

MID-TERMS

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Q#1. What is common intention and common object refer relevant section of PPC. Which is difference between common intention and common object?

Introduction

Section 34 and section 149 Of P.P.C embodies the rule of constructive liability which means that a person is liable for the consequences of an act of another person. But sec. 34 and sec. 149 should not be mixed up together. The rule of common intention in sec. 34 and common object in sec. 149 are not synonymous in any way and they have got their distinguishable features.

Relevant Provisions

Following are the relevant provisions of P.P.C regarding the concerned topic.

Section 34 for common intention

Section 149 for common object.

3. Common Intention:

(i) **Meaning:**

Common intention within the meaning of section 34 implies a pre-arranged plan. (NLR 1980 criminal 517)''

(ii) **Common Intention U/ SEC 34:**

When a criminal act is done by several persons in furtherance of the common intention of all, each of such person is liable for that act in the same manner as if it were done by him alone.

Ingredients of SEC. 34:

Following are the ingredients of sec. 34.

(i) **Criminal Act:**

There must be some criminal act to invoke sec. 34 criminal act is one which is prohibited by law and is carried out in violation of the limits prescribed by law. The act contemplated by sec. 34 is some physical act and merely a mental act.

(ii) By Several Persons:

The criminal act must be done by several persons. It means that sec. 34 will apply only in cases where the accused is more than one.

(iii) In Furtherance Of Common Intention:

It is necessary that the act done by several persons should be in furtherance of common intention of all the persons involved. It may develop even at the spur of the moment or during the commission of an offence. If it is proved that what the several accused did are clearly individual acts done of their own accord rather than acts done in furtherance of a prearranged plan or arrangement, the liability of each is not under section 34 P.P.C.

(IV) Scope of Sec.34:

Section 34 of the P.P.C is intended to meet a case in which it may be difficult to distinguish between the acts of individual members of a party who act in furtherance of the common intention of all. It does not create a distinct offence but merely enunciates a principle of joint liability for acts done in furtherance of common intention of the offenders.(PLD 1983S. C35)

(V) Proof Of Common Intention:

Strict proof of common intention of concerned persons is normally not possible but the same can be conveniently gathered from set of circumstances brought forth in every case(1998SCMR2146)

4. Common Object U/Sec 149:

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.

Ingredients Of Sec149:

(i) Offence is committed:

“The word offence is defined in sect 40 of P.P.C as a thing made punishable by P.P.C.” To invoke Sec 149, an offence has to be committed.

(ii) Unlawful Assembly:

According to section 141 P.P.C an assembly of five or more persons is designated an unlawful assembly, if the common object of the persons composing that assembly is unlawful.

(iii) Membership of Unlawful Assembly:

To invoke the provision of sec. 149 membership of unlawful assembly is necessary. Proof of specifics overt act on the part of every member is not necessary. It is sufficient to prove that the accused persons shared the common object of the unlawful assembly.

(iv) In Prosecution of Common Object:

Some offence must be committed by any member of unlawful assembly in prosecution of common object of that assembly. The common objects of the unlawful assembly have to be inferred from the membership, the weapons used and the nature of injuries as well as other surrounding circumstances.

(v) Knowledge of likelihood of offence being committed:

The member of unlawful assembly are also liable where the offence was such as the members of the assembly knew to be likely to be committed in prosecution of that object.

(II) Scope Of Section 149:

Section 149 P.P.C deals with the constructive liability of members of an unlawful assembly for the offence have been committed by one of the members of the assembly. Sec. 149 is merely an enabling provision and not provide a substantive offence.

(III) Proof of Section 149:

Prosecution must prove presence and participation of each of the accused in unlawful assembly for conviction u/sec 149 P.P.C (1994 SCMR 588)

5. Distinction between Common Intention And Common Object:

Following are the differences between section 34 and sec. 149.

(I) Number Of Persons:

Sec.34 may apply to a case where the culprits are more than one.

Sec.149 can apply only to cases in which culprits are five or more.

(II) Meeting of Mind:

Sec. 34 requires a pre-concert or meeting of mind.

Sec.149 will apply even if there was no prior meeting of mind.

(III) Participation:

Element of participation in action is necessary to constitute common intention.

In Sec. 149 only membership of unlawful assembly at the time of occurrence of offence is sufficient.

(IV) As To Offence:

Section 34 expounds a doctrine of criminal liability and every criminal act in furtherance of common intention is made liable.

Section 149 applies to an offence committed by any member of an unlawful assembly whose common object is one mentioned in Sec 141, P.P.C.

(vi) Presence Of Accused:

In Sec 34, all the accused must be present on the spot. In sec 149, it is not necessary that all the accused must be present at the time of the commission of the offence.

(VI) Development:

Common intention can be developed even at the spur of the moment. common object cannot develop at the spur of the moment.

(VII) As To Act Done:

Sec. 34 will apply where the common intention is to do an act which was done.

Sec. 149 will apply even if there was no common intention to do the act but it was done in furtherance of the common object of the unlawful assembly.

Conclusion

To conclude, I can say that both section 34 and 149 P.P.C. making a person vicariously liable for the acts of his companions. Both section 34 and 149 cannot always be proved by direct evidence facts and circumstances of the case.

Q#2. what kinds of punishments can be given according to PPC? Also mention the limit of solitary confinement according to PPC. What penalty is given in case of default for payment of fine?

Kinds of Punishment according to PPC:

Section 53 mentions ten kinds of punishment, which are

I. Qisas

II. Diyat

III. Arsh

IV. Daman

V. Tazir

VI. Death

VII. Imprisonment for life

VIII. Imprisonment which is of two descriptions, namely;

- i. Rigorous i.e. with hard labor
- ii. Simple

IX. Forfeiture of Property

X. Fine.

Solitary Confinement limit

Solitary Confinement is a form of imprisonment. It is such form of imprisonment through which psychological pressure is imposed upon an offender by disallowing him to have any contact with other persons during imprisonment. Solitary Confinement is the complete isolation of prisoner from all human society, and his confinement in a cell so arranged that he has no direct intercourse with or sight of any human being, and no employment or instruction. Solitary Confinement cannot be awarded for an offence not punishable under the Pakistan Penal Code 1860 but punishable only under a special or local law.

Following are the limitations on awarding Solitary Confinement.

(I). General Limitations.

(i). Solitary Confinement cannot be awarded for an offence not punishable under Pakistan Penal Code 1860.

(ii). It cannot be awarded to acts which are offences only under special or local law.

(iii). No Solitary Confinement can be awarded under

(a). The Arms Act,

(b). The Excise Act,

(c). The Criminal Tribes Act,

(d). The Post Office Act.

(iv). It cannot be awarded where substantive punishment does not include imprisonment but only fine.

(v). Solitary Confinement cannot exceed 3 months.

Failure to pay the fine leads to imprisonment as provided in Section 67 of the Penal Code

If the offence be punishable with fine only, the imprisonment which the Court imposed in default of payment of a fine shall be simple and the term for which the Court directs the offender to be imprisoned in default of payment of fine shall not exceed the following scale, that is to say for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any

term not exceeding 4 months when the amount shall not exceed one hundred rupees, and for any term not exceeding 6 months in any other case.

Q#3. What is the jurisdiction of PPC? Write a comprehensive note with illustrations and relevant case laws if any.

JURISDICTION

According to the S. 2 of P.P.C deals with territorial i.e. It lays down that every person shall he liable is punishment if the offence under the PPC is committed within Pakistan. The words 'every person' do not make any distinction between persons. The person may belong to any origin. He may be citizen of Pakistan or may be a foreign national. He may belong to any tribe, caste or religion. What is important is that the offence under the PPC is committed within the boundaries of Pakistan. The territory of State, under the international law includes the land plus the portion of the sea washing its coast up to three miles into the sea. Pakistan, however claims to extend it up to 12 nautical miles vide, an Act of 1976. This is called the maritime territory of a State. So if any offence is committed under the PPC even by a foreign national, on a foreign ship, but in this belt of the sea, he shall be liable and the Pakistani Courts shall have jurisdiction to try him No defense shall he available to the person committing the offence in such a case that he was a foreign national and the act was done on a foreign ship obviously, however a foreigner cannot he tried or convicted by our courts for any act committed beyond the limits of Pakistan.

Illustrations

1. Citizen of Pakistan commits a murder in France; he can he tried and convicted for murder in any place in Pakistan.
2. A foreigner, who is in service of Pakistan, commits murder in London. He can be tried in Pakistan.

3. A foreigner, who is travelling by PIA aircraft. Registered in Pakistan, if commits murder on the plane, he can he tried in Pakistan.
4. A foreigner in Pakistan. Commits an offence under the P.P.C. He can be tried by Pakistani court, by virtue of the intra -territorial jurisdiction of the P.P.C, like any other Pakistani citizen.

Explanation

Trial in Pakistan:

A can be tried and convicted of murder in any place in Pakistan where he may be found as S. 4 clearly says that the provisions of the Code apply to any offence committed by any citizen of Pakistan in any place without and beyond Pakistan.

Punishable in Pakistan:

A is punishable for an offence under the Pakistan Penal Code in spite of the fact that the act was committed in England, where it is not an offence for he is to be governed, by Pakistani Laws and is as such amenable to the jurisdiction of Pakistani Courts.

Conclusion

Their immunity is based on the principle that the exercise of such jurisdiction would be incompatible with their legal dignity — that is to say. With their absolute independence of every superior authority. The world being composed of distinct sovereignties, possessing equal rights and equal independence, whose mutual benefit is promoted by intercourse with each other, and by an interchange of those good offices which humanity dictates and its wants require, all sovereigns have consented to a relaxation in practice, in cases under certain peculiar circumstances, of that absolute and complete jurisdiction within their respective territories which sovereignty confers”.

Bibliography and Electronic Resources.

https://www.google.com/search?q=what+is+jurisdiction+of+ppc&rlz=1C1BNSD_enPK982PK982&oq=&aqs=chrome.0.35i39i36218.132801847j0j7&sourceid=chrome&ie=UTF-8

<http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

