AILET

General Exceptions of Indian Penal Code

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In the previous post, we have already discussed five General Exceptions under IPC for that may be used by the accused as a defence. For any exception to apply, all the ingredients of that exception must apply. Few more General Exceptions under IPC are explained below with illustrations:

1. Accident

The accident is one of the most widely used General Exceptions under IPC. It is dealt with in Section 80 of the Code. When someone doing a lawful act in a lawful manner by lawful means and something happens by accident or misfortune without any criminal intention or knowledge, the person can plead the defence of Accident.

It must be ensured that the accused was taking all the due care and precaution. If all these ingredients are fulfilled, then the defence of Accident will apply. It is basically based on the premise that you cannot be held liable for the act or the consequence that you could not foresee or could have avoided.

Illustration: Suppose Manisha threw a brick on the wall. It reflected back and hit Rahul on his face. In this case, Manisha was doing a lawful act in a lawful manner and it hit Rahul by accident. Therefore she can plead the defence of Accident.

1. Intoxication

The defence of intoxication is dealt with in Section 85 and 86 of the Indian Penal Code. As per this exception, a person who while doing the act is incapable of understanding the nature of the act because he is intoxicated against his will, cannot be held liable.

The mandatory ingredient is that he must be involuntarily intoxicated without his will or knowledge. Also, consequently, he does not understand the nature of the act that he is doing. In other words, he does not understand that the act is wrongful or contrary to law.

Illustration: Billu gave a glass of drink to Pinki claiming it to be the cold drink. But in reality, it was alcohol. While driving back home, Pinki hit a man. She will not be held liable.

1. Acts done with the Consent

Section 87, 89 and 92 of the IPC deals with this exception that can be used by the accused in his defence. This defence is based on '*Volenti Non Fit Injuria*'. It means that no injury is said to be caused if you have consented for the act that caused the harm.

If the victim gave the consent for harm to occur or act was done for the benefit of the victim or the guardian consented for the risk for the benefit of the child, then it is a fit case for the exception of consent.

But it must be kept in mind that such consent is not valid

- If it is given under any kind of fear or misconception and accused knows about it. or
- Consent is given while intoxicated or,
- Given by a person of unsound mind or
- Consent is given by a person under 12 years of age who does not have the maturity to understand the consequences of the act.

Illustration: A had sexual intercourse with B believing that B will marry her. B knew that she has consented for the sexual intercourse that B will marry her. In this case, B cannot take the defence of consent and is liable for rape as consent. The reason for such consent to not be valid is that it was given under the misconception of fact.

1. Communication

Suppose someone disseminate information to another in good faith but it results in some harm to them. That someone will not be liable for any offence. It is so because it will fall under the exception of communication under 93 of IPC.

Two conditions that must be fulfilled are that the communication must be made in good faith and it must benefit the other person.

Illustration: The doctor told the wife that her husband has cancer and the wife got paralyzed because of the shock. The doctor is not liable because the communication was made by the doctor in good faith.

1. Duress

Section 94 of the Indian Penal Code deals with this exception. When a person is compelled to do an illegal act under the reasonable apprehension of instant death, the defence of duress is available to him and he will not be liable for such an illegal act.

But this exception will not be applicable to the offence of murder and other offences punishable with death.

Illustration: The security guard of a bank was put on the gunpoint to make the robbers get inside the bank. The security guard opened the door and let them in. He is not liable for any offence as the exception of duress is available to him.

1. Trifles

Section 96 of the Indian Penal Code deals with the exception of Trifles. It is based on the maxim *'De minimis non curat lex'* which means that law does not concern itself with trivial matters.

The two ingredients that must be satisfied under this exception is that the harm must be slight and that no ordinary person would complain of it.

Illustration: A blows Cigarette smoke on B's face one time. This is a case fir=t for the exception of trifles.

1. Private Defence

The exception of Private Defence has a special place in the General Exceptions under IPC. It is so because Private Defence one of the most commonly used defence by the accused. The state has the duty to protect the person and the property against imminent dangers. But under certain circumstances, people themselves are allowed to use reasonable force to protect themselves and their properties.

Section 96 to 106 of the Indian Penal Code deals with it. A person using reasonable force to protect the person or property against imminent danger is said to be exercising the Private Defence. Hence he is not liable for any offence. This defence is not absolute, rather it is a qualified defence.

This defence is available to protect your own body, the body of another person, your own property or property of another person. If there is no reasonable apprehension of harm, this defence will not qualify.

Also, the force used as the Private defence must be proportional to the act of the person causing such imminent danger to the person or the property and it should just only to the extent as to end the imminent danger.

Illustration 1: If there is a person who is standing outside your house leaning against the boundary wall of your house and you start throwing stones at him and he gets injured, you are not qualified to get the exception of private defence because there was no imminent danger to any person or the property.

Illustration 2: Kavita is walking on the road and suddenly a beggar comes and tries to snatch her bag. She takes out her gun and shoots the beggar. She is not qualified for the exception of private defence because the force used on the beggar was not proportional.

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