



CHAPTER

4(C)

Criminal Laws in India**Learning Outcomes**

Students will be able to:

- Define the term “crime”
- Identify and explain the objectives of criminal law
- Explain the fundamental elements of crime
- Distinguish between intention and motive
- Identify and analyze the various stages of crime
- Distinguish between admission and confession
- Analyze and explain the various forms of confession
- Evaluate the relevance of Dying Declaration

I. What do we understand by Crime?

The term ‘Crime’ denotes an unlawful act and this unlawful act is punishable by a state. Crime as a concept is so broad that there is no single, universally accepted definition to it. But, for the sake of convenience, several countries provide statutory definitions of various kinds of unlawful activities, which can be identified as crimes. A common principle about Criminal Law is that, unless an activity is prohibited by law, it does not qualify as a crime. Incidents of crime hurt not only the individual, but also, the state. Therefore, such acts are forbidden and punishable by law. The body of laws which deal with imposing punishments on crimes is known as Criminal Law.

II. Objectives of Criminal Law

With the change in the social structure, society has witnessed various punishment theories and the radical changes that they have undergone from the traditional to the modern level and the crucial problems relating to them. Kenny wrote: “it cannot be said that the theories of criminal punishment current amongst our judges and legislators have assumed....” either a coherent or even a stable form. Malinowski believes all the legally effective institutions.... are.... means of cutting short an illegal or intolerable state of affairs, of restoring the equilibrium in the social life and of giving the vent to the feelings of oppression and injustice felt by the individuals.

Five objectives are widely accepted for enforcement of the criminal law by punishments: retribution, deterrence, incapacitation, rehabilitation and restoration. These objectives vary across jurisdictions.

Retribution - This theory basically deals with ‘righting of balance’. If a criminal has done a wrong towards a person or property, he needs to be given a penalty in a manner which balances out the wrong done. For example, if a person has committed murder, he can be delivered capital punishment to balance out the suffering caused to the victim and his or her family.

Deterrence - Deterrence serves as a major tool in maintaining the general law and order in the



society, especially from the perspective of Crime. Criminal acts are penalized so as to deter individuals from repeating it or even entering into it in the first place.

Incapacitation - The objective of this theory is to segregate the criminals from the rest of the society. For the crimes committed, they suffer a kind of banishment by staying in prisons and in some cases, they are also subject to capital punishment.

Rehabilitation - Aims at transforming an offender into a valuable member of society. Its primary goal is to prevent further offense by convincing the offender that their conduct was wrong.

Restoration - This is a victim-oriented theory of punishment. The goal is to repair, through state authority, any injury inflicted upon the victim by the offender. For example, one who embezzles will be required to repay the amount improperly acquired. Restoration is commonly combined with other main goals of criminal justice and is closely related to concepts in the civil law, i.e., returning the victim to his or her original position before the injury.

IGNORANTIA JURIS NON EXCUSAT

If a wrongdoer says that he was ignorant of the consequences of the act done by him, he would not be excused. Because everybody is supposed to know the law of the land, which is guided by the maxim 'Ignorantia juris non excusat' means ignorance of law is no excuse. It is a Latin maxim meaning ignorance of law or lack of knowledge or mistake of law about legal requirement is not an excuse and hence liability arises in such cases.

III. Criminal Laws in India are broadly covered by the following legislations:

1. Indian Penal Code, 1860
2. Criminal Procedure Code 1973
3. Indian Evidence Act, 1872

1. Indian Penal Code, 1860

1.1 Fundamental elements of a crime

a. Mens rea or guilty intention

b. Actus reus or illegal act or omission

To be classified as a crime, the act of doing something bad (actus reus) must be usually accompanied by the intention to do something bad (mens rea). A crime is said to exist usually when both these elements are present. The principle of actus reus and mens rea are embedded in a Latin maxim, which is:

“actus non laci reum nisi mens sit rea”

This latin maxim means that an act does not make one guilty unless the mind is also legally blameworthy.

In other words, for a physical act to be termed a crime, it must be accompanied by the necessary mental element. Unless this mental element is present, no act is usually criminal in nature. So, all crimes have a physical element and a mental element, usually called **actus reus** and **mens rea** respectively.

UNIT I

UNIT II

UNIT III

UNIT IV

UNIT V

UNIT VI

UNIT VII

UNIT VIII



What is actus reus?

- the word **actus** connotes a 'deed' which is a physical result of human conduct.
- the word **reus** means 'forbidden by law.'

actus reus in common parlance means a 'guilty act'. It is made up of three constituent parts, namely: -

1. An action or a conduct
2. The result of that action or conduct
3. Such act/conduct being prohibited by law

Therefore, one can say that actus reus is an act which is bad or prohibited, blameworthy or culpable. Now, there are certain unique situations when the act in itself may appear to be a criminal act, yet it cannot be termed as actus reus

Illustrations:

An executioner's job is to hang (no actus reus)

An army man kills as a part of his duty (no actus reus)

Does an act in actus reus include omissions?

An omission is nothing but inaction or not doing something.

Section 32 in The Indian Penal Code

32. *Words referring to acts include illegal omissions.* —In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

Section 32 of the Indian Penal Code (IPC) clarifies that acts which may be considered as Crime include "illegal omissions". But mere moral omissions of not doing something would not complete the requirement of actus reus.

Illustration: A boy is drowning in the swimming pool of a resort. A man who is beside the pool does not make any attempt to save this boy. This is a moral omission of not saving someone's life. The man cannot be held criminally liable for such an omission.

But in the same scenario, if there is a lifeguard on duty at this resort, and if he does not make any attempt to save the boy drowning in the pool, then he can be held criminally liable for such omission.

What is Mens Rea?

Mens rea generally means 'ill intention', guilty mind/ intent. The constituents of **mens rea** are:

1. There must be a mind at fault/intention to constitute a crime.
2. The act becomes criminal when the actor does it with a guilty mind.

Note: causing injury to an assailant in self-defence is not a crime, but the moment injury is caused with intent to take revenge, the act becomes criminal.

Therefore, for any crime to exist, the physical element of crime needs to be complemented by the mental element. The concept of mens rea evolved in England during the 17 Century. During this



period, the judges began to hold that an act alone could not create criminal liability unless it was accompanied by a guilty state of mind.

In India, the word mens rea, as such, is not defined in the IPC, but its essence is reflected in almost all the provisions of the Code. For framing a charge for an offence under the IPC, the traditional rule of existence of mens rea is to be followed.

This rule has been reiterated by the Supreme Court of India in ***State of Maharashtra v. Mayer Hans George, AIR 1965 SC 722.***

Facts of the case

The respondent, Mayer Hans George, a German smuggler, left Zurich by plane on 27th November 1962 with 34 kilos of gold concealed on his person to be delivered in Manila. The plane arrived at Bombay on 28th of November. The Customs Authorities, as a part of their duties, inspected to check if any gold was dispatched by any traveller and looked through George, seized his gold and accused him of the offence under sec 8(10) and 23(1-A) of the Foreign Exchange Regulation Act. This section is read with a notification dated November 8, 1962, of the RBI which was published in the Gazette of India on 24th of November. George was initially acquitted by the High Court, but the further appeal was made by the state in the court of law.

Issues presented before the court

Whether the respondent is guilty of bringing gold in India under sec 8(1) and 23(1-A) of the FERA which was published in the Gazette of India on 24th November 1962?

The State of Maharashtra contended that the act was passed keeping in mind the pirating of gold since it has become the major financial concern of the nation. Moreover, looking at the importance of the act it can be inferred that the mens rea is an irrelevant element in assuming the culpability of the offender. The strict adherence of the act refutes such assumptions and demonstrates that mens rea is not a fundamental element of the offence.

However, *the respondents* were of the view that mens rea is a fundamental element of any criminal offence and George was not aware of the notification published by the Reserve Bank. It was contended that a person who was not aware of the Indian Provision and has no intention to bring gold in India cannot be said to possess the intent to break the law and hence should not be prosecuted under the act.

Decision- It was held in this case that, “Mens rea by necessary implication can be excluded from a statute only where it is absolutely clear that the implementation of the object of a statute would otherwise be defeated and its exclusion enables those put under strict liability by their act or omission to assist the promotion of the law.”

The court said that even though mens rea is an essential requirement to commit a crime but regardless of that the statutory provision can exclude the mental element. The express words of the statute can exclude the mens rea as an essential ingredient of the crime. This may be done for various reasons, for instance, to promote public welfare and activities or to eradicate social evils. The statute which complies strict liability helps the offender to assist the state in the enforcement of the law.

1.2 Distinction between Intention and Motive

As we have seen, intention or mental element is one of the foremost requirements in order to make someone liable for a crime. But a common misconception is that motive and intention are the same concepts when it comes to Crime. Thus, it is important to understand the fine distinction between these two terms.

UNIT I

UNIT II

UNIT III

UNIT IV

UNIT V

UNIT VI

UNIT VII

UNIT VIII



UNIT I

In *Re Sreerangayee* case (1973) 1 MLJ 231, the woman in sheer destitution and impoverishment attempted to kill herself after failing in all the ways to arrange for food for her starving children, but since she knowingly (*mens rea*) did a prohibitive act of attempting suicide (*actus reus*), she was held guilty by the court.

UNIT II

The meaning of doing an act intentionally in criminal law means something that is done wilfully and not accidentally or mistakenly. The person doing the act is well aware of the consequences or the outcomes of his action or omission. That is all what is required for affixing criminal liability. It does not matter, as we say in ordinary language, whether an act was done with good intent or bad intent. If the act which is prohibited (*actus reus*) is done wilfully, knowingly or with awareness of the resulting consequences then the same will cause liability in criminal law.

UNIT III

Motive, on the other hand, is the ulterior objective behind doing an act. It is the driving force behind intention or commission of an act. The criminal law does not take into account motive in affixing criminal liability or in determining criminal culpability. This is the reason why the criminal law does not care whether one has stolen a loaf of bread to feed a starving person or stolen medicine to save someone's life, as long as it is a prohibited act, done knowingly.

UNIT IV

In *Nathuni Yadav and Ors vs State of Bihar and another* 1997 SC (34) ACC 576, the Court held that "Motive for doing a criminal act is generally a difficult area for prosecution. One cannot normally see into the mind of another. Motive is the emotion which impels a man to do a particular act. Such impelling cause need not necessarily be proportionally grave to do grave crimes. Many a murder have been committed without any known or prominent motive". The Court further stated that Motive is a psychological phenomenon. Merely because failing to translate the mental state of the accused does not mean that no such mental condition existed in the mind of the assailant. The motive for an offence need not be necessarily proportionately grave to commit the grave offence. Therefore, establishing a sufficient motive for committing the offence is not a prerequisite for conviction.

UNIT V

1.3 Stages of Crime

Any Crime has a few key stages to it, as indicated in the box alongside. Ordinarily, the first two stages (intention and preparation) do not give rise to any form of criminal liability. This implies that merely having an intention to commit a criminal act is not punishable, nor is making preparation for the same. Liability in criminal law arises when one goes beyond the stage of preparation and attempts to do the forbidden act. The stages can be explained as under-

- **Intention** - The first stage in committing a crime is to have criminal intent and this is known as mental stage. The law does not take notice of an intention, mere intention to commit an offence not followed by any act, cannot constitute an offence. The obvious reason for not prosecuting the accused at this stage is that it is very difficult for the prosecution to prove the guilty mind of a person.
- **Preparation** - The second stage refers to arranging all the essential steps to carry out the intended criminal act. Preparation is not unlawful in itself since it is difficult to prove that the essential preparations were made for the commission of the crime. However, in some exceptional circumstances, mere preparation is also punished.

- Intention – First stage of crime
- Preparation- Second stage of crime
- Attempt- Third Stage of crime
- Commission- Final stage of crime

UNIT VIII



Preparation When Punishable

When the offence is regarded as a serious offence, preparation to commit offences is penalised under the Indian Penal Code. A few of them are mentioned below:

- Collecting arms etc., with intention of waging war against the Government of India (Section 122 of IPC).
- Preparing Indian coins or Government stamps for counterfeiting (Sections 233 to 235, 255, and 257 of IPC).
- Possession of counterfeit coin, Counterfeit Government stamp or false weight or measure (Sections 242, 243, 259, 266 of IPC).
- Making preparations to commit dacoity (Section 399 of IPC).
- **Attempt** - The third stage in the conduct of a crime is “attempt”, and it is punishable. The criminal liability arises only when the crime has reached the stage which is gone beyond preparation and has entered into the domain of attempt. Section 511 of the IPC does not define the term “attempt”, although it does impose a penalty for attempting to commit an offence. After making necessary preparations, an attempt is defined as a direct step towards the commission of a crime.
- **Commission of Crime** – Committing the crime is the final step in the process. If the accused succeeds in his attempt, he commits a crime and will be found guilty of it. If he fails, he will only be charged with attempting. If the crime is complete, the offender will be tried and punished as per the specific provisions provided in the Indian Penal Code.

As mentioned above, the Indian Penal Code (IPC) covers the substantial part of criminal law in India. It defines various common criminal offences. For example, it defines murder, theft, assault and a number of other offences and also stipulates appropriate punishments for each offence. For instance, the offence of “theft” is defined in the following language in **Section 378 of the IPC**:

Whoever, dishonestly [intends to take] any movable property out of the possession of any person without that person's consent, [and with that intention] moves that property in order to [commit] such taking, is said to commit theft.

In other words, a crime of theft is committed if someone intends to take someone else's property and indeed takes that property without the other person's consent. Merely intending to take somebody's property, without actually going ahead with the act, does not amount to theft. The Punishment for theft is stipulated in the following **Section 379** which states:

Whoever commits theft shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Different crimes carry different punishments according to the severity of the offence. For instance, the punishment for murder is either death or life imprisonment.

This is the way that most of the IPC is organized: first, a definition of an offence is provided, and next the punishment for that offence is stipulated.

UNIT I

UNIT II

UNIT III

UNIT IV

UNIT V

UNIT VI

UNIT VII

UNIT VIII



Crimes under the Special and Local Laws

Certain acts are to be considered criminal acts even when they are not to be found in IPC. This is because they have been identified as crimes in Special and Local Laws. An illustrative list of such statutes is in the table below.

- I. Arms Act, 1959;
- II. Narcotic Drugs & Psychotropic Substances Act, 1985;
- III. Gambling Act, 1867;
- IV. Excise Act, 1944;
- V. Prohibition Act;
- VI. Explosives & Explosive substances Act, 1884 & 1908.
- VII. Immoral Traffic (Prevention) Act, 1956;
- VIII. Railways Act, 1989;
- IX. Registration of Foreigners Act, 1930;
- X. Protection of Civil Rights Act, 1955;
- XI. Indian Passport Act, 1967;
- XII. Essential Commodities Act, 1955;
- XIII. Terrorist & Disruptive Activities Act;
- XIV. Antiquities & Art Treasures Act, 1972;
- XV. Dowry Prohibition Act, 1961;
- XVI. Child Marriage Restraint Act, 1929;
- XVII. Indecent Representation of women (Prohibition Act, 1986;
- XVIII. Copyright Act, 1957;
- XIX. Sati Prevention Act, 1987;
- XX. SC/ST (Prevention of Atrocities) Act, 1989;
- XXI. Forest Act, 1927;
- XXII. Other crimes (not specified above) under Special and Local Laws including Cyber Laws under Information Technology Act (IT), 2000.

2. Criminal Procedure Code, 1973 (CrPC)

The object of the Criminal Procedure Code is to provide a mechanism for the investigation and trial of offenders.

It lays down the rules for conduct of investigation into offences by the police proceedings in court against any person who has committed an offence under any Criminal law, whether it is IPC or a Crime classified under any other law. (See Part I, Legal Studies Class 11)

Types of Offences Covered:

All such offences are covered by CrPC which are mentioned in Indian Penal Code. As already seen, the legal meaning and whether an act will constitute a criminal offence or not is provided in the IPC. The procedure of initiating proceeding/prosecution for a criminal offence is provided in Criminal Procedure Code (CrPC). CrPC provides the manner and place, where investigation, inquiry and trial of an offence shall take place.



Most accused persons do not lead defence evidence in India. One of the major reasons for this is that in India, the burden is cast on the prosecution to prove the offence and the degree of proof required in a criminal trial is “proof beyond reasonable doubt”. This is quite a high standard that the prosecution must meet. It is not enough for the prosecution to assert that the accused has committed the offence. The judge must be convinced beyond reasonable doubt that it was in fact the accused who committed the offence. This was known as the “golden thread principle of criminal law.” This idea is currently recognized in the criminal law of several common law nations, including the United Kingdom, Canada, South Africa, the United States of America, and India. Reverse onus clauses shift the burden of proof from the prosecution to the defendant when the prosecution has shown certain essential facts.

While the presumption of the accused’s innocence is a long-standing principle enshrined in common law and upheld by Indian law as well, jurists have developed a rebuttal to the presumption of innocence under which an accused may be presumed guilty at first instance and the burden of proof is on the defence to establish the accused’s innocence or raise a reasonable doubt as to his guilt. The definition of a reverse onus provision is “one that shifts the burden of proof from the prosecution to the accused once the prosecution establishes a fundamental truth that justifies the shift in burden.” Although it isn’t expressly stated in any laws, the presumption of innocence is an accepted concept in Indian criminal law.

There are certain categories of infractions as well to the existence of the golden rule. In certain situations, the burden of proof is placed on the accused to present evidence supporting his innocence or to raise a plausible doubt about his guilt. The accused is prima facie considered guilty. In India, the presumption of innocence is overturned in two situations: first, when a specific statute explicitly reverses the burden of proof, and second, when the accused files an appeal against a lower court’s decision in which his assumption is guilt rather than innocent. Dowry Death is the most well-known instance of a reversal onus provision in our nation. In dowry death cases, the accused is believed to be in a guilty mental state, establishing a presumption of guilt rather than the ordinary presumption of innocence.

3. The Indian Evidence Act, 1872

The Indian Evidence Act stipulates how facts can be proved through evidence. The function of the law of evidence is to lay down rules according to which the facts of a case can be proved or disproved before a court of law. The Evidence Act lays down the rules of evidence for the purposes of the guidance of the courts.

The Evidence Act helps the judges to separate the ‘wheat from the chaff’ and plays a crucial role in the establishment of facts during the court proceedings. What evidence can be admitted, how it can admit, how the burden of proof has to be discharged, etc, are matters governed by the Evidence Act.

The main principles which form the foundation of Law of Evidence are

- evidence must be confined to the matter at hand
- hearsay evidence must not be admitted
- best evidence must be given in all cases

One of the main objectives of the Evidence Act is to prevent the inaccuracy in the admissibility of evidence and to introduce a more correct and uniform rule of practice.

UNIT I

UNIT II

UNIT III

UNIT IV

UNIT V

UNIT VI

UNIT VII

UNIT VIII



UNIT I

The Act is divided into three parts:

Part I - Relevancy of facts or what facts may or may not be proved. These are dealt with in detail in **(Sections 5 to 55)**.

Part II - How the relevant facts are to be proved? The part deals with matters, which need not be prove under law and also how facts-in-issue or relevant facts are proved through oral and documentary evidence **(Sections 56 to 100)**

Part III - By whom and in what manner must the evidence be produced. It deals with the procedure for production of evidence and the effects of evidence **(Sections 101 to 167)**.

UNIT II

UNIT III

UNIT IV

UNIT V

UNIT VI

UNIT VII

UNIT VIII

3.1. Admission and confession

Sections 17 to 31 deal with admission generally and includes Sections 24 to 30 which deal with confession as distinguished from admission. Section 17 Of The Indian Evidence Act defines that an admission is a statement either oral or documentary or contained in electronic form which suggests an inference as to: -

- (a) any fact in issue or
- (b) relevant fact

Confession: The word “confession” appears for the first time in Section 24 of the Indian Evidence Act. This section comes under the heading of Admission so it is clear that the confessions are merely one species of admission. The term “Confession” is not defined in the Evidence Act. -Justice Stephen in his Digest of the Law of Evidence states, “a confession is an admission made at any time by a person charged with a crime stating or suggesting the inference that he committed that crime.”

Difference between Confession and Admission

CONFESSION	ADMISSION
1. Sections 24 to 30 of Indian Evidence Act deal with confession. A confession is only a species of admission.	1. Sections 17 to 31 of Indian Evidence Act deal with admission. Since the provisions relating to confessions occur under the heading “admission”, it follows that the word “admission” is more comprehensive and includes a confession also.
2. If a statement is made by a party charged with crime, in criminal proceeding it will be called confession.	2. If a statement is made by a party in civil proceeding it will be called admission.
3. The expression ‘Confession’ means a statement made by an accused admitting his guilt. Confession is a statement made by an accused person which is sought to be proved against him in criminal proceeding to establish the commission of an offence by him.	3. The expression ‘Admission’ means “voluntary acknowledgment of the existence or truth of a particular fact”.
4. If the Confession made is free and voluntary then it may be accepted as conclusive proof of the matters confessed.	4. Admissions are not conclusive proof as to the matters admitted.



5. Confessions always go against the person making it.	5. Admissions may be used on behalf of the person making it.
6. By virtue of the provision in Section 30 the confession of an accused person is relevant against all his co-accused who are being tried with him for the same offence.	6. In admission, statements of a co-plaintiff or those of a co-defendant are no evidence against the others.

3.2 Forms of confession

A confession may occur in many forms. When it is made to the court itself then it will be called judicial confession, and when it is made to anybody outside the court, it will be called extra-judicial confession. It may even consist of conversation to oneself, which may be produced in evidence if overheard by another. For example, in *Sahoo v. State of U.P.* A.I.R 1996 SC 40 the accused who was charged with the murder of his daughter-in-law with whom he was always quarrelling was seen on the day of the murder going out of the house, saying words to the effect, “I have finished her and with her the daily quarrels.” The statement was held to be a confession relevant in evidence, for it is not necessary for the relevancy of a confession that it should be communicated to some other person.

Judicial confessions are made before a magistrate or in court in the due course of legal proceedings. A judicial confession has been defined to mean “plea of guilty on arrangement (made before a court) if made freely by a person in a fit state of mind.”

Extra-judicial confessions are made by the accused elsewhere than before a magistrate or in court. It is not necessary that the statements should have been addressed to any definite individual. It may have taken place in the form of a prayer. It may be a confession to a private person. An extra-judicial confession has been defined to mean “a free and voluntary confession of guilt by a person in a fit state of mind, accused of a crime in the course of conversation with persons other than judge or magistrate seized of the charge against himself”.

For example, a man after the commission of a crime may write a letter to his relative or friend expressing his grief over the matter. This may amount to confession.

Extra-judicial confession can be accepted and can be the basis of a conviction only if it passes the tests of credibility as laid down in the procedural laws.

3.3. Dying declaration – Statements by Persons who cannot be called as Witnesses

Dying Declaration is a legal concept that refers to the statement which is made by a dying person explaining the circumstances of his death. It is a statement by a person who is conscious and knows that death is imminent concerning what he believes to be the cause or circumstances of his death. It is also considered credible and trustworthy evidence based upon the general belief that most people who know that they are about to die “do not lie”.

Section 32 of the Indian Evidence Act deals with the admissibility of dying declaration. It deals with cases in which statements of relevant fact by person who is dead or cannot be found etc. is relevant.

- (1) **When it relates to cause of death:** - When the statement made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases, in which the cause of that person’s death comes into question. Such statements are relevant whether the person who made them was or was not, at the time when they were made,

UNIT I

UNIT II

UNIT III

UNIT IV

UNIT V

UNIT VI

UNIT VII

UNIT VIII



under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

In *K.R. Reddy v. The Public Prosecutor* SC 1976 AIR 1994 the evidentiary value of dying declaration was observed as under: -

The dying declaration is undoubtedly admissible under Section 32 of the Evidence Act and not being a statement on oath so that its truth could be tested by cross-examination, the Courts have to apply the strictest scrutiny before acting upon it. While great solemnity and sanctity is attached to the words of a dying man because a person on the verge of death is not likely to tell lies or to concoct a case so as to implicate an innocent person yet the Court has to be on guard against the statement of the deceased being a result of either tutoring, prompting or a product of his imagination.

1. The Court must be satisfied that the deceased was in a fit state of mind to make the statement after the deceased had a clear opportunity to observe and identify his assailants and that he was making the statement without any influence.
2. Once the Court is satisfied that the dying declaration is true and voluntary it can be sufficient to found the conviction even without any further corroboration.

The Court laid down the following general propositions:

1. If the dying declaration is coherent, consistent and trustworthy and appears to have been made voluntarily, conviction can be based on it even if there's no corroboration (*R. Mani v. State of T.N.* 2006 SC).
2. Each case must go by its own facts.
3. A dying declaration is not a weaker kind of evidence than any other piece of evidence.
4. A dying declaration which has been properly recorded by a competent magistrate, in the form of questions and answers, and as far as practicable in the words of the maker of the declaration is reliable.

Exercises

Based on your understanding, answer the following questions:

1. A, an alleged offender of rape, while in police remand felt pain in his chest. He was admitted in a hospital, where a police constable was kept on the gate to keep a watch on him. A, confessed his guilt before another patient X, who was also in the same room. The statement was overheard by police man also. Prosecution wants to make this statement of A as "confession".
2. Vijay is accused of murder of his friend, Ajay. Vijay, who was missing since the death of Ajay is alleged to have phoned the police, in a repentant mood after consuming some liquor from a hotel nearby city, confessing his crime. Prosecution wants to prove the alleged murder on the basis of this statement. Can the prosecution do so? Discuss.
3. State the correct proposition of law together with precautions that courts should take in dealing with Dying declarations.
4. X was convicted under section 302 of IPC for having committed murder of his wife Y. The judgement of trial court is based on the dying declarations made by Y to the police officer and Metropolitan Magistrate who visited the hospital later on. Can the accused be convicted solely on the basis of the dying declaration given by Y? Explain with the help of relevant case.
5. "Crime is a revolt against whole society and an attack on the civilisation of the day" Elucidate and discuss the essential elements of crime.
6. Explain mens rea as an element of criminal liability. Is mens rea relevant in crimes of strict liability? Discuss with the help of decided case law.



Activity

Make a brief study on the following questions by gathering opinions of at least five of your classmates, friends or family members:

1. Do you think imposition of capital punishment in the rarest of the rare cases justified?
2. Is death penalty an effective crime deterrent?

Mention their responses in the given table below and draw conclusions on the basis of those responses. What is your opinion regarding these issues?

Questions			Responses of Persons		
	Respondent1	Respondent2	Respondent3	Respondent4	Respondent5
Question 1					
Question 2					

Bibliography

- Kenny's Outlines of Criminal Law – J.W. Cecil Turner
- Prof. S.N.Mishra; Indian Penal Code; Central Law Publications, Allahabad, Tenth Edition (September) 2001.
- K.D. Gaur; A Text Book of The Indian Penal Code, Universal Law Publishing Company Pvt. Limited, New Delhi, Third Edition 2004
- O.P. Srivastava; Principles of Criminal Law, Eastern Book Company, Lucknow, Fifth Edition, 2010
- Gaur Dr. K.D. (2013) Commentary on the Indian Penal Code, 2nd Edn., Universal Law Publishing co. Pvt. Ltd.
- Monica Sakhrani (2009), Citizens' Guide to Criminal Law, (Reprint), Universal Law Publishing co. Pvt. Ltd.
- Bharti, Dalbir (2005). The Constitution and criminal justice administration. APH Publishing
- Menon, N. R. Madhava; Banerjee, D; West Bengal National University of Juridical Sciences (2005). Criminal Justice India Series: pts. 1-2. Chandigarh. Allied Publishers

Web:

- <http://www.article2.org/mainfile.php/0702/313/>
- <http://www.livelaw.in/in-criminal-cases-period-of-limitation-starts-from-the-date-of-complaint-not-from-date-of-cognizance-constitution-bench/>
- <http://www.tipritv.com/blog/macaulay-vs-manu-the-making-of-modern-india/>
- <http://www.legalservicesindia.com/article/article/confession-under-indian-evidence-act-1547-1.html>

UNIT I

UNIT II

UNIT III

UNIT IV

UNIT V

UNIT VI

UNIT VII

UNIT VIII