BLOGS

Mistake of Fact and Mistake of Law under the Indian Penal Code

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Edit **TABLE OF CONTENTS Introduction Mistake of Fact Mistake of Law Conclusion**

Introduction

In criminal law, the concepts of “mistake of fact” and “mistake of law” play crucial roles in determining the liability of individuals. These doctrines are rooted in the principle that an individual should not be held criminally responsible if their actions were based on a misunderstanding that negates the criminal intent. This post will discuss the definitions, provisions, illustrations, and case laws related to mistake of fact and mistake of law.

Mistake of Fact

A mistake of fact occurs when a person, due to a genuine misapprehension, believes in a set of circumstances that are not true. This mistaken belief can negate the mens rea (criminal intent) required to constitute a criminal offense. For a mistake of fact to be a valid defense, it must be honest and reasonable.

The Indian Penal Code (IPC), 1860, under Section 76 and Section 79, provides for the defense of mistake of fact.

Section 76: “Act done by a person bound, or by mistake of fact believing himself bound, by law”: This section exempts a person from criminal liability if they commit an act under the belief that they are legally bound to do so, provided this belief is due to a mistake of fact.

A soldier, ordered by his superior officer to fire at an enemy during combat, shoots and kills a civilian mistaking him for the enemy. If the soldier genuinely believed the civilian was an enemy combatant, he may claim a defense under Section 76 of the IPC.

Section 79: “Act done by a person justified, or by mistake of fact believing himself justified, by law”: This section protects a person from criminal liability if they commit an act under the belief

that it is justified by law, provided this belief is due to a mistake of fact.

A person sees another individual breaking into a house at night and, believing it to be a burglar, apprehends them. If it turns out the person was the homeowner who lost their keys, the apprehender may claim a defense under Section 79, provided the belief was reasonable.

For a crime to be committed, there must typically be a mens rea, or a guilty mind. Mistake of fact can negate mens rea if it shows that the defendant did not have the intent required to commit the crime. For example, if a person takes someone else's property believing it to be their own, they lack the intent to steal.

In certain offences, known as strict liability offenses, the defense of mistake of fact is not available. These offenses do not require proof of mens rea. For instance, statutory rape laws often impose strict liability, meaning that a mistake regarding the victim's age is not a defense.

In ***R v. Prince***, the defendant was charged with taking an unmarried girl under the age of 16 out of the possession of her father. The defendant believed the girl was 18. The court held that the defendant's honest belief in the girl's age was not a defense. However, this case is often discussed to highlight how the courts can sometimes blur the lines between mistake of fact and strict liability.

R v. Tolson involved Mrs. Tolson, who was charged with bigamy after remarrying under the belief that her first husband, who had deserted her and been absent for several years, was dead. She had received information leading her to believe in good faith that he had died. The legal issue was whether this genuine and reasonable belief could serve as a defense to the charge of bigamy. The court held that Mrs. Tolson's honest and reasonable mistake of fact regarding her husband's death negated the mens rea required for the offense. Consequently, the court acquitted her, establishing that a reasonable mistake of fact can be a valid defense in criminal law.

In ***State of Orissa v. Khora Ghasi***, the accused, a tribal, killed a person under the belief that the victim was a witch practicing black magic. The Orissa High Court acquitted the accused on the grounds that he acted under a bona fide mistake of fact, highlighting the cultural context and lack of intent to commit murder.

Mistake of Law

A mistake of law occurs when a person misunderstands or is ignorant of the law as it exists. Unlike a mistake of fact, ignorance of the law is generally not a defense in criminal law. The maxim “ignorantia juris non excusat” (ignorance of the law excuses not) applies, meaning that everyone is presumed to know the law and cannot escape liability due to ignorance.

The Indian Penal Code does not provide a defense for mistake of law. The principle is encapsulated in the maxim itself, which is widely recognized and applied in Indian jurisprudence.

For example, a person constructs a building on land, believing that they have the legal right to do so, only to discover that the land is protected under environmental laws. The person cannot claim a defense based on ignorance of environmental protection laws.

In ***State of Maharashtra v. Mayer Hans George***, the Supreme Court held that ignorance of customs regulations did not excuse the respondent, who was convicted of carrying gold into India without declaring it.

In ***Government of NCT of Delhi v. Sanjeev***, the Supreme Court held that a driver’s belief that he did not require a permit to operate a particular vehicle type was a mistake of law, and thus, he could not escape liability for operating without a permit.

Conclusion

The doctrines of mistake of fact and mistake of law serve to differentiate between errors that can excuse criminal liability and those that cannot. While the Indian Penal Code recognizes mistake of fact as a potential defense under certain conditions, it firmly adheres to the principle that ignorance of the law is no excuse.

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