

1. Mr. Johnson Tumusiime a national of the Republic of Somalia visited Kenya on what he described as his 'Spring Vacation.' He landed at Jomo Kenyatta International Airport in Nairobi on 12th March, 2013. Mr. Tumusiime booked himself in the Presidential Suite of a hotel called Ola Sarara in Eastleigh. At about 2030hrs Mr. Tumusiime walked to a bar, a block away, for purposes of entertaining himself. He entered Tupendane Bar and Discotheque and then ordered for a bottle of Tusker beer. Ms Penzi the waitress, who considers herself beautiful and is at times addressed as Ms Eastleigh, was at hand to serve Mr. Tumusiime.

After taking several drinks, Mr. Tumusiime got attracted to Ms Penzi and invited her for a drink. Since Ms Penzi was on duty, she declined to join Mr. Tumusiime but suggested that she could join him at a different venue as soon as her shift ends at 2200hrs. The duo agreed to meet at Nyenyeny Bar and Discotheque within Eastleigh off Wahome Road. At about 2215hrs Mr. Tumusiime had already pitched tent at Nyenyeny Bar waiting for Ms Penzi. Ms Penzi considered the sharing of a drink with Mr. Tumusiime a major event (date) for which she dashed home to dress up for the occasion. She entered into Nyenyeny Bar and Restaurant at around 2330hrs and joined Mr. Tumusiime at a table.

After being together at the table for about 45 minutes with Mr. Tumusiime a huge stocky man known as Buda walked in and went straight for Mr. Tumusiime's table. While shouting at Mr. Tumusiime, he grabbed Mr. Tumusiime by the collar and smashed his face into the wall. A fight ensued between the two men. While attempting to scare away Mr. Buda, Ms Penzi threw at him a bottle of Tusker beer. The bottle smashed a Sony television set valued at Shs.5,000/=, the property of Nyenyeny Bar & Restaurant. Police arrived at the scene at about 0010hrs, attracted by the commotion. They arrested Mr. Tumusiime, Ms Penzi and Mr. Buda.

On taking the three to Kamukunji Police Station, it was discovered that Mr. Buda is believed to have assaulted Mr. Maji Sukari on 20th February, 2013 for allegedly stealing 2 kilograms of Sugar from Mr. Buda's house in Karen View Estate. Mr. Buda has since been on the run. While at the Police Station it is also discovered that Mr. Tumusiime was in possession of a firearm with one round of ammunition, without a licence.

Draft appropriate charges.

(15 marks)

2. The following proceedings appear in the record of Kithimanu Resident Magistrates Court in Taita Taveta County:

"Charges as read to the accused person statement of offence: Theft by servant contrary to Section 275 of the Penal Code Cap. 63 Laws of Kenya

Particulars: Makanga Jeuri on 12th March 2013 within Machakos County being a domestic servant of Shinda Mali stole from the said Shinda Mali an Ipad VI serial number 09876 valued at Kshs.120,000/=

Accused: Probably