BLOGS

Notes on Section 34 of IPC- Common Intention and Joint Criminal Liability

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Introduction

Suppose A, B, and C plan to rob a bank. They agree to meet outside the bank at a specific time, carry firearms, and divide the stolen money equally among themselves. During the robbery, A shoots a security guard, resulting in his death. Who do you think will be liable for the murder of the security guard, even if only A fired the fatal shot?

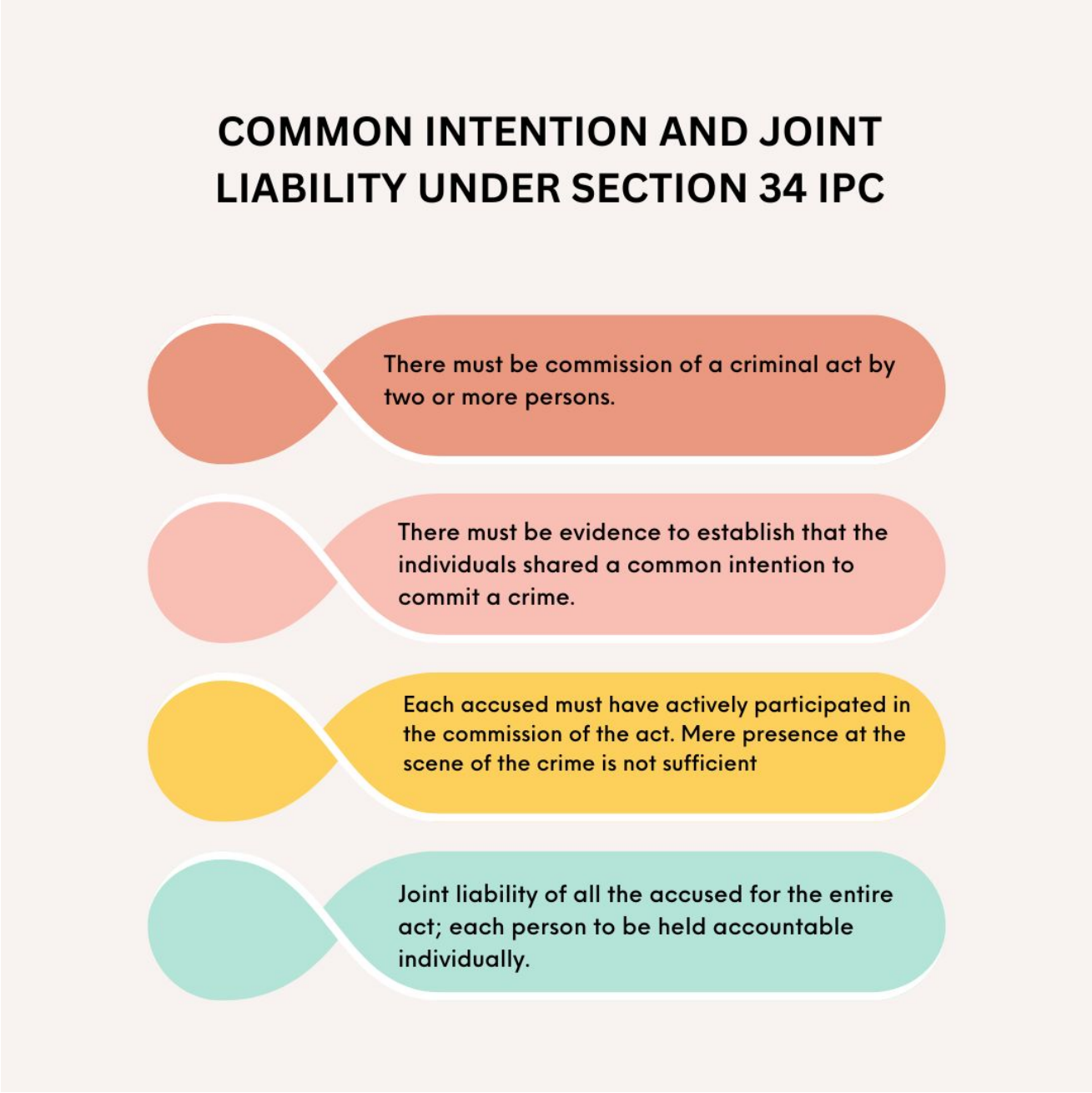
This is dealt with in Section 34 of IPC. **Section 34 of IPC states** that "When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone".

Article 34 of the Indian Penal Code

Article 34 of the Indian Penal Code (IPC) deals with acts done by several persons in furtherance of a common intention. This provision holds individuals equally responsible for the consequences of a criminal act when committed jointly with a common intention.

Article 34 of the IPC states that when a criminal act is committed by several persons in furtherance of a common intention, each person is liable for that act in the same manner as if it were done by him alone. In simpler terms, if two or more individuals act together with a common intention to commit a crime, they are equally responsible for the consequences of that act.

Section 34 helps in ascertaining individual accountability in cases when it is difficult to prove individual liability for activities done in support of the common objective of all persons engaged in a criminal act conducted by a group.



It is crucial to note that Article 34 does not require each accused to actively participate in every aspect of the criminal act. As long as there is a shared intention and active participation in the overall commission of the crime, each individual will be held equally responsible.

Essential Elements of Article 34 IPC

For Article 34 to apply, the following essential ingredients must be present:

1. A criminal act committed by multiple people

2. Existence of a common intention among the accused: There must be evidence to establish that the individuals shared a common intention to commit a crime.

2. **Active participation of each accused:** Each accused must have actively participated in the commission of the criminal act. Mere presence at the scene of the crime is not sufficient

Difference between Common Intention and Common Object

Common Object is discussed under Section 149. **Section 149 IPC** states that “If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.”

Edit COMMON INTENTIONCOMMON OBJECT Section 34 deals with the existence of common intention to establish liability.Section 149 deals with acts done in furtherance of common object. Active participation is necessary in the case of Section 34. Merely being a part of the group that shares the common object is enough for application of Section 149. For application of Section 34, offence must be committed by at least two people based on common intention. For application of Section 149, the offence must be committed by 5 or more persons in furtherance of common intention.

Landmark Cases on Section 34 IPC

In the case of **Barendra Kumar Ghosh v. King Emperor (1925)**, the Privy Council addressed the issue of common intention under the Indian Penal Code (IPC). Barendra Kumar Ghosh and four others were charged with the murder of a man. The prosecution alleged that all five accused had acted in furtherance of a common intention. However, during the trial, the evidence suggested that only one of the accused, Barendra Kumar Ghosh, had inflicted the fatal blow.

The question before the court was whether the other accused could be held equally liable for the murder under the principle of common intention. The Privy Council held that for the application of Section 34, there must be a pre-arranged plan or meeting of minds to commit the crime. The court emphasized that a common intention does not necessarily imply prior concert or pre-arranged design. It may be formed on the spot during the commission of the crime. However, the common intention must be shared by all the accused involved.

In this case, the evidence did not establish a common intention among all the accused to commit the murder. The court found that there was no evidence to suggest that the other four accused shared a common intention to. Therefore, the court concluded that they could not be held equally liable for the murder under Section 34.

In the case of **State of Rajasthan v. Bhera Ram,** the Supreme Court addressed the application of Article 34. The court emphasized that for invoking the provisions of Article 34, there must be a clear intention to commit a crime shared by all the accused. It is not sufficient to establish that the individuals were present at the scene of the crime; there must be evidence to establish their active participation and shared intention.

Although the case of **Machhi Singh and others v. State of Punjab** primarily focused on the awarding of the death penalty, it also addressed the concept of common intention. The Supreme Court held that when multiple accused act in concert with a common intention to commit a heinous crime, such as murder, they will be held equally responsible, irrespective of who inflicted the fatal blow. The court emphasized that the common intention must be proved beyond a reasonable doubt.

Conclusion

Article 34 of the Indian Penal Code (IPC) deals with acts done by several persons in furtherance of a common intention. It establishes the principle of joint liability, holding individuals equally responsible for the consequences of a criminal act committed in concert with a common intention.

To establish liability under Section 34, active participation of each accused in the criminal act is not necessary. Even if one individual plays a more prominent role or inflicts the actual harm, all involved parties will be held equally liable for the complete offence.