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INDIAN PENAL CODE: AN ANALYSIS

INTRODUCTION

IPC stands for the Indian Penal Code. The Indian Penal Code is one of the main and frequently used criminal laws in India that applies to all the states, even including the state of Jammu and Kashmir, from 2019 onwards. There are two types of laws, i.e., substantive and the other is procedural. IPC is a substantive law that provides for the rights and liabilities of individuals. It mentions certain offenses and prescribes the punishment for the offense. The procedural law is the one that provides the machinery that would provide the way the substantive law has to be used to get into motion. Both are equally important and crucial aspects of the criminal justice system in India. As it is the procedural law that takes the substantive law into motion. So it becomes immensely important for adhere to the procedure prescribed by the respective law. As crimes are a part of society and are prevalent in every society or in every nation. No nation can be an exception. It was made during the time of British rule in India. However, this has been on the verge of replacement as BNS, i.e., Bharat Nyaya Sanhita, is replacing IPC from July 2024 onwards. IPC has a total of 23 chapters and 511 sections. It includes mostly all the offences and provides general exceptions, punishments, and even attempts at those offenses.

PRINCIPLES OF CRIMINAL LAW

Criminal law is based on several principles that are of prime importance in criminal proceedings and the matters thereon. In every criminal case, there are following key pointers which are to be kept in mind while dealing with the criminal law, i.e. IPC:-

1. The accused is presumed to be innocent until proven guilty¹; this means that the impartial judge, from the very beginning of the commencement of proceedings till its final judgment, either of acquittal or conviction, has to presume that the accused is innocent until it is proved by the prosecution. Moreover, the prosecution has to prove the guilt of the accused beyond reasonable doubt. The person cannot be convicted if the prosecution fails to prove the beyond reasonable doubt.²
2. Criminal liability is based on two important principles which are considered to be essential elements of the crime. If these two principles or essentials aren't fulfilled, crime wont be said to have been committed. These are :- Mens Rea and Actus Reas³. However, there are certain exceptions to this general rule.
3. (i) Mens Rea- The concept of mens rea, which is Latin for “guilty mind,” allows the criminal justice system to distinguish someone who set out with the intention of committing a crime from someone who did not mean to commit a crime⁴. The principles of criminal liability are based on the maxim “Actus Non-Facit Reum Nisi Mens Sit Rea”, which means an act committed is not considered as criminal act unless there is a guilty mind⁵. As in *Kartar Singh v. State of Punjab*⁶, the Supreme Court held that the element of mens rea must be read into the penal provisions of a statute unless the statute expressly bars it. Therefore, there are numerous expressions that are used to describe Mens Rea, for instance, knowingly, fraudulently, intentionally, motive, and voluntarily. So, mens rea or evil intention on the part of the accused is one of the essential requisite to constitute a crime or to allege the person for that offense.
4. Actus Reus:- The second essential requisite for a crime is actus reus, i.e., the conduct that resulted in the commission of a crime. This is not the conduct itself but the result of the

¹ Pooja Amaravathi, Ananya Mishra, ‘The Presumption of Innocence and its Role in Criminal Process’, IJLMH Volume 4 Issue-3, pp. 1135-1149, <The Presumption of Innocence and its Role in the Criminal Process - International Journal of Law Management & Humanities (ijlmh.com)> accessed on 23 May, 2024.

² Guilt Beyond a Reasonable Doubt’ <Guilt Beyond a Reasonable Doubt | Constitution Annotated | Congress.gov | Library of Congress>, accessed on 23 May, 2024.

³ Mischa Allen, ‘Fundamental principles of Criminal Liability- Actus Reus and Mens Rea’ (2020), < 2. Fundamental Principles of Criminal Liability—Actus Reus and Mens Rea | Law Trove (oxfordlawtrove.com)> accessed on 23 May 2024.

⁴ Legal Dictionary, ‘Mens Rea’, 29 January(2015), < Mens Rea - Definition, Examples (legaldictionary.net)>, accessed on 23 May, 2024.

⁵ Bharti TV, Principles of Criminal Liability -Individual and Joint Liability, (2020), < Principles of Criminal Liability- Individual and Joint Liability - Law Times Journal>, accessed on 23 May 2024.

⁶ 1994 (3) SCC 569.

conduct of the person. Until and unless the person has undertaken his evil intention into an action, no crime can be said to have done. This general rule is also subject to certain exceptions. So therefore, the term also comes from the same Latin maxim mentioned above, i.e., Actus non facit reum, nisi men sit rea, which properly translated means “an act does not make a man guilty of a crime unless his mind be also guilty. It is used to refer to the act, conduct, omission, or state of affairs which the offense in question prohibits.”⁷

5. The two principles of criminal law mentioned above are the general rule applicable to every case, however there are certain exceptions to it. For instance, a child who is considered dolly incapax commits a crime and will not be liable, though there has been actus reus but no mens rea. Another exception to this rule is the strict liability principle, i.e., even if a person does not have evil intentions on his part, he will still be liable for the crime. For instance, in socio-economic regulation, in cases of tax evasion, driving without license etc.⁸ So, there are numerous instances where the principle of mens rea doesn't apply. On the other hand, the principle of actus reus doesn't apply in cases such as in performing statutory duty, contractual duty, etc.⁹

MAJOR OFFENSES INCORPORATED UNDER IPC ARE AS FOLLOWS-¹⁰

- (I) Offenses against the Human Body; this includes the offenses that affect the human body, such as culpable homicide (Section 299¹¹), Murder (Section 300¹²), Dowry Death (Section 304B¹³), Hurt (Section 321¹⁴), Grievous Hurt (Section 320¹⁵), Kidnapping (Section 360¹⁶ and 361¹⁷), Abduction (Section 362¹⁸), etc.

⁷ Actus Reus Definition, Lexis Nexis, <Actus reus Definition | Legal Glossary | LexisNexis>, accessed on 24 May, 2024.

⁸ J.W. Cecil Turner, ‘ Chapter-II Principles of Criminal Liability ,’ 5 June(2016), < PRINCIPLES OF CRIMINAL LIABILITY (CHAPTER II) - Kenny's Outlines of Criminal Law (cambridge.org)>, accessed on 23 May 2024.

⁹ Nicola Monaghan, ‘Actus Reus’, September(2022), <2. Actus reus | Law Trove (oxfordlawtrove.com)>, accessed on 24 May, 2024.

¹⁰ Mohd Aqib Aslam, ‘Offences under IPC: An Overview’ Legal Service India E-Journal, <Offences under Indian Penal Code: An overview (legalserviceindia.com)>, accessed on 24 May, 2024.

¹¹ IPC, 1860, Section 299, No. 45, Acts of Parliament, 1860 (India).

¹² , IPC, 1860, Section 300, No. 45, Acts of Parliament, 1860 (India).

¹³ IPC, 1860, Section 304B, No. 45, Acts of Parliament, 1860 (India).

¹⁴ IPC, 1860, Section 221, No. 45, Acts of Parliament, 1860 (India).

¹⁵ IPC, 1860, Section 320, No. 45, Acts of Parliament, 1860 (India).

¹⁶ IPC, 1860, Section 360, No. 45, Acts of Parliament, 1860 (India).

¹⁷ IPC, 1860, Section 361, No. 45, Acts of Parliament, 1860 (India).

¹⁸ IPC, 1860, Section 362, No. 45, Acts of Parliament, 1860 (India).

- (II) Offenses against Property include Extortion (Section 383¹⁹), Robbery (Section 390²⁰), Dacoity (Section 391)²¹, etc.
- (III) Offenses against the state include offenses such as waging war against the Government (Section 121²²), Sedition (Section 124-A²³), etc.
- (IV) Offenses against Women and Children, including offenses such as Voluntary throwing acid (Section 326B²⁴), Rape (Section 376²⁵), Stalking (Section 354D²⁶), Voyeurism (Section 354C²⁷), etc.
- (V) Offense against Public Tranquility includes offense such as Unlawful Assembly (Section 141²⁸), Rioting (section 146²⁹), Affray (Section 159³⁰), etc.

TYPES OF PUNISHMENTS

Under the IPC, there are five types of punishments: death penalty, life imprisonment, imprisonment, which may be simple or rigorous, forfeiture of property, and fine. The death penalty is an exception and not the general rule, i.e., only in the rarest of the rare cases it has to be given. This may be given in certain offenses such as Murder, Wage war, kidnapping for Ransom, etc. Life imprisonment means imprisonment for the whole of the remaining life period of the convicted person. Imprisonment means taking away the person's right to freedom and putting him in jail. Forfeiture of property means the loss of property of the accused. Fine simply means the monetary compensation.

CONCLUSION

Therefore, IPC is the most frequently used substantive criminal law in India and regulates the crimes committed by the accused people. This code has eliminated all the flaws and has evolved an efficient and effective criminal justice system. Thus, it is the

¹⁹ IPC, 1860, Section 383, No. 45, Acts of Parliament, 1860 (India).

²⁰ IPC, 1860, Section 390, No. 45, Acts of Parliament, 1860 (India).

²¹ IPC, 1860, Section 391, No. 45, Acts of Parliament, 1860 (India).

²² IPC, 1860, Section 121, No. 45, Acts of Parliament, 1860 (India).

²³ IPC, 1860, Section 124A, No. 45, Acts of Parliament, 1860 (India).

²⁴ IPC, 1860, Section 326B, No. 45, Acts of Parliament, 1860 (India).

²⁵ IPC, 1860, Section 376, No. 45, Acts of Parliament, 1860 (India).

²⁶ IPC, 1860, Section 354D, No. 45, Acts of Parliament, 1860 (India).

²⁷ IPC, 1860, Section 354C, No. 45, Acts of Parliament, 1860 (India).

²⁸ IPC, 1860, Section 141, No. 45, Acts of Parliament, 1860 (India).

²⁹ IPC, 1860, Section 146, No. 45, Acts of Parliament, 1860 (India).

³⁰ IPC, 1860, Section 159, No. 45, Acts of Parliament, 1860 (India).

most important of all the laws and in the entire Indian judiciary³¹. However, for various reasons, the government is set to replace it with Bhartiya Nyaya Sanhita by July 2024. Such reforms would make the criminal justice system more efficient and effective in the dispensation of justice.

³¹ Clear IAS Team, 'Indian Penal Code, 4 December (2023), < Indian Penal code - ClearIAS>, accessed on 24 May, 2024.