

LL.B. I Term

Paper : LB - 104 – Criminal Law - I

Objectives of the Course

The primary objective of criminal law is to maintain law and order in the society and to protect the life and liberty of people. It is for this reason that people place their ultimate reliance on this branch of law for protection against all injuries that human conduct can inflict on individuals and institutions. Due to these reasons, the penal law cannot afford to be weak, ambiguous or ineffective. Nor can it be harsh and arbitrary in its impact. The application of criminal law has to be uniform regardless of any discrimination on grounds of class, caste, religion, sex or creed etc. of either the criminal or the victim. The subject of Criminal Law-II has been so designed as to generate critical thinking among students about the stated objectives of criminal law and to enable them to scrutinize the recent developments and changes that have taken place in the field. The primary objectives of this course are:-

- To familiarize the students with the key concepts regarding crime and criminal law.
- To expose the students to the range of mental states that constitute *mens rea* essential for committing crime.
- To teach specific offences under the Indian Penal Code.
- To keep students abreast of the latest developments and changes in the field of criminal law.

Prescribed legislation: The Indian Penal Code, 1860

Prescribed Books:

1. C.K. Thakker (Rev.), **Ratan Lal & Dhiraj Lal's Indian Penal Code**, (30th ed., 2004)
2. K.D. Gaur, **Criminal Law – Cases and Materials**, (6th ed., 2009)
3. R.C. Nigam, **Law of Crimes in India** (Vol. I) (1965)
4. V.B. Raju, **Commentary on Indian Penal Code**, 1860 (Vol. I & II) (4th ed., 1982)
5. K.N.C. Pillai & Shabistan Aquil (Rev.), **Essays on the Indian Penal Code** (The Indian Law Institute, 2005)
6. K.I. Vibhute (Rev.), **P.S.A. Pillai's Criminal Law**, (10th ed., 2008)

SPECIFIC CRIMES

PART – A : OFFENCES AFFECTING HUMAN BODY

Topic 1 : Culpable Homicide and Murder

(Sections 299-302, 304 read with sections 8-11, 21, 32, 33, 39, 52)

Offences of culpable homicide amounting and not amounting to murder distinguished - culpable homicide of first degree provided in clause (a), second degree in clause (b) and third degree in clause (c) of section 299, IPC. Each clause of section 299 contains comparable clauses in section 300. Every murder is culpable homicide but not *vice versa*. Culpable homicide is the *genus* and murder is its *species*.

Culpable homicide amounting to murder means that the case falls in one of the three clauses of section 299 and is also covered in the corresponding clause of section 300 but does not fall in any of the exceptions to section 300 and is punishable under section 302. Culpable homicide not amounting to murder can be punishable under section 304 in two situations –

first, when a case falls in section 299 but not under section 300, or,

second, when a case falls under section 299 and also under the comparable clause of section 300 and the defence is able to prove that the case also attracts one of the exceptions to section 300. Broadly speaking, the main distinction between sections 299 and 300 is the higher degree of probability of death resulting from the act of the accused in case of murder as defined in section 300.

Causation - The act of the accused must be the causal factor or direct cause of death read with section 301

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| 1. <i>Palani Goundan v. Emperor</i> , 1919 ILR 547 (Mad) | 1 |
| 2. <i>In re Thavamani</i> , AIR 1943 Mad 571 | 8 |
| 3. <i>Emperor v. Mushnooru Suryanarayana Murthy</i>
(1912) 22 MLJR 333 (Mad.) | 10 |

Comparison of clause (a) of section 299 with clause (1) of section 300

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| 4. <i>Rawalpenta Venkalu v. State of Hyderabad</i> , AIR 1956 SC 171 | 22 |
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Comparison of clause (b) of section 299 with clause (3) of section 300

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| 5. <i>Kapur Singh v. State of Pepsu</i> , AIR 1956 SC 654 | 26 |
| 6. <i>Virsa Singh v. State of Punjab</i> , AIR 1958 SC 465 | 27 |
| 7. <i>State of Andhra Pradesh v. R. Punneyya</i> , AIR 1977 SC 45 | 32 |
| 8. <i>Dhupa Chamar v. State of Bihar</i> (2002) 6 SCC 506 | 42 |
| 9. <i>Prahlad Krishant Patil v. State of Maharashtra</i> (2006) 9 SCC 211 | 51 |

Comparison of clause (c) of section 299 with clause (4) of section 300

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| 10. | <i>Emperor v. Mt. Dhirajia</i> , AIR 1940 All. 486 | 53 |
| 11. | <i>Gyarsibai v. The State</i> , AIR 1953 M.B. 61 | 58 |

Topic 2 : Exceptions to section 300

General and partial defences distinguished – general defences in Chapter IV, IPC, if applicable in a given case, negate criminality completely. Partial defences such as exceptions to section 300 partly reduce the criminality, not absolving an accused completely. The law, based on sound principle of reason, takes a lenient view in respect of murders committed on the spur of the moment. Exceptions I to V to section 300 are illustrative of partial defences.

Exception I to section 300

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| 12. | <i>K.M. Nanavati v. State of Maharashtra</i> , AIR 1962 SC 605 | 62 |
| Reading | Katherine O'Donovan, 'Defences for Battered Women Who Kill', 18 (2) <i>Journal of Law and Society</i> 219 (1991) | 71 |

Exception IV to section 300

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| 13. | <i>Ghapoo Yadav v. State of M.P.</i> , (2003) 3 SCC 528 | 79 |
| 14. | <i>Dhirajbhai Gorakhbhai Nayak v. State of Gujarat</i> (2003) 9 SCC 322 | 82 |

Topic 3 : Homicide by Rash or Negligent act not amounting to Culpable Homicide
(Section 304A)

Distinction between intention, knowledge, negligence and rashness as forms of *mens rea*; *mens rea* required is criminal negligence (inadvertent negligence) or criminal rashness (advertent negligence)

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| 15. | <i>Cherubin Gregory v. State of Bihar</i> , AIR 1964 SC 205 | 86 |
| 16. | <i>S.N. Hussain v. State of Andhra Pradesh</i> , AIR 1972 SC 685 | 89 |
| 17. | <i>Mohammed Aynuddin v. State of Andhra Pradesh</i> (2000) 7 SCC 72 | 93 |

Topic 4 : Dowry Death (Section 304B read with section 498-A)

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| 18. | <i>Shanti(Smt.) v. State of Haryana</i> , AIR 1991 SC 1226 | 95 |
| 19. | <i>Satvir Singh v. State of Punjab</i> (2001) 8 SCC 633 | 99 |
| 20. | <i>Ram Badan Sharma v. State of Bihar</i> (2006) 10 SCC 115 | 105 |

Topic 5 : Hurt and Grievous Hurt (Sections 319-325)

Definitions - sections 319 and 320, IPC; Offence of voluntarily causing grievous hurt - section 322 read with section 325 IPC.

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| 21. | <i>Rambaran Mahton v. The State</i> , AIR 1958 Pat. 452 | 115 |
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22. *E.K. Chandrasenan v. State of Kerala* (1995) 2 SCC 99 123

Topic 6 : Kidnapping and Abduction (Sections 359-363 read with section 18)

Ingredients of the offence of kidnapping from lawful guardianship (section 362); distinction between taking, enticing and allowing a minor to accompany; Kidnapping from lawful guardianship is a strict liability offence (section 363) and distinction between 'Kidnapping' and 'Abduction'.

23. *S. Varadarajan v. State of Madras*, AIR 1965 SC 942 132
 24. *Thakorlal D. Vadgama v. State of Gujarat*, AIR 1973 SC 2313 137
 25. *State of Haryana v. Raja Ram* (1973) 1 SCC 544 148

Topic 7 : Rape (Sections 375-376 read with section 90)

26. *Tukaram v. State of Maharashtra*, AIR 1979 SC 185 154
Reading : An Open Letter to the Chief Justice of India (1979) 4 SCC (J) 17 160
 27. *State of Punjab v. Gurmit Singh* (1996) 2 SCC 384 165
 28. *Sakshi v. Union of India* (2004) 5 SCC 518 178
 29. *Bhupinder Sharma v. State of Himachal Pradesh* (2003) 8 SCC 551 189
 30. *Priya Patel v. State of Madhya Pradesh* (2006) 6 SCC 263 193
 31. *Bhupinder Singh v. UT of Chandigarh* (2008) 8 SCC 531 196

PART - B : OFFENCES AGAINST PROPERTY

Topic 8 : Offences of Theft & Extortion

(Sections 378 & 379 read with sections 22-25, 44) and
 (Sections 383 & 384 read with sections 29 & 30)

Ingredients of the offence of theft; it is an offence against possession. Distinction between 'Theft' and 'Extortion'.

32. *Pyare Lal Bhargava v. State of Rajasthan*, AIR 1963 SC 1094 200
 33. *Jadunandan Singh v. Emperor*, AIR 1941 Pat. 129 203
 34. *Sekar v. Arumugham* (2000) Cr.L.J. 1552 (Mad.) 205
 35. *State of Karnataka v. Basavegowda* (1997) Cr.L.J. 4386 (Kant.) 208

Topic 9 : Offences of Criminal Misappropriation, Criminal Breach of Trust and Cheating (Sections 403-406, 415-417 and 420 read with sections 29-30)

Ingredients of the offences, distinction between theft and criminal misappropriation, criminal misappropriation and criminal breach of trust, distinction between theft and cheating, punishment.

36.	<i>Jaikrishnadas Manohardas Desai v. State of Bombay,</i> AIR 1960 SC 889	213
37.	<i>Mahadeo Prasad v. State of West Bengal,</i> AIR 1954 SC 724	218
38.	<i>Akhil Kishore Ram v. Emperor,</i> AIR 1938 Pat. 185	221
39.	<i>Shri Bhagwan S.S.V.V. Maharaj v. State of A.P.,</i> AIR 1999 SC 2332	225

IMPORTANT NOTE:

1. The students are advised to read only the books prescribed above along with legislations and cases.
2. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
3. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.
4. The Question Paper shall include one compulsory question consisting of five parts out of which four parts will be required to be attempted. The question papers set for the academic years 2007-08 and 2008-09 are printed below for guidance.

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LL.B. II Term Examinations, April-May, 2009

Note: Attempt *five* questions including Question No. 1 which is compulsory.
All questions carry *equal* marks.

1. Attempt briefly any *four* of the following:
 - (i) Section 304-B IPC and Section 498-A IPC are not mutually exclusive. Comment.
 - (ii) What is 'Doctrine of Transferred Malice'?
 - (iii) What is 'Dishonest Intention'? On its basis, how do you differentiate between the offences of theft and criminal misappropriation.
 - (iv) State the definition of 'Grievous Hurt' as contained in the Indian Penal Code,
 - (v) Is criminal rashness different from criminal negligence?
2. (a) A was in a habit of beating up his wife over trivial issues. One day, during such a fight, A picked up a lathi lying nearby and hit his wife on her head. Consequent to the lathi blow, the woman fell unconscious. Believing her to be dead, A dragged her to the kitchen, sprinkled kerosene on her and set her ablaze. The post-mortem report stated that the victim had received an ante-mortem head injury and had died due to severe burns. Can A be held liable for murdering his wife.
- (b) Explain the legal provision relating to causing death by negligence' and examine if it is different from 'causing death with the knowledge that the act is likely to cause death.'