DAY 3 EDZORB 30243

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Stages and Intention of Crime

Q1. What is Mens Rea? Explain the dictum "Actus Non Facit Reum Nisi Mens Sit Rea".

Answer: Mens Rea - Mens means mind and rea means guilty, therefore mens rea means guilty mind.

This mens rea is an ingredient of crime as it helps to connect crime and criminal.

According to some jurist, there is no application of mens rea in Indian penal code. The reason they give is that every offences under the code has its own seperate definition and only when conditions of this definition is fulfilled, a particular crime is said to be committed.

However, according to some the code have applied mens rea is two ways -

i) By providing mental conditions like dishonestly, negligently, fradulenty as one of the condition.

ii) By negating the application of mens rea example general exceptions, defences.

Thus it can be said that the doctrine of actus non facit reum nisi mens sit rea is very well applied in Indian law.

Section 14 of IEA reflects the essence of the maxim. To establish the guilt of the accused, it must be demonstrated that the unlawful act was carried out with the accused's intention to commit act.

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Actus Non Facit Reum Nisi Mens Sit Rea - this is very cherished doctrine in criminal jurisprudence. According to this doctrine a man is not guilty unless he does the concerned act with guilty intention.

Nearly all countries having civilized law follow this doctrine.

A person is said to be innocent if does not do an offence with any guilty intention.

However, it is very difficult to know with what intention a person did an act. As intention have seat in mind of a person & it is difficult to read mind of the person.

To have a idea of intention of doer theory of backward integration comes into picture, according to this theory conduct of the doer must be seen to access with what intention he did wrongful act.

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§ 2. Exception to doctrine of Mens Rea ? -

Mens rea means guilty mind, according to the doctrine of 'actus non facit reum nisi mens sit rea', no person is guilty unless his mind is guilty. Therefore to make a person liable for an offence it must be proved that he did concerned act with guilty knowledge.

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However, there are certain exception to this rule. Some acts are made offence even though the doer has no guilty mind. Such an offence is called strict liability offence. These offences are of such nature that legislature want to nip it in the bud & allow no derogation from it.

Application of strict liability offence →

1) In English Law - English law also follow the concept of strict liability. In the case of Sheraz v. D Rutzon this concept was applied.

2) In India - In India we have some strict liability offences example →
i) Offences under Food Adulteration Act.
ii) Offences under Customs Act,
iii) Offences under Opium Act etc.

In the case of M H Jeerg v. State of Maharashtra the accused was held guilty even though he had no knowledge of his act being an offence.

Rational behind generation of such offence - Such offences are so derogatory of health & interest of public that private interest of an individual are compromised. Therefore, to prevent such offences they are put under category of strict offences.

* often It is difficult to prove mens rea
* Public nuisance
* Ignorance of law no excuse

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Q3 → Discuss attempt to commit an offence. Distinction between attempt and preparation in criminal law.

Answer. There are different stages were of commission of crime. Attempt is most important stage.

Attempt means some act done in furtherance of crime. Attempt is external manifestation of a crime.

A person is said to 'attempt a crime' when he does all he could do in furtherance of his guilty intention to commit wrong but the desired result could not be obtained due to some external factors.

Example. If a man serve 'B' with poisoned apple, he did all he could to kill B, but if B didn't eat apple, his object fails and thus he is said to commit attempt to murder.

Since at the stage of attempt, an overt act is done, everyone become aware of his intention, it is thus made punishable.

Indian Penal Code have doctrine of attempt in Section 511 - According to it, if a person does anything in furtherance of his criminal intention

The Proximity test

Locus Penitentiae test

Navgandas vs State of West Bengal

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and he fails to achieve the object due to act not under his control he is said to attempt that offence and thus is punishable.

According to this section, for its application the attempt should not be made punishable under any other expres provision.

A person shall be liable for half of maximum imprisonment provided for an offence of which he makes an attempt. And imprisonment of life shall be considered as 20 years imprisonment.

The Indian Penal Code also have other expres provisions for attempt of specific offences like- attempt to murder (section 307).

When attempt is related to body related offences impossible attempt is not made punishable example when one gives adulterated substance to woman to cause her miscarriage, but miscarriage was not possible as she was not pregnant here the person giving adulterated substance is not liable for attempt to cause miscarriage.

However, when attempt is against offence related to property, impossible attempt is an attempt. Example when a person tries to steal jewels from the box, but could not steal, the box being empty, he is not liable for attempt to commit theft.

Abhayanand Mishra v/s State of Bihar

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Distinction between stage of attempt and preparation.

Attempt	Preparation
1. Attempt is an overt act toward commission of an offence	Preparation means devising means mechanism for commission of an offence.
2. Here, all that a person could do is done and therefore he have no chance to back off now.	Here, person can change his mind anytime and therefore he gave chance of repentance
3. It is punishable	It is not punishable except in few cases.
4. It creates alarm in society	No alarm is created.

write one example of both

General Exceptions

Q1. Write a short note on -

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a) Criminal liability of minor - Section 82 and 83 deals with criminal liability of minor.

According to section 82 - a child below 7 is not liable for any offence.

Section 82 grants complete defence to the minor. As per it a child below 7 is considered as doli incapax and therefore he is excused from all offences.

presumption of law

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According to section 83 of a child above 7 but 12 commits an offence act, this act is not an offence if he does not know the nature and consequences of his act.

Section 83 grants partial immunity. Here, it must be proved that the child did not know that what he is doing could have such and such consequences. This section is based on the doctrine of mallice supplet aetatem ie malice supplements age.

b) Criminal liability of an insane - Section 84 deals with it. According to section 84, an act is not an offence if done by a person of unsound mind, who by reason of his unsoundness could not know the nature of his act or that what he is doing is either wrong or contrary to law.

In the case of Dayabhai Chaganbha v. State of Gujarat it was held that unsoundness must be at the time of commission of an act. Previous or subsequent unsoundness will not be a defence.

It must be noted that here we talk about legal insanity and not medical insanity.

To constitute legal insanity there must be complete lost of cognition at the time of commission of an act. It does not matter what is the reason of such unsoundness nor the period of it.

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c) · Criminal liability of an intoxicated person - The Indian Penal Code distinguish between two type of intoxication i) voluntary intoxication (Sec. 85
ii) involuntary intoxication (Sec. 86

* Definition Tremens

Involuntary intoxication is dealt under section 85, according to it an act is not an offence if done by a intoxicated person which causes him to not know the nature of his act or that what he is doing is either wrong or contrary to law. Provided that thing was admitted to him without his knowledge or against his will.

* R.v. Tendy 1989

The intoxication if is involuntary, is treated on same footing as unsoundness. Therefore, intoxication must cause complete arrest of mind.

* Discharge of Prosecution v/s Beard.

Voluntary Intoxication is dealt under section 86. According to it if a person does an act because of involuntary intoxication and the act is such that it requires special intention or knowledge for its commission, then law presumes that the person did the act knowingly.

Therefore, involuntary intoxication is not a defence. It helps the accused in cases where

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where only [illegible] ingredient of an offence example in case of theft. But where knowledge is also an ingredient, then law presumes that the person had knowledge and he did the act with that knowledge. example murder.

This is because law does not favor voluntary intoxication.

Section 86 unlike other sections in this chapter does not start with words 'Nothing is an offence' and hence legislature clearly made it distinct from other sections where because of innocence they are not made liable.

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Q2. Define consent in criminal law and state cases in which consent of harmed or his guardian exempts the person from criminal liabilities.

Answer - Consent is very relevant in fixation of criminal liability and it can be stated from maxim volenti non fit injuria ie consent when given for an act it can not be complained later.

Section 90 of Indian Penal Code says that a consent is not said to be free if given by a person due to fear of injury, misconception of fact and the person to whom it is given knows it.

- If given by a person who due to insanity or

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intoxication is [illegible] the nature & consequences of his act.

If done by a person under 12 years of age, unless contrary intention appears.

When consents exempts from criminal liability :

i) Section 87 - When the person commits an injury without intention or knowledge of causing any harm to the person who consents for such injury then such act will not attract any criminal liability. The person giving consent must be above 18 years.

ii) Section 88 - If a person commits an injury upon someone without the intention of causing death and in good faith for his benefit, then if consent is given to such a person, he will not be liable for an offence.

Section 89, deals with situation where consent of guardian is taken, section 92 deals where there is no guardian & person himself is not in situation to give consent.

Provided that the person who commits an act does it without intention of causing death,
→ without intention of causing grevious hurt.
→ without intention of causing grevious hurt if done with intention to prevent such a person from dying or saving him from grevious hurt,

Consent express or implied → to suffer that harm.

12 years of age or unsound mind.

Write all four Provisos of Sec 89

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Provided that act is done in good faith for the benefit of person against whom such harm is inflicted.

Q 3. Private defence is not available for retaliation but averting the danger not created by himself. Under what circumstances a defence be extended to cause death?

Answer — However resourceful is the society, it can be so equipped so as to protect its individuals in every given point of time. For this reason we are provided with right of private defence.

Section 97 provides that every person has right to defend his person and property. Section 96 further says that nothing is an offence which is done under the right of private defence.

The right is available to protect oneself from unlawful aggression. It is to be noted that it is the defence available against aggression and not the aggressor and therefore as per section 99 only so much of the force is used so as to prevent the danger caused by aggression. If the aggression has stopped and person due to feeling of revenge use force against the other (previous aggressor), he won't be provided benefit of defence available.

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And therefore only so much of the force which is prescribed by section 99 must be used.

Section 99 ↓ Acts against which there is no right to private defence.

When killing is excused -

Killing is excused in two type of offences →

i) Offence against human body (Section 100)

ii) Offence against property (section 103).

Against human body - According to section 100 if a person commits →

a) an assault which if not prevented would cause death.

b) an assault which is of such a nature that if not prevented would cause grievous hurt.

c) assault to commit rape.

d) assault to gratify unnatural lust.

e) kidnaping or abduction (simpliciter)

f) when a person is ~~put in~~ unlawfully restrained and he believes that he can not have recourse to public authority.

g) assault likely to result in acid attack, death may be caused.

Section 102 ↓ Commencement and Continuance of the right of private defence of the Body.

ii) Against property - According to section 103 if person commits →

a) Robbery

b) House breaking on place used for human dwelling, custody of property, religious practice.

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c) Mischief by fire on house used for human dwelling, custody of property, religious practice

d) Theft, house breaking, mischief if it is believed that death or grievous hurt will otherwise be the consequence.

In such cases death may be caused under right of private defence.

Principle of Joint Liability

Question 1 - The scope of common object as contemplated by section 149 is much broader than concept of common intention enshrined in Section 34 IPC. Substantiate this statement.

Section 149 and 34 both deal with the principle of joint criminality, both deal with group liability.

According to section 149, if any member of an unlawful assembly commits an offence then each member of assembly is punished if it is done in -

a) prosecution of common object

b) knowingly that such an act likely to be committed.

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Section 34 says that if a offence is committed by any members several person in furtherance of common intention then each of them is liable as if that act is done by him alone.

Therefore both the section impose liability upon the member of same group having common object or common intention.

However, there is difference in the scope of two -

i) While section 34 make every person liable if he possess common intention, section 149 makes on liable for common object.

ii) Common intention requires prior meeting of mind, common object as in S149 does not require it.

iii) For generating liability in section 34, participation of all members is necessary (though not actual physical partition), section 149 requires no participation, therefore mere being a member is enough.

iv) Section 34 is rule of evidence and thus creates no substantial offence, if member have common object and fulfil requirements of section 141, it creates a substantive offence.

Thus, it can be said that section ~~is~~ 149 is wider than 34.

Barendra Kumar Ghosh V/s King Emperor.

Mahbub Shah V/s King Emperor

J.M. Desai Case

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Q2. Explain unlawful assembly?

Groups generated offence are more dangrous & thus British government to shun these imposed liability on groups.

Chapter VIII of IPC & offences against the public tranquility

One such example of it is unlawful assembly under section 141.

~~Section 141 punishes the one if -~~

Section 141 defines unlawful assembly as -

An assemble of five or more person is unlawful if their common object is -

i) to overthrow the government duly elected, to show criminal force to central government, state government, legislature, parliament, public servant in due exercise of his duty.

ii) commits, criminal trespass, mischief, any other offence liable to be ~~and~~ punished under this Code.

iii) make someone to do what he would not if criminal force is not exercised upon him or make someone to omit to do anything in a simmilar fashion.

iv) Obstruct any public path, right to way, water etc.

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4) Resist the execution of any legal process or resist any public servant to do his duty.

Section 142 makes the members of such an assembly punishable.

Here, for making a person liable, it must be shown that he was part of group of 5 or more member having object as in section 141.

If out of 5 only 2 are convicted, then these two can not be made liable for being a member of unlawful assembly.

However, if it is shown that there were more than 5 members, only two were found, these two can be made liable.

Being a member of such unlawful assembly is itself punishable and therefore is a substantive offence.

Q3 Distinguish between riot and affray.

7/20 Ans.

Riot as well as affray both are offences disturbing public tranquility. However the difference between two is as follows :

An Assembly which was not unlawful when it assembled may subsequently become an unlawful assembly.

Under section 142

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	Riot	Affray
1)	It is requires 5 or more person as riot is when unlawful assembly uses force or violence (146)	It requires 2 or more persons, as affray is when two or more person fight. (Section 159)
2)	It need not be committed in public place.	It must be committed in public place and thus disturbing public peace.
3)	It is punishable with imprisonment of either description upto 2 years or fine or with both. (147)	It is punishable with imprisonment of either description upto 1 month, fine upto ₹100 or with both (section 160).
4)	Here, if any member of unlawful assembly use force or violence all members are held liable	Here, since there is no such common object in between offenders therefore only those are liable who actually took part in fight

Offences against human body

Q 1. What is culpable homicide? When does it amounts to murder & when it does not amount to murder?

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Answer 1:

Culpable homicide is the highest level of injury one can cause to a human.

Culpable means killing and homicide means human thus culpable homicide means human killing.

Section 299 define culpable homicide as,

i) when a person causes death with the intention to cause death.

ii) with the intention of causing bodily injury as is likely to cause death,

iii) with the knowledge that such bodily injury is likely to cause death.

The explanation to section further mentions that →

If a person by causing bodily harm, accelerate the death of another, he is said to cause his death

If person causes death of another, he can not take up a excuse that the death could have been prevented by skilful Treatment and proper remedies.

If a child in womb of mother dies due to caused caused by another it will not be considered as an offence under this section but if any part of body was out it will be held as causing death of that child.

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Culpable Homicide amounting to murder -

Section 300 prescribes when culpable homicide amounts to murder.

According to it →

Khandu v/s Emperor

i) If a person causes death with the intention of causing death.

ii) With the intention to cause the bodily injury to the person as the offender knows to cause death

Chaisirum Case

iii) If is it done with intention of causing any bodily injury which is of such a nature that it is sufficient in ordinary course of nature to cause death.

Snake Charmer Case

iv) If done with knowledge that the act is so imminently dangerous that it must cause death in all probability and person causing the act has no excuse for incuring such a risk.

In these circumstances culpable homicide amounts to murder.

Culpable Homicide not amounting to murder.

Culpable Homicide does't amount to murder if a case falls in any of the exception mentioned in section 300. These exceptions are -

i) Causing death due to grave and sudden provocation comming from the side of person whose death is caused. (or if death is caused for another by mistake)

ii) If a person exceeds his right to private defence and thus causes death, such culpable homicide will not

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amount to murder provided that if such harm is caused in good faith, without ill will.

iii) If death is caused by public servant or another helping public servant in lawful discharge of his duty but exceeds his right then, also there must be no ill will on the part offender.

iv) If committed without premeditation in sudden fight.

v) If death is caused of a person being above 18, consents for his death.

If the case falls in any of the exception then offender will not be liable under section 302 but under 304.

Q2 Explain in brief : Hurt and grevious hurt.

The hurt and grevious hurt comes under the chapter of body related offences.

Section 319 defines hurt as - whoever causes bodily pain, disease, infirmity to a person is said to cause hurt.

Here it is to be noted that only bodily hurt is included in the definition of hurt so any kind of mental distres of whatsoever degree does't amounts to hurt.

Section 320 defines grevious hurt as a hurt which is as follows -

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i) Emasculation - i.e. loss of men's virility.
ii) Privation of sight of either eye, this must be of permanent nature.
iii) Permanent privation of hearing of either ear
iv) dislocation or fracture of bone, tooth
v) destruction of member, joint, it must be of permanent nature.
vi) privation of member/joint, loss of limb.
vii) being in severe body pain for the span of 20 days and such is due to injury endangering life or if sufferer is not able to follow his ordinary pursuits.

* Fracture or dislocation of a bone or tooth.
* Permanent disfiguration of the head or face.

Causing hurt or grievous hurt is not punishable but voluntarily causing hurt (section 321), grievous hurt (section 322) is punishable in section 323 & 325 respectively.

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Q3. Define and distinguish between kidnapping & abduction.

Kidnapping is of two kinds - kidnapping from India & kidnapping from lawful guardianship (section 359).

Kidnapping from India (section 360) - person is said to be kidnapped from India when he is conveyed to any place beyond India without his consent or consent of guardian as the case may be.

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Kidnapping from lawful guardianship (Section 361) -

*Write explanation and exception given in Sec. 361

When a boy under 18 years, girl under 16 years, a person of unsound mind is taken out of the custody of his lawful guardian by enticing him or taking him he is said to be kidnapped.

Here lawful guardian is a person who is entrusted with care and custody of a minor or unsound mind's ~~person~~.

Here, the person believing himself to be father of illegimate child takes the child with him is not said to kidnap that child provided that he did not took him / her for unlawful purpose.

* Varadhrajan Case 1965

Section 362 defines abduction as - where a person by force compels or decietful means induces to go from any place is said to abduct him.

Kidnapping	Abduction
• It is ~~not~~ punishable simplicitor	It is not punishable simplicitor.
• It is not a continuing offence	It is a continuing offence.
• In kidnapping from lawful guardianship the age of the one who is kidnapped matters	No bar as to age
• In kidnapping from lawful guardianship consent of child or person of unsound mind is of no effect	Even though Age of the person ~~person~~ abducted if above 18 & he gives consents, it does'nt amount to abduction

* Section 363 punishment for kidnapping

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Theft, extortion, robbery and dacoity -

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Q1. Explain essentials of theft. Can a man commit theft of his own property?

Section 378 defines theft as - whoever intending to take dishonestly any movable property out of the possession of person without that person's consent, moves that property, he is said to commit theft.

Explanations -

- Thing when is attached to earth is not subject matter of theft but as soon as it is severed from earth it becomes subject matter of theft
- A person who moves an animal is said to move everything which in consequence is moved by that animal.
- Severance amounts to theft.
- Moving is effected by - actually moving it
  - removing an obstacle
  - seperating it from any other thing

Consent may also be given by a authorised person.

Essentials -

1) Dishonest intention - S 24 defines dishonestly as whoever cause wrongful gain to a person or wrongful loss, is said to cause it dishonestly.

* chapter XVII Of offences affecting the Property
* explanations of Section 378

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ii) movable property - only movable property is subject matter of theft.

iii) out of possession - theft is an offence against possession of a person and not ownership.

iv) takes the property - mere taking is enough, the property need not be misappropriated.

* K.N. Mishra V/S State of Rajasthan

When does owner commit theft of his own property?

Section 378 uses the word 'out of possession of the person', the word 'person' makes it clear that theft is committed when a thing is taken out of possession of any person, this person need not be an owner always.

Thus if an owner has dishonest intention and he takes the property belonging to him out of possession of person to whom it is lawfully entrusted, he is said to commit theft of that property.

The illustration to Section 378 further substantiate this point, here the owner takes his watch out of possession of mechanic to whom it is given for repair so as to not pay him repair charges. Here, the owner having dishonest intention moved the property out of possession of a person and thus is said to commit theft.

Therefore, Yes, an owner can commit theft of his own property.

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Q2. What are essential ingredients of robbery? When does it amount to dacoity? What offence is committed when offender while committing above offence causes death of any person?

Answer- According to section 390 every robbery is either theft or extortion.

When theft is robbery-

Whoever, in attempting committing theft or
→ in order of committing theft
→ or in carrying away property obtained by theft
voluntarily for that end causes death, hurt, wrongful restraint or
fear of instant death, hurt, wrongful restraint is said to commit robbery by theft.

When extortion is robbery-

Whoever at the time of committing extortion is in presence of person so put in fear and causes him to deliver the property then and there out of fear of instant death, hurt, wrongful restraint is said to commit robbery.

When robbery is dacoity-

Section 391 says that when five or more person commits robbery they are said to commit dacoity. This include the abettor who is present there at time of commission of crime (Section 114).

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* Punishment for robbery / 392

When offender causes death in commission of dacoity, he is said to cause dacoity with murder and such a person is liable for punishment of death, life imprisonment, or rigorous imprisonment for a term extending 10 years. - Section 396.

Q3. Distinguish between theft, extortion, robbery.

(6/20)

Answer Theft, extortion, robbery all these are offences related to property. All three aims to protect right of person who is entitle to that property.

Differences b/w them :-

* Compare - theft and extortion - theft but robbery - Robbery and extortion

i) On the basis of nature of property :-

Theft only deals with movable property.

Extortion and robbery can be against movable as well as against immovable property.

ii) How the offence is affected :-

In case of theft as soon as person moves the property out of possession of another with dishonest intention he is said to commit theft.

In case of extortion, offender dishonestly by fear of injury induces the victim to deliver property.

Robbery can be by moving out of possession or by delivery property out of fear.

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iii) Gravity of offence.

- In case of theft, since the offender takes property without any fear of injury or real injury, it is of less gravity.
- In case of extortion, the fear which offender operates upon victim make it graver.
- In case of robbery since either there is actual commission of death, hurt, wrongful restrain (when theft is robbery) a fear of instant death, instant hurt, instant wrongful restraint and offender is in presence of person so put in fear (when extortion is robbery). these factors makes extortion robbery gravest among all three.

iv) Punishment (Simpliciter)

Theft under section 379 is punishable with imprisonment of either description which may extend to 3 years or fine or both.

Extortion as in section 384 is punishable with imprisonment of either description which may extend to 3 years, fine or both.

Robbery as in section 392 is punishable with rigorous imprisonment which may extend to 10 years & here he will also have to pay fine.

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Offences against Property

1. Distinguish between 'dishonest misappropriation of property' and 'criminal breach of trust'.

i) Definition

Section 403 defines dishonest misappropriation as - whoever dishonestly misappropriate or convert to his own use any property (movable) is said to commit dishonest misappropriation.

Section 405 defines criminal breach of trust as in whoever being entrusted with dominion over the property -

- dishonestly misappropriate or convert to his own use that property
- or, d violates essential term of contract, law prescribing legal condition of trust. or,
- wrongs other to wilfully suffer such

is said to commit criminal breach of trust.

write essentials clearly of Section 403 and 405.

*Misappropriation for a time is only if a misappropriation within the meaning of this Section

ii) Nature of property.

S 403 deals with movable property only
S 405 deals with movable and immovable property.

iii) How offence is committed?

In S 403, the property lawfully comes in the possession of another but due to subsequent change in intention, he misappropriates property & then he is said to commit offender u/s 403.

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In S.405 property is entrusted to the person & he later misappropriates it or convert to his own use.

iv) Relation of parties.

In section 403 the parties may be complete stranger to each other. Ex when a person takes possession of coin left in road, then owner of coin doesn't know the possesor.

In section 405 party who entrusted the property or dominion over the property knows the possesor and he does so out of mutual trust and confidence. Therefore, here they have fiduciary relationship.

v) Section 403 makes dishonest missapropriation for time being also an offence.

Section 405 mentions nothing about this thing.

vi) S403 is punishable upto imprisonment of 2 years, S406 makes offence under Section 405 punishable upto 3 years imprisonment.

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Q2. What are ingredients of mischief?

Section 425 defines mischief as -

Whoever intents to cause or knows that he is thereby like to cause (mens rea) loss to public or to any person and thereby causes →

i) destruction of property

ii) change in property or situation thereof (actus reus) as to destroy, diminish its value or utility or affects it injuriously.

explain with example given u/s 425 →

Explanation →

i) It is not necessary that offender here intents or knows to cause loss to owner of property it is sufficient if he intent to cause loss to any person interested in property.

ii) For the commission of this offence, offender may cause loss to his own property or to another property belonging to him and any other person jointly.

Sic utere tuo ut alienum non laedas ⇒ use your property in such a manner as not to injure that of another

Essentials →

1) Mischief committed when person either has intention or knowledge to do so.

2) He intents to cause loss or damage to public or any person.

3) He causes so by destroying or making ... in the property

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4) A person may causes loss to another by damaging his own property example when a person destroys his property so that the creditor can not execute his damands against him.

5) An offence is also committed when property is in joint ownership. Example when offender shoots horse belonging to him and any other person so as to cause loss to this another.

6) The intention or knowledge may also be against some other person who is not owner of property so damaged. Example if a person cast away a ship with intent to cause loss to a person who has his property in it. Here, he does not intent to cause loss to the owner but to the person who had the property in ship, so he committed offence against this person & not owner. Against owner though there was actus reus, there was no mens rea, which is essential element of this definition.

When a lady gave her ticket to 'A' to know its distance coverage, and boy intentionaly replaces it with his own ticket for shorter distance he is said to commit mischief against the lady.

Section 426 punishes mischieve with imprisonment upto 3 months of with fine or both.

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Q5. Define offence of criminal trespass.

Section 441 defines criminal trespass as -
Whoever unlawfully enters into the property of another to cause him -

- intimidate
- insult
- annoy
- or to commit any offence in the property

or having lawfully entered remains unlawfully with intent as above.

Such a person is said to commit criminal trespass.

A person also commit such an offence when he lawfully entered a specific place but then goes to an area where he was not authorised to go with intent to cause insult, or to annoy, intimidate or commit any offence.

There can be criminal trespass is an offence not against the owner of property but against the person in possession.

The person who is lawfully in the possession of property, make owner of the property liable if essentials of section 441 are fulfilled.

Criminal trespass has further categories -

- house trespass (Section 442)
- lurking house trespass (Section 443)
- lurking house trespass by night (444)
- house breaking (Section 445).

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Mains Evaluation By Edzorb Law

N Nishtha Singh

★★★★★ 09/12/2022

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Garvit Dave

★★★★★ 25/08/2021

Dear ma'am Greetings of the day! On a personal note, Edzorb law helped me a lot, rather it helped me immensely in my preparation. As we all know that standard books for the preparation are very bulky & language is also hard but the way Edzorb team has put effort to explain the concept through pictorial example which are related to our day to day life, thus making it very simple and easy to understand various provision. With regards to notes, I would contend that they are very simplified and provide in depth knowledge of every subject, one can never feel tired while studying. The best thing is the highlighted portion of it. To summarise The course, is very helpful for quick revision. Thank you EDZORB for your extreme efforts. With best regards Garvit dave



Nisha Singh

★★★★★ 02/01/2023

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