NOTES

General Exceptions Under Criminal Law(Part 1): The Excusable Defences

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Not every harmful act is a crime. Criminal law has always recognised that intention matters just as much as the act itself.

This is the idea behind General Exceptions, a set of provisions that allow a person to escape criminal liability even when their act technically fits the definition of an offence. Under the Bharatiya Nyaya Sanhita, 2023, these exceptions are laid out in Chapter III, from Sections 14 to 44.

Because this topic is wide and detailed, we are covering it in two parts. Part 1 explains the excusable defences, situations where the law excuses a person because they lacked a guilty mind. Part 2 will cover the justifiable defences, including consent and private defence.

Why Do General Exceptions Exist?

Criminal law rests on a simple Latin maxim, actus non facit reum nisi mens sit rea. An act does not make a person guilty unless the mind is also guilty.

General exceptions exist to protect this principle. They recognise that a child, a person acting under a genuine mistake, or someone facing an unavoidable accident should not be treated the same way as someone who deliberately commits a crime.

Broadly, these defences fall into two categories. Excusable defences apply where the person lacked criminal intent altogether. Justifiable defences apply where the act, though intentional, was reasonable given the circumstances.

Section 14: Act Done by a Person Bound by Law

Section 14 protects a person who acts, or believes in good faith that they are legally bound to act, in a certain way. This protection covers genuine mistakes of fact, but never mistakes of law.

Illustration: A soldier fires upon a mob because his superior officer orders him to do so, in line with a lawful command. The soldier commits no offence, since he was legally bound to obey that order.

Section 15 and Section 16: Judicial Acts

Section 15 protects judges from criminal liability for anything done while acting judicially, so long as they possess, or genuinely believe in good faith that they possess, the legal power to do it.

Section 16 extends similar protection to acts done in pursuance of a court's judgment or order, even if that court is later found to have lacked jurisdiction, provided the person genuinely believed the court had that authority.

Illustration: A court bailiff enforces an eviction order passed by a magistrate. Even if the order is later overturned on appeal, the bailiff who acted in good faith reliance on that order commits no offence.

Section 17: Act Justified by Law or Mistake of Fact

This section protects ordinary citizens, not just officials. It covers acts that are justified by law, or acts done under a genuine mistake of fact where the person honestly believed they were legally justified.

Illustration: A sees Z apparently committing a murder. Using the power available to any citizen to apprehend an offender caught in the act, A seizes Z to hand him over to the police. Even if it later turns out Z was actually acting in self-defence, A has committed no offence, because his belief was genuine and reasonable.

Section 18: Accident in Doing a Lawful Act

Section 18 protects a person who causes harm purely by accident or misfortune, while doing a lawful act, in a lawful manner, using lawful means, and with proper care and caution.

Illustration: A is working with a hatchet when its head suddenly flies off and injures a bystander. If A was exercising proper care, this is a genuine accident, and A commits no offence.

The key requirement here is that there must be no want of proper caution. If negligence is shown, this defence collapses immediately.

Section 19: Necessity

Section 19 embodies the doctrine of necessity, captured by the Latin maxim, quod necessitas non habet legem, meaning necessity knows no law. It protects a person who causes harm without criminal intent, specifically to prevent a greater harm from occurring.

Illustration: A ship's captain, to save the vessel and the majority of passengers during a storm, is forced to throw some cargo overboard. If done honestly to prevent a greater disaster, this act falls within Section 19.

Courts examine such cases carefully, asking whether the harm caused was genuinely necessary and proportionate to the harm being avoided.

Sections 20 and 21: Infancy

The law recognises that young children cannot form the criminal intent required for an offence. Section 20 provides absolute protection for any child under seven years of age. No act committed by such a child is ever treated as an offence.

Section 21 extends conditional protection to children above seven and under twelve years of age, but only if the child has not attained sufficient maturity of understanding to judge the nature and consequences of that particular act.

Illustration: A nine year old child, who genuinely does not understand that pulling a fire alarm without reason can cause panic and is wrongful, cannot be held criminally liable for doing so, since he lacks sufficient maturity to grasp the consequence.

This distinction was highlighted in State of Orissa v Bhagaban Barik, where the Supreme Court examined a child's mental capacity before applying this exception, rather than relying on age alone.

Section 22: Unsoundness of Mind

Section 22 protects a person who, at the time of doing an act, is incapable of knowing the nature of the act, or that it is wrong or contrary to law, due to unsoundness of mind.

This is India's version of the classic McNaughten Rule from English law, which asks whether the accused understood the nature and quality of the act, or knew that it was wrong.

Illustration: A person suffering from a severe psychiatric disorder, who genuinely believes he is defending himself from an imaginary attacker and causes injury to a bystander, may fall within this exception if his condition prevented him from understanding the nature of his act.

In Surendra Mishra v State of Jharkhand, the Supreme Court clarified that every person suffering from a mental illness is not automatically exempt. The unsoundness must be so severe that it destroys the person's ability to know right from wrong at that specific moment.

Sections 23 and 24: Intoxication

Intoxication is treated differently depending on how the person became intoxicated. Section 23 protects a person who was intoxicated against their will, meaning without their knowledge or consent, provided this intoxication left them incapable of judgment at the time of the act.

Section 24 deals with situations requiring a specific intent or knowledge. If a person voluntarily consumes alcohol or drugs, the law generally still holds them responsible, since self-induced intoxication is not treated the same as involuntary intoxication.

Illustration: In Basdev v State of Pepsu, the accused, in a drunken state, shot and killed a young boy over a trivial dispute about being served food first. The Supreme Court held that voluntary drunkenness does not excuse a person from liability if their actions still show they knew what they were doing.

This case remains one of the most cited authorities on how courts distinguish between involuntary and voluntary intoxication.

What Ties These Sections Together

Every provision covered in this part shares one common thread. Each protects a person because, at the relevant moment, something prevented them from forming genuine criminal intent, whether that was age, mental illness, an honest mistake, or an unavoidable accident.

This is very different from the defences we will explore in Part 2, where the act is often intentional, but the surrounding circumstances make it legally justified rather than excusable.

Coming Up in Part 2

In the next part of this series, we will cover the justifiable defences under Sections 25 to 44. This includes acts done with consent, acts done for another person's benefit, communication made in good faith, compulsion by threats, trivial harm, and the detailed right of private defence.

Understanding both parts together will give you a complete and exam ready picture of how General Exceptions operate under the Bharatiya Nyaya Sanhita, 2023.