QUESTION ONE

1.1 ‘Chris is currently in custody following a series of incidents involving his ex-wife Mary. You are his attorney and are required to advise him on his criminal liability in the following scenarios:

1.1.1 Chris had sexual intercourse with Mary and her new husband consecutively, without their consent by threats that if they refuse, he will also ‘do it’ with their teenage daughter;

1.1.2 When he tried to have intercourse with Mary again, he could not ejaculate and pushed an object into Mary’s vagina after intercourse so that she ‘remembers him’;

1.1.3 He forced the gardener, at gunpoint, to have sexual intercourse with Mary.

In discussing his criminal liability make reference to the possible crimes with which he could be charged in terms of The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007.

(12 marks)

1.2 Briefly discuss the question whether in each of the following instances the crime of rape has been committed:

1.2.1 Janice, an adult woman, lies on her bed in the dark in a hotel room. A man enters the room and has sexual intercourse with her in the dark. She has no objection because she is under the impression that it is her husband. However, it was not her husband but a stranger, Xavier. He knew that she was under the mistaken impression that he was her husband.

(4 marks)

1.2.2 Jane, an adult woman, consents to having sexual intercourse with Joseph because he offered her a certain amount of money. After the intercourse he gives her a cheque that is later dishonoured by the bank for lack of funds.

(4 marks)
QUESTION TWO

Critically discuss the crimes of treason, sedition and public violence. (20 marks)

QUESTION THREE

You are the Chief Prosecutor in Pietermaritzburg. The following docket is sent to you. The junior prosecutor wants to know whether or not to prosecute the accused in this matter. In your opinion, discuss the various crimes for which a prosecution may be successfully instituted and refer to relevant case law.

Statement by Constable Catchem: “While on patrol in the Maritzburg Mall on the night of 12th March, I noticed some movement in the Kev’s Furniture Store. Upon investigating I observed Mr T Williams and two others removing items of furniture from the shop. I thereupon apprehended these persons. Upon further investigation, I discovered Mr Watchem, a security guard, tied to a chair in a small room in the back of the shop.”

Statement by Mr Watchem: “I am a security guard at Kev’s Furniture Store. At approximately 23h00 I heard suspicious sounds at the back of the shop. I went to investigate. As I opened the door a person later identified to me as Williams, confronted me and pointed a gun at me. He instructed me to go into the small room at the back of the shop. There he made me sit in a chair and tied my hands and feet with wire. Then he left closing the door behind him. I heard him and his companions talking and moving furniture around. Later the police released me.”

(20 marks)

QUESTION FOUR

Write a note on contempt of court ex facie curiae. (15 marks)