 states that facts in issue and relevant facts may be proved.
- S 3 defines facts in issue.
- Ss 6 - 57 state all the categories of facts which are regarded as relevant facts. Note s 5 which states that only those facts declared by the Act to be relevant may be adduced in evidence.
- S 3(2) does not define the term “relevance” but merely states that a fact will be relevant if it is so declared by the Act.
- Meaning of ‘relevance’. One of Stephen’s definitions:
  - “Facts from the existence of which inferences as to the existence of the facts in issue may be drawn.” (Introduction to the Evidence Act, 1872, para 15; Digest of the Law of Evidence, p xii.) *
  - The meaning of relevancy in English Law: Distinctions are made between relevancy and admissibility and between legal and logical relevancy.
  - For general reading on English position, see McCormick, Handbook of the Law of Evidence, Chapter 16.* Also note quotes in R v A (No 2) [2002] 1 AC 45 and DPP v Kilbourne [1973] AC 729 (referred to in the slides).
- Sections 6-9 and 11 of the EA
- “Direct’ and ‘circumstantial” evidence.
- Parties have a right to adduce admissible evidence: Basil Anthony Herman v Premier Security Co-operative Ltd [2010] 3 SLR 110.
- Court to decide on relevance/admissibility: S 138 of Evidence Act.
- Distinguish between admissibility (determined by law) and weight (determined by assessment of the evidence).
F. **Modes of proof: Oral, documentary and real evidence.**

**Oral evidence:** s 62(1): Allows witnesses to give direct evidence of facts in issue and relevant facts. The relevant fact must be personally perceived. This sometimes referred to as the direct evidence rule. Note that in civil cases, witnesses generally give their evidence in chief by affidavit. Once they have confirmed their affidavits at trial, they may be cross-examined. In criminal cases, evidence is presented by the traditional method of examination in chief.

**Documentary evidence:** ss 63-102. These are provisions governing the proof of documents.

**Real evidence:** s 62(3). The distinction between documentary and real evidence can be difficult to make at times. This is important because an item which is classified as real evidence may be admitted as original evidence, while a document which is adduced as evidence of its assertions may be excluded as being hearsay. (This will be considered in the course of the hearsay lectures.)

G. **Effect of Illustrations in Evidence Act.**

*Mahomed Syedol bin Arifin v Yeoh Ooi Gark* (1916) 2 AC 575 at 581.
*PP v Muhammad Rahmatullah Maniam bin Abdullah* [1999] SGHC 252, at [35].

Jeffrey Pinsler
Lectures 2-5

A. CHARACTER EVIDENCE; SIMILAR FACTS

References:

Recommended: Jeffrey D Pinsler, Evidence and the Litigation Process (LexisNexis, 2013), 4th ed) ch 3 and ch 9

Further Reading:
Ho HL, An Introduction to Similar Fact Evidence (1998) 19 Sing L Rev 166
Ho HL, ‘Similar Facts in Civil Cases’ (2006) 26 OJLS 131

I. THE SIMILAR FACTS RULE

1) The Common Law Position:

a) Criminal Cases
   Makin v A G for New South Wales [1894] AC 57
   R v Boardman [1975] AC 421
   R v Straffen [1952] 2 QB 911
   DPP v P [1991] 2 AC 447
   R v H [1995] 2 AC 596
   R v M [2000] 1 All ER 148

b) Civil Cases
   Hin Hup Bus Service v Tay Chwee Hiang [2006] 4 SLR(R) 723
   Rockline Ltd v Anil Thadani [2009] SGHC 209

2) The Position in Singapore

a) The Evidence Act (‘EA’): Sections 2(2), l1(b), 14, 15 EA.
   CPC 2010, ss 265-6 (formerly, ss 373-4)
   PP v Teo Ai Nee [1995] 2 SLR 69, 92-94; [1995] 1 SLR(R) 450
   Tan Meng Jee v PP [1996] 2 SLR 422; [1996] 2 SLR(R) 178
   Lee Kwang Peng v PP [1997] 3 SLR 278; [1997] 2 SLR(R) 569
   Public Prosecutor v Mas Swan bin Adnan and another [2011] SGHC 107

b) Bench vs Jury Trial:
   AG of Hong Kong v Siu Yuk-Shing [1989] 1 WLR 236
   Tan Meng Jee v PP, above at 434
   Rockline Ltd v Anil Thadani, above
   Tan Chee Kieng v PP [1994] 2 SLR(R) 577 at [8]
II. CHARACTER IN OTHER CONTEXTS

1) Character of Accused
Sections 55, 56, 122(4)-(8), EA.
Tan Nguan Siah v PP [1993] 3 SLR 895; [1993] 3 SLR(R) 246
PP v Tan Chuan Ten & Anor [1996] SGHC 281 (6th Dec 1996)1

2) Character of Party in Civil Case
Section 54, EA.
Rockline Ltd v Anil Thadani, above

3) Character of Witness and Victim of Sexual Offence
a) Shaking Credit by Injuring Character: sections 148(c), 150, 155, 157(a) and explanation, EA.
(On the meaning of ‘credit’: Kwang Boon Keong Peter v PP [1998] 2 SLR 592 at para 18; [1998] 2 SLR(R) 211.)

b) Immoral Character of Rape Victim: Section 157 (d), EA.
(Brief references to this provision in a few cases but without analysis: eg, PP v Liew Kim Choo [1997] 3 SLR 699 at para 35; [1997] 2 SLR(R) 716; Lim Baba v PP [1962] MLJ 201.) (Section 157(d) has now been repealed in Evidence (Amendment) Bill NO 2/12. What is the effect?
B: HEARSAY

References
Local:
Evidence (Amendment) Act 2/12 makes wholesale changes to the law of hearsay.

English:
I H Dennis, The Law of Evidence (4 ed., Sweet and Maxwell, 2010), Ch 16
Peter Murphy & Richard Glover, Murphy on Evidence (12 ed., OUP, 2011), Ch 7, 8A
Colin Tapper, Cross & Tapper on Evidence (12 ed OUP, 2010), Ch XII.
*Note on English texts: The references here are limited to the common law discussions, which are particularly relevant. The discussions on statute law should be omitted as they do not correspond to Singapore’s law, either current or prospective.

WHAT IS HEARSAY?

Nature of Hearsay

Saga Foodstuffs Manufacturing (Pte) Ltd v Best Food Pte Ltd [1995] 1 SLR 739
Lee Chez Kee v PP [2008] 3 SLR(R) 447, at [67]
Roy S Selvarajah v PP [1998] 3 SLR(R) 119, para 40
Soon Peck Wah v Woon Chye Chye [1997] 3 SLR(R) 430

a. Express assertions by statement or conduct
PP v Subramaniam [1956] 1 MLJ 220.
Choo Pit Hong Peter v PP [1995] 1 SLR(R) 834
Chandrasekera v The King [1937] AC 220
R v Gibson (1887) 18 QBD 537

b. Implied assertions by statement
Wright v doe d Tatham (1837) 7 Ad & E 313; 112 ER 488
Teper v R [1952] AC 480
Walton v R (1989) 166 CLR 283 (84 ALR 59)
R v Ratten [1972] AC 378
R v Kearley [1992] 2 AC 228 (HL)

c. Implied assertions by conduct
Wright v doe d Tatham (see above)
S 32A Evd Act (formerly CPC 2010, s 269(3)) appears to exclude implied assertions by conduct from the scope of hearsay rule.
EA, s 8(2) concerns conduct of parties (and their agents).

d. “Negative hearsay” (assertions by omission)
R v Patel [1981] 3 All ER 94
R v Shone (1983) 76 Cr App Rep 72

e. ‘Non-hearsay’
1. Statements of maker’s physical or mental state.
May not be relevant to issues: see R v Kearley (above) EA, s 8, s 14
R v Blastland [1986] AC 41

2. Real evidence
R v Rice [1963] 1 QB 857
R v Percy Smith [1976] Crim LR 511
R v Cook [1987] QB 417
PP v Ang Soon Huat [1990] 2 SLR(R) 246

3. Operative words
Keimfarben GmbH & Co KG v Soo Nam Yuen [2004] SGHC 145

The 2012 Hearsay Scheme

General introduction: EA, ss 17-40, 160 (as amended by the Evidence (Amendment) Act 2/12)
(Admissions and confessions to be covered in separate reading lists/lectures)

EVIDENCE ACT: s 32 of the EA (as amended by Act 2/12)
S 32 pre-conditions: (repealed)
(Jet Holding Ltd. V Cooper Cameron [2005] 4 SLR(R) 417)

1. S 32(a) of the EA (Dying declarations)
Yeo Hock Cheng v R [1938] MLJ 104
Chanderasekara (above): hearsay assertion by conduct may come within s 32(a)
Toh Lai Heng v PP [1961] MLJ 53

2. S 32(b) and s 34 of the EA (business records and accounts)
(Extended definition of ‘business records’ as amended by Act 2/12)

3. S 32(c)-(h) of the EA
Saga Foodstuffs Manufacturing (Pte) Ltd v Best Food Pte Ltd [1995] 1 SLR 739 (see also, new s 32(b)(iii))
Note: Illustrations in section 32, esp (m)

4. New subsections for admitting hearsay: Subsections (i), (j) (k)
Note especially hearsay by agreement: in criminal cases, ref s 32(4)(a);
civil cases: s 32(4)(b) and s 32(6)
Subsections (2)-(7): Limitations on the admissibility and use of hearsay
(2) Oral statements reduced to writing

5. Excluding relevant hearsay in the ‘interests of justice’

6. Notice to admit hearsay

7. Weight of Hearsay Evidence
8. Hearsay by Agreement in criminal cases: special considerations

9. Agreement not a basis for admission in certain proceedings

10. Admissible hearsay and corroboration: s 160A (new)

11. Prior Statements, Consistent and Inconsistent, Refreshing Memory
   S 147(3), (5) –(7)

12. Ss 268 CPC 2010
   Lee Chez Kee v PP [2008] 3 SLR(R) 447
   Roy S Selvarajah v PP [1998] 3 SLR(R) 119

13. Other ‘common law’ exceptions: Res Gestae:
   S 6-9 of EA
   Mohd b. Allapitchay v PP [1958] MLJ 197
   R v Bedingfield (1879) 14 Cox CC 341
   Hamsa Kunju v R [1963] MLJ 228
   Ratten v The Queen [1972] AC 378
   R v Andrews [1987] AC 281
   Chi Tin Hui v PP [1994] 1 SLR(R)
C: STANDARDS & BURDENS OF PROOF

Text:

Further references


I. STANDARDS OF PROOF

Sections 3(3), (4) and (5) EA

Criminal
Jayasena v R [1970] AC 618, PC Ceylon
PP v Yuvaraj [1969] 2 MLJ 89, PC M’sia
Took Leng How v PP [2006] SGCA 3; [2006] 2 SLR(R) 70
Jagatheesan s/o Krishnasamy v PP [2006] SGHC 129; [2006] 4 SLR(R) 45
XP v PP [2008] SGHC 107; [2008] 4 SLR(R) 686
AOF v PP [2012] 3 SLR 34; [2012] SGCA 26

Civil
Miller v Minister of Pensions [1947] 2 All ER 372
Wee Yue Chew v Su Sh-Hsyu [2008] 3 SLR(R) 212
Chua Kwee Chen, Lim Kah Nee and Lim Chah In (as Westlake Eating House) and Anor v Koh Choon Chin [2006] SGHC 92, [2006] 3 SLR(R) 469
Clarke v SilkAir (Singapore) Pte Ltd [2002] 3 SLR(R) 1136, paras 58-63
Cooperatieve Centrale Raiffeisen-Boerenleenbank BA (Trading as Rabobank International),
Singapore Branch v Motorola Electronics Pte Ltd [2011] 2 SLR 63; [2010] SGCA 47
II. BURDEN OF PROOF
Sections 103-116 Evidence Act

1) Terminology, concepts, types

2) Civil Context
   eg, Cooperatieve Centrale Raiffeisen-Boerenleenbank BA (Trading as Rabobank International),
   Singapore Branch v Motorola Electronics Pte Ltd above

Presumption of Innocence
Section 103, Evidence Act
Woolmington v DPP [1935] AC 462

General Exceptions, Special Exceptions and Provisos in the Penal Code
Section 107, Evidence Act
Jayasena v R, above
Juma’at bin Samad v PP [1993] SGHC 145; [1993] 2 SLR(R) 327
cf Vasquez v R [1994] 1 WLR 1304, PC Belize

5) Special Exceptions or Provisos in Any Law Defining the Offence
Section 107, Evidence Act
R v Edwards [1975] 1 QB 27
R v Hunt [1987] AC 352
PP v Kum Chee Cheong [1993] SGCA 95; [1993] 3 SLR(R) 737

6) The Alibi Defence
Section 105, Illustration (b), Evidence Act
Syed Abdul Aziz v PP [1993] SGCA 65; [1993] 3 SLR(R) 1

7) Special Knowledge of the Accused
Section 108, Evidence Act
Mary Ng v R [1958] AC 173
PP v Tan Khee Wan Iris, above
PP v Kum Chee Cheong, above
PP v Chee Cheong Hin Constance, above at [95]
[215] et seq

III. Presumptions
Terminology, concepts, types: sections 4, 109-114, 116, Evidence Act
Ong Ah Chuan, above
Yuvaraj, above
Eg: Tan Kiam Peng v PP [2007] SGCA 38; [2008] 1 SLR(R) 1 at [54] to [75]
D: Right of Silence / Privilege against Self-incrimination

Textbook:
Jeffrey Pinsler, Evidence and the Litigation Process (LexisNexis, 4th ed, 2010), Ch 5 Sections F (p 182) – K (p 197); Ch 23, para [23.014]-[23.023]

Introduction
1: Silence when questioned/confronted by person other than law enforcement officers

CPC, s 261(2) (formerly, s 123(3))

2: Silence when questioned by law enforcement officers

CPC, s 22(2) (formerly, s 121(2))
Privilege against self-incrimination (the right ‘not say anything that might expose [one] to a criminal charge, penalty or forfeiture’)
Cf Taw Cheng Kong v PP [1998] 1 SLR(R) 78

PP v Mazlan bin Maidun [1992] 3 SLR(R) 968
Ong Seng Hwee v PP [1999] 3 SLR(R) 1; [1999] 4 SLR 181 at 190-191
Lim Lye Huat Benny v PP [1995] 3 SLR(R) 689; [1996] 1 SLR 253, esp at 262
Kwek Seow Hock v PP [2011] 3 SLR 157
cf common law
R v Chandler [1976] 1 WLR 585
Hall v R [1971] 1 WLR 298

3: Silence upon being charged or officially informed of an offence

CPC, ss 23, 261 (formerly, s 122(6) and s 123)

PP v Tsang Yuk Chung [1990] 2 SLR(R) 39
PP v Azman bin Abdullah [1998] 2 SLR(R) 351
Lau Lee Peng v PP [2000] 1 SLR(R) 448; [2000] 2 SLR 628, especially [36]-[40]
Yap Giau Beng Terence v PP [1998] 2 SLR(R) 855; [1998] 3 SLR 656, especially [38]
Kwek Seow Hock v PP, above

4: Silence at the trial upon being called to enter defence

CPC, s 230(m) and s 291(3) (formerly s 189 and s 196)

Haw Tua Tau v PP [1981] 2 MLJ 49
Took Leng How v PP [2006] 2 SLR(R) 70, especially [40]-[45]
Chai Chien Wei Kelvin v PP [1998] 3 SLR(R) 619 at [80]-[83]; [1999] 1 SLR 25 especially [61]-[62]
Loo Koon Seng v PP [1995] 1 SLR(R) 271
E: Statements from Accused Person; Confessions & Admissions

Textbook:

There are many cases on the present topic. Only a selection of the more important decisions is given below.

Relevant provisions
EA, ss 17(1),(2); s 21; former s 24 (repealed; now see s 258(3) CPC)
CPC, ss 21-23, 258 (formerly CPC, ss 120-122)

Rationale and Policies

General principles of admissibility: ‘voluntariness’ and oppression, and the burden of proof
PP v Lim Kian Tat  [1990] 1 SLR(R) 273
Fung Yuk Shing v PP [1993] 2 SLR(R) 771
Lu Lai Heng v PP [1994] 1 SLR(R) 1037
Garnam Singh v PP [1994] 1 SLR(R) 1044
Seow Choon Meng v PP [1994] 2 SLR(R) 338
Osman bin Din v PP [1995] 1 SLR(R) 419
PP v Dahalan bin Ladaewa [1995] 2 SLR(R) 124
Panya Martmontree v PP [1995] 2 SLR(R) 806
Poh Kay Keong v PP [1995] 3 SLR(R) 887
Yeo See How v PP [1996] 2 SLR(R) 277
Chai Chien Wei Kelvin v PP [1998] 3 SLR(R) 619
Gulam bin Notan v PP [1999] 1 SLR(R) 498
Ismail bin Abdul Rahman v PP [2004] 2 SLR(R) 74
Lim Thian Lai v PP [2006] 1 SLR(R) 319
PP v Ismil bin Kadar [2009] SGHC 84
PP v Lim Boon Hiong [2010] 4 SLR 696
Azman bin Mohamed Sanwan v PP [2012] 2 SLR 733.

Weight (evidential value) of confession:
Lim Boon Keong v PP [2010] 4 SLR 451
Retracted confession: Lim Thian Lai v PP above; Muhammad bin Kadar v PP [2011] 3 SLR 1205

Doctrine of confirmation by subsequent facts
s 258(6)(c) CPC [formerly, s 27 EA]
PP v Chin Moi Moi [1994] 3 SLR(R) 924
Evidence against Co-Accused:

s 258(5) CPC [formerly s 30 EA]

Definition of ‘confession’:

Anandagoda v R [1962] MLJ 289

Chai Chien Wei Kelvin v PP above

Sim Cheng Hui v PP [1998] 1 SLR(R) 670

PP v Chin Seow Noi [1993] 3 SLR(R) 566

Lee Chez Kee v PP [2008] 3 SLR(R) 447

Admissibility under CPC; procedural irregularities

This topic will be covered in the lecture on ‘Entrapment, Illegally Obtained Evidence and the Discretion to Exclude Evidence’.

Chin TY
Seminar 1: Similar Fact Evidence, Character, Hearsay

1 (a) ‘Singapore courts have applied the Boardman-DPP v P test, which is strictly inconsistent with the Evidence Act.’ Discuss.

1 (b) Chan is charged with the offence of cheating. At the trial, his alleged victim, Vasu, gave the following testimony: in September 2010, Chan approached Vasu outside a betting shop and offered to sell Vasu a ‘lucky ring’. Chan told Vasu that if he wore the ring, he would be sure to win the lottery within two months. Vasu paid $500 for the ring. When the promised lottery win failed to materialise and it finally dawned on Vasu that he had been duped, he reported the matter to the police.

The prosecution proposes to call Teng to testify that in September 2008, she was approached by Chan outside a temple. He persuaded her to buy from him a paper talisman for $250 and said that this would guarantee she would be blessed and win a lot of money from bets. Teng lost heavily betting on horses and 4D.

Is this evidence admissible in the following scenario? (This incident is not the subject of any charge against Chan.)

(a) The defence flatly denies that either of the incidents occurred and that Chan was not the culprit. Teng had wrongly identified Chan.

(b) Both incidents were concocted by Vasu and Teng. They were paid by Chan’s wife to give false evidence against him. Chan and his wife are in the middle of a bitter divorce battle. How should the court treat this claim of collusion?

2 a) ‘The new rules on hearsay create more problems than they solve’. Discuss.

(b) Jogger (J) claims that when he ran across the street at a crossing, the pedestrian light was still green. To prove Driver (D) ran a red light, he wants to testify that while he was lying on the ground after being knocked down, Bystander (B) came to him and said, ‘Are you alright? The traffic light was already red when Driver’s car hit you’.

Assume B can’t be found or won’t testify, discuss whether it is (i) hearsay; (ii) admissible, and if so, basis of admissibility; (iii) if admissible, should judge reject J’s proposed testimony in the exercise of exclusionary discretion?
Seminar 2: Burden of Proof; Statements of Accused, Right to Silence etc

Question 1

(a) An ‘evidential burden’ is not a ‘burden of proof’ according to the PC in Jayasena. Explain the reasoning of the PC, and discuss what problems this interpretation has created for the accused person with regard to defences.

(b) The Sale of Poultry Meat Act provides:

s 5: ‘It is an offence to sell poultry meat without a valid licence.’
s 6: ‘For the purposes of this Act, a person who is in possession of poultry meat is presumed to be for the purpose of selling it.’
s 7: ‘It is a defence to the offence created in section 5 that the person who is in possession of poultry meat intended to consume it.’

Licence is defined under the Act to mean a licence issued by the Central Registry Bureau of the Ministry of Food. Lim is prosecuted under section 5 of the Act. A police officer testifies that Lim was caught in the void deck of a block of flat with a package containing a freshly dressed chicken. The prosecution case was that Lim was on his way to deliver the package to a customer. The defence raises the argument that there is no case to answer since the prosecution has not produced any evidence that Lim did not hold a valid licence at the relevant time. This argument is rejected by the trial judge. Is she right to have done so?

Lim testifies that he was on his way home when he was caught. His intention was to cook the chicken and eat it for dinner. A witness called by the prosecution testifies that Lim is a vegetarian. The witness explains that he has known Lim for about three months, they have been meeting for lunch about once a week, and in all that time he has never seen Lim eating meat. The judge finds Lim guilty. In her grounds of judgment, the judge wrote:

‘Lim was found in possession of chicken meat. He is presumed to have it for the purpose of sale. It is for Lim to prove otherwise. What Lim intended to do with the chicken was a fact especially within his knowledge. I am not satisfied on the balance of probabilities that Lim intended to consume the chicken. All accused persons would naturally claim that they are innocent in order to escape punishment; for that reason, the evidence of all accused persons is inherently untrustworthy.’

Discuss critically the soundness of the judge’s reasoning.
Question 2

(a) ‘The accused person’s right to silence is severely limited in Singapore.’ Is this a correct statement of the law?

(b) Ali and Beng are tried jointly for theft.

Ali was picked up by the police. An interpreter, Fandi, told Ali in the interrogation room just before the arrival of the investigating officer (Sgt de Cruz): ‘Let me give you a bit of advice. The police know your wife is helping your brother-in-law with his loan shark business. I don’t think I need to say more. If you love your wife, you know what to do.’ Shortly thereafter, Sgt de Cruz appeared. He said to Ali: ‘I see that Fandi has already introduced himself to you. So we can get down immediately to business. I can’t promise you anything, but if you co-operate, I will see what I can do. There are some strings I can pull. So, are you ready to come clean?’ Ali then gave Sgt de Cruz the following statement:

‘Beng asked me out one day. He said he had a quick way of getting money. We went to a shop. The shop was closed and there was no one around as it was 3 am in the morning. He asked me to keep watch at the corner of the street and to shout out if I saw anyone coming along. I did as I was told. He didn’t tell me what he was up to. Shortly thereafter, he came back with a lot of cash in his hands. He told me that he had broken into the shop and gotten the money from there. We split the money between us.’

Should the prosecution be allowed to adduce as evidence Ali’s statement below? Against whom can the statement be used?