BLOGS

Bodily Offences under IPC

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HURT

Principle: Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Hurt may be caused by direct physical contact between the accused and victim. The expression 'bodily pain' means that the pain must be physical as opposed to any mental pain. The definition of hurt covers bodily pain except so slight a harm of which no person of ordinary sense or temper would complain of. However, the degree or severity of pain is not a material factor.

Causing disease means communicating a disease to another person by contact. Infirmity has been defined as inability of an organ to perform its normal function which may either be temporary or permanent. A state of temporary impairment or hysteria or terror would constitute infirmity.

GRIEVOUS HURT

The following kinds of hurt only are designated as "grievous":

- Firstly, emasculation.
- Secondly, permanent privation of the sight of either eye.
- Thirdly, permanent privation of the hearing of either ear.
- Fourthly, privation of any member or joint.
- Fifthly, destruction or permanent impairing of the powers of any member or joint.
- Sixthly, permanent dis-figuration of the head or face.
- Seventhly, fracture or dislocation of a bone or tooth.
- Eighthly, any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

The grievous hurt is more serious kind of hurt i.e. an injury may be considered grievous only if it endangers life. A simple injury cannot be called grievous simply because it happens to be caused

on a vital part of the body unless the nature and dimensions of the injury or its effect are such that in the opinion of the doctor is actually endangers the life of the victim.

Every hurt is not grievous hurt but every grievous hurt is automatically a hurt also. Hurt is a minor offence but has wider scope than grievous hurt despite the fact that grievous hurt is considered as a major offence. The right of private defence extends to causing death in case of grievous hurt but in case of simple hurt death cannot be caused while exercising private defence.



ACID ATTACK

The cases of acid attack were earlier covered under the offence of grievous hurt but after the 2013 Amendment a separate offence by the name of acid attack has been created under Section 326 A and 326 B of Indian Penal Code (IPC). ‘Acid’ includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

The section punishes whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt. It is necessary that the offender has the knowledge that commission of such an act shall necessarily lead to any of the mentioned injury and he should possess intention to cause such injury.

According to section 326 B the attempt of throwing acid is also punishable. It states that whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent of partial damage or deformity of burns or maiming or disfigurement or disability or grievous hurt to that person shall be punished.

The offence is gender neutral and also the damage resulting from use of acid need not be permanent or irreversible, it could be temporary damage also.

Before the amendment under the offence of grievous hurt punishment was given only if there was permanent dis-figuration of body and face but with the introduction of specific offences all body organs have been covered. Also earlier there was no provision for compensation, only fine was charged but after the amendment the victim is to be paid compensation for medical treatment. The slab of punishment has increased from maximum punishment for such offences from 7 years to life imprisonment and minimum ten year after 2013 amendment.

CRIMINAL INTIMIDATION

It means threatening a person with some injury to his person, property or reputation which causes mental alarm to that person. However a mere threat does not amount to criminal intimidation i.e. it must be with an intention to cause alarm to the person threatened. However it is immaterial whether it has alarmed the recipient of threat, what is required is the intention of the offender to do so.

ASSAULT

A person shall be liable for the offence of assault if he makes a gesture or preparation to use criminal force in the presence of victim with an intention or knowledge to cause apprehension in the mind of the victim that such force shall be used against him. For the application of this section it is important that such gesture or preparation has actually caused apprehension in the mind of the victim of use of criminal force against him. However, mere words do not amount to assault unless the words are used in aid of the gesture or preparation which amounts to assault and also there must be present ability in the assailant to give effect to his purpose.

CRIMINAL FORCE

It means hitting, touching or striking a person with an intention to commit some offence or to cause fear, injury or annoyance to the other. Criminal force is similar to the offence of battery under English Law. It is important that the force should have been used without the consent of the person against whom it is used. The criminal force is concerned only with the use of force against a person and not against immovable property or other inanimate objects.

Criminal intimidation is the first stage followed by assault and then use of criminal force. For example when a person threatens the other by saying ‘I will kill you’ he has committed criminal intimidation, then next when he ‘aims a loaded pistol against him’ he shall be liable for assault and when ‘the moment bullet touches or hits the other’ the offence of criminal force is committed.

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