Joint and Constructive Liability

Reference to Sections 34;120;149 of the Indian Penal Code

INTRODUCTION

- There are provisions laid down under Indian Penal Code 1860 embodying the principle of group liability (also termed as Joint liability, Constructive liability or vicarious liability) to determine the liability of each member of the group for the crime committed by the entire group or by any member thereof. A person may be constructively and jointly liable for an offence which he did not actually commit.
- *Ingredients for Group Liability:*
- Sharing Common Intention as defined under Section 34 of IPC
- Common Object as per Section 149 of IPC
- Criminal Conspiracy as mentioned under section 120- A IPC

Distinctions

JOINT LIABILITY	***CONSTRUCTIVE LIABILITY***
Reference in Section 34 of IPC.	Reference in Section 149 of IPC.
Active Participation is necessary.	Active Participation is not a necessity.
Requires common intention.	Requires common object.
Prior meeting of minds is a necessity.	Prior meeting of minds is not necessary.

CASE LAWS on joint liability

- *Nazir v. Emperor*
- *Joginder Singh v. the State of Haryana*
- *Barendra Kumar Ghosh v. King Emperor*

These are some important case laws relating to the matter of Joint Liability which lay down the basic accepted rules followed as ordered by the Hon’ble courts like common intention and active participation in the act.

CASE LAWS ON CONSTRUCTIVE LIABILITY

- *Mohammad Arif v. State of Gujarat*
- *Krishnan v. State of Karnataka*

These are the relevant case laws mentioning the ingredients required for constructive liability such as membership in an unlawful assembly and the common object, non requirement of physical participation and the burden of primary responsibility.

THE END