BLOGS

Learn Meaning of Crime Under Indian Penal Code

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Meaning of crime in Indian Penal Code has been highlighted as the commission of an act prohibited by law of the land. Criminal law is a branch of public law. Crime means wrongs done by human beings. It authorizes the infliction of State punishment.

A person shall be guilty of a crime under Indian Penal Code if he has mens rea and actus reus concurrently. In criminal proceedings, State is a party as crime is not only a wrong against the individual but also against the whole society. Criminal law is considered as a barometer to gauge the moral turpitude of the society at a given time.

The concept of crime depends largely on the social values, accepted norms and behavioural patterns of a particular society at a given time. According to Blackstone, a crime is an act committed or omitted in violation of a public law either forbidding or commanding it.

Meaning of crime in Indian Penal Code

The Indian Penal Code (IPC) is the official criminal code of India. It is a comprehensive code intended to cover all substantive aspects of criminal law. The Indian Penal Code indirectly owes its origin to Jeremy Bentham, who is a well-known jurist on the subject of law reforms and he gave the meaning of crime as stated in Indian Penal Code.

It was enacted in the year 1860 on the recommendations of the first law commission of India established in 1834 under the Charter Act of 1833 under the Chairmanship of Lord Thomas Babington Macaulay. The Indian Penal Code of 1860, subdivided into 23 chapters, comprises 511 sections.

A criminal offence according to the meaning of crime given in Indian Penal Code is only committed when an act, which is forbidden by law is done voluntarily by a human being. These two conditions for penal liability guilty act and guilty mind.

The maxim *actus non facit reum, nisi mens sit rea* i.e. the act alone does not amount to guilt it must be accompanied by a guilty mind applies to consider an act as an offence. Event and not the activity which caused the event constitutes actus reus. External conduct determines mens rea.

Following are the essential characteristics of crime

1. Mens Rea-The accused is proved to have knowingly committed the crime. Also that he had full knowledge of their actions. He must have mala fide intent towards the victim. Mens rea is also used in some civil suits. Act may be voluntary or involuntary, and the guilt is determined by the facts of the case.
2. Actus Reus-Actus Reus is the physical aspect of a crime. The accused needs to have done something or omitted to do something. Without a guilty act, there can be no crime and no suit for damages can arise. It can be applied while considering the fact, time, place, person, possession, consent of the victim, etc.
3. Punishment – is suffering, loss, pain, or any other penalty that is inflicted on a person for the crime by the concerned authority.
4. Prohibited Act- The act should not be prohibited or forbidden under the existing law.

The purpose of Criminal Justice is to punish the wrongdoer and to prevent the offender from committing the offence again.

Following are the theories of punishment in law

1. Retributive theory: it is the most ancient form of punishment, it is based on the ideals of revenge or retribution. It means that the punishment should be given in equal proportion to the loss or harm caused by the wrongful act. An eye for an eye, a tooth for a tooth. It considers punishment as an end itself. This theory is condemned in modern times as it is based only on vengeance and it also disturbs the peace of the society. The death sentence can also be awarded under this theory in retribution for culpability.

1. Deterrent theory: Bentham, the founder of this theory believed that if punishment is given to one offender, it will deter the others from committing a similar offence. The punishment when inflicted on one will create a sense of fear amongst others. It will prevent them from committing such kind of crimes. The theory supports strict punishments and is based on hedonistic concepts. Bentham believed that unpunished crimes not only leave the path open

for the offender but also it paves the path for the person having such an evil motive to repeat the same offence again. For example, if X is punished with life imprisonment for the offence of theft then it will create a sense of fear in the minds of A, B and C having such motives and prevent them from committing theft.

1. Preventive theory: The theory believes in preventing the crime rather than taking revenge for it. The makers of the theory believe that when an offender is given punishment it prevents him from committing future crimes and thus protecting society. This theory makes the attempt to an offence also punishable so as to prevent the further commission of a crime. For example, if X is imprisoned for committing grievous hurt, then in future he will not be able to do the same with others.

1. Reformative theory: this theory is considered as the most humane theory as it focuses on reforming the offender rather than punishing him. The theory aims at rehabilitating the offender to the law-abiding citizen of the society and to bring them back from the life of crime. Modern criminology and penology support this theory. It helps the offender to reform himself by awarding rigorous punishment and realize his mistake so that he does not commit the offence again.

Types of Punishment

Indian Penal Code, 1860 (IPC) states five types of punishments. In Indian Criminal Law, punishment is granted according to the gravity of offence while taking into consideration the mitigating factors.

The graver the offence, the stricter the punishment. Factors like intention, motive, actual loss caused, provocation etc. play an important role in the determination of the quantum of punishment. The fundamental principle to be kept in mind, while granting punishment is that it should commensurate to the offence committed by the offender.

Section 53 of IPC provides for the following punishments

1. Death sentence: Under IPC death sentence is awarded only for few offences like murder, waging war etc. In the case of BACHAN SINGH v STATE OF PUNJAB it was held that death should be awarded in the rarest of the rare cases which shake the conscience of the society and harms the entire society at large. It is also known as capital punishment and in India,

according to section 354(5) CrPC death sentence is executed by 'hanging by rope'. Venezuela is the first country to abolish death sentence and in Burkina Faso, the death penalty was recently abolished in the year 2018.

2. Life imprisonment: The accused is sentenced rigorous imprisonment till his last breath i.e. the imprisonment continues till the existence of his natural life.
3. Imprisonment: it may be simple or rigorous. Simple imprisonment is given for small offences and the convict is not forced to do hard manual labour. However rigorous imprisonment includes hard manual labour such as digging the earth, cutting wood etc. and it is granted for severe offences. The imprisonment may be partly simple and partly rigorous.
4. Forfeiture of property: the property of the accused is taken away. This type of punishment is mostly awarded under civil law. However in criminal law also state may take away the property of the criminal while punishing him under section 125, 126 and 127 of IPC.
5. Fine: it may be imposed as an alternative to imprisonment or in addition to imprisonment. Fine is different from compensation as fine goes to the treasury of state whereas compensation is given to a victim. Punishment may be increased in lieu of default in payment of a fine.

Attempt to commit a crime

Section 511 of the Code states that if a person attempts to commit an offence or instigates an offence to be committed thereby does an act which amounts to the offence. It is punishable under the Code with imprisonment for life or imprisonment.

Wherein no express provisions are made under this Code punishing such an attempt, may be punished with a term which extends to one-half of the life imprisonment or one half of the longest term of imprisonment as can be provided for that offence, or with fine which is levied for committing such an offence, or with both the imprisonment and the fine.

The rationale behind the section

The objective of this section has been farmed to punish the moral wrong committed when an attempt is made to commit an offence. An attempt is made punishable, because every attempt, although it falls short of success, must create alarm, which by itself is an injury, and the moral guilt of the offender is the same as if he had succeeded.

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