AILET

Offences Against Property Under IPC: Criminal Trespass, House Trespass and More

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Criminal Trespass

Principle: Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit “criminal trespass”

A person commits criminal trespass if he-

- Lawfully or unlawfully enters into the property in possession of another and unlawfully remains there with the intent,
- To commit an offence or to intimidate, annoy or insult any person in possession of such property

It is important that the aim of entry should be the commission of an offence defined under IPC; by committing an unlawful act a person shall not be liable for criminal trespass. E.g. If a person enters a movie hall without a ticket, it shall not amount to criminal trespass.

The offence depends upon the intention and not upon the nature of the act i.e. if a person enters his neighbours’ property to protect his animals from a fire he shall not be guilty of the offence but if a person enters into a house with an intention to commit theft but on seeing the poverty of household he leaves a 1000 rupee note he still shall be liable for the offence of criminal trespass.

The offence of trespass can only be committed over the immovable property which is in the actual possession of a person. A landlord shall be guilty of the offence of trespass if forcibly enters the property in possession of tenant and dispossess him after the expiry of the lease.

However, a person shall be guilty of the offence even when his entry was lawful but he remains there with unlawful intention or enters to some part of the property to which he was not legally entitled.

E.g. if a delivery boy is requested to stay in the living room but if he intentionally enters the bedroom in order to annoy the owner he shall be guilty of the offence of criminal trespass.

House Trespass

A person commits house-trespass if he:

1. Commits criminal trespass
2. By entering into or remaining in (a) any building, tent or vessel used as a human dwelling or (b) any building used as a place of worship or as a place for the custody of property.

House-trespass is of three kinds- i) Lurking House-trespass ii) Lurking House-trespass by night iii) Housebreaking

Lurking House-trespass= House-trespass + Concealment of identity

Lurking House-trespass by night= Lurking House-trespass + Night i.e. before sunrise and after sunset.

House breaking= House-trespass + entry through six specified ways i.e. passage made by himself or abettor, climbing over a wall, the unintended passage opened by him, by opening any lock, by using criminal force or by any passage which was fastened against such entrance.

Forgery

Principle: Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

A person shall be liable for the offence of forgery if he makes a false document with an intention to:

- Cause damage or injury to any person or public

- Cause any person part with the property
- Enter into any express or implied contract
- Support any claim or title
- Commits or may commit any fraud

A person is said to make a false document if:

- He dishonestly or fraudulently makes, signs, seals or executes a document with the intention of causing it to be believed that such document was made, signed, sealed or executed by the authority of person by whose authority he knows that it was not made, signed, sealed or executed.
- He dishonestly or fraudulently without lawful authority by cancellation or otherwise alters the document in material part.
- He dishonestly or fraudulently causes any person to sign, seal, execute or alter a document knowing that such person by reason of unsoundness, intoxication or deception does not know the contents of the document or nature of the alteration.

However, a general intention to defraud without the intention of causing wrongful gain or loss to any particular person is sufficient to make a person liable for the offence.

Causing actual damage, injury or fraud is not necessarily what is essential is the requisite intention to commit the offence. Counterfeiting a document to support a legal claim will amount to forgery.

To sit at an examination falsely personating another and signing a paper in that other’s name amount to forgery and also cheating by personation.

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Stolen Property

A property is considered as stolen property when it is obtained through theft, extortion, robbery, dacoity, criminal misappropriation, criminal breach of trust and not through cheating and as soon as any such offence is committed in respect of that property it comes into the possession of the accused.

The moment the property is restored to the original owner it ceases to be stolen property.

Following persons shall be liable for the offence of stolen property:

- Any person who receives or retains stolen property knowing or having reason to believe that such property is stolen shall be guilty of the offence. E.g. A gives a gold necklace to his wife 'W' which he has extorted from X saying that he has purchased it from the jeweller shop on instalments. Here only A will be liable for the offence as W retains the stolen property under good faith.
- Any person who habitually deals in the property which he knows or has reason to believe that it is stolen shall also be guilty of the offence. E.g. 'A' a jeweller purchases a diamond ring from X for 1000 rupees and sells it further. Here A and X both shall be liable as A being jeweller must have reason to believe that a diamond ring is sold for 1000 rupees only must not have a legal transmission and also if it is proved that A has been dealing in such property on previous occasions also.
- Any person who voluntarily assists in the concealment of the property which he knows or has reason to believe that it is stolen shall also be guilty of the offence. E.g. A asks his wife 'W' to hide a mobile phone which he has stolen from X and W does so then both A and W shall be liable for the offence. Read our previous post on offences against property under ipc here. Take our test on offences against property under ipc here. Read our post on the Landmark Judgements of 2019-2020. Read our post on Elements of Crime. Read CLATapult's post on offer and acceptance here. Also, try their mocks for more legal reasoning practice questions.