INSTRUCTIONS TO CANDIDATES

1. This examination paper contains two questions and comprises three printed pages inclusive of this cover page.

2. Answer all questions.

3. This is an open book examination.
Question 1

P engaged D Ltd to build a house. Soon after the construction was completed and the house handed over to P, cracks started to appear on the walls. P complained about the cracks to X, the managing director of D Ltd, and insisted that the problem be rectified immediately.

X instructed Y, the project manager who oversaw the construction of the house, to write him a report on the matter ('the Report'); among other things, X wanted an explanation for the cracks. (D Ltd employs a number of managers and the policy is for the manager to submit a report whenever a complaint is received of defects in the building constructed under his charge.) In the Report, Y opined that the cracks were probably due to the use of poor quality cement.

After reading the Report, X ordered a stop to any further purchase of cement from the existing supplier and a switch to a new supplier. He also arranged a meeting with a lawyer. The Report was passed to the lawyer at the meeting.

Following an internal investigation, Y was dismissed by D Ltd on the ground that he had received bribes from the former cement supplier in exchange for accepting inferior quality cement. The cement supplier happened to be Y’s brother-in-law. Y maintained his innocence, and feeling aggrieved by his dismissal, he sent a copy of the Report to P. Y has since moved to Hong Kong to take up another job.

P has now sued D Ltd for negligence.

Answer the following questions:

(1) Is the Report privileged?

(2) Are there any other objections to the admissibility of the Report?

Y’s wife is still in Singapore. P proposes to call her to testify at the trial. Can she be compelled to disclose what her husband had told her about the cement that was used in constructing P’s house and what she knows about her husband’s dealings with her brother (the cement supplier)?

Question 2

(a) Beng is an undercover agent for the police. He got wind of a rumour that Ahmad was a ‘shady’ character, and an unemployed ex-convict. Beng approached Ahmad, and told Ahmad to call him if he had any stolen goods for sale. Beng added: ‘I offer the best price in town. I guarantee the goods won’t get traced to you. Stealing things is surely a piece of cake for you. Easy and quick way to make money. Don’t think so much, just do it.’ Ahmad, who was desperate for money, decided to take a risk. The next day, Ahmad targeted an elderly and blind lady who was living alone. He gained entry into her flat by pretending to be an Housing
Board inspector. Once inside the flat, he assaulted the lady, tied her up, ransacked the place and made off with her jewellery.

Ahmad was caught by the police when he tried to sell the jewellery to Beng. He is charged with the offence of robbery. Beng has not been charged with any offence.

What arguments can the defence advance at the trial on the facts as described above? (Discuss with reference to the relevant cases such as Law Society v Tan Guat Neo Phyllis [2008] 2 SLR(R) 239; [2007] SGHC 207.)

(b) The prosecution seeks to adduce evidence of the fact that Ahmad was convicted of robbing an elderly and blind man at his flat three years ago. The man was living alone. He had invited Ahmad into his flat when Ahmad introduced himself falsely as a friend of his son. When Ahmad got into flat, he knocked the man unconscious and made off with his wallet. Is evidence of this previous crime admissible?

(c) The prosecution seeks to admit in evidence a statement that had purportedly been taken by the police from Ahmad under section 22 of the Criminal Procedure Code 2010. It reads: ‘I stole the jewellery from a flat in Bukit Merah because I desperately needed the money.’

Ahmad claimed that the statement was taken under the following circumstances: He was questioned aggressively by a police officer, Chong, at the police station. The questioning was conducted in English. Ahmad speaks Malay and had little understanding of English. No translator was provided. Chong did not take any notes during the questioning. Ahmad claimed that he told Chong in Malay that the jewellery belonged to his wife. Ahmad was kept in detention for the next three days: During this period, he was given only one glass of water and a sandwich a day. On the fourth day, a different police officer, David, showed him a written statement in English and forced him to sign it. He could not understand the content of the statement and it was never explained to him. David, speaking in Malay, had threatened to make trouble for his wife if he did not do as he was told.

These allegations are disputed by the prosecution. Discuss the burden of proof in relation to these allegations.

Assuming that the court is persuaded of the truth of these allegations, should the court admit Ahmad’s statement?