

DADABHOY INSTITUTE OF HIGHER EDUCATION

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ASSIGNMENT

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

ANSWER

DEFINITION OF COMMON INTENTION:

Common Intention means a group's willingness to do something. Its important feature is intention to do common action against someone. Definition of Common Intention Under Section 34 Of The Pakistan Penal Code, 1860.

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

RELEVANT CASE LAW:-

A person can begin to share the intention of the first attacker if he joins him after the attack is opened. (PLD 1960)

ESSENTIALS OF SECTION 34 OF PAKISTAN PENAL CODE:

There are following essentials which are given below:-

CRIMINAL WRONG:-

SECTION 34 OF PAKISTAN PENAL CODE is requires that there must be criminal wrong done by an accused. Criminal wrong is the act prohibited by criminal law of Pakistan. It is also important that the act be physical in nature.

JOINT ACTION BY SEVERAL PERSONS:-

SECTION 34 OF PPC requires that physical action against a person must be done by some persons jointly. The section does not apply one person.

ACTION FOR THE IMPLEMENTATION OF COMMON INTENTION:-

SECTION 34 OF PPC that also requires the physical action must be done by some persons jointly in implementing the common intention. The fundamental condition of this section is that the accused must have common intention and have participated in crime in furtherance of their common intention.

DEFINITION OF ACCOMPLICE:-

A person involved with another in committing the crime is called accomplice.

SCOPE OF SECTION 34 OF PAKISTAN PENAL CODE:-

The scope of this section makes existence of a common intention one test for joint responsibility. In Mehboob shah's case it was held by the Privy Council that common intention within this section implied a prearranged plan and that before a person can be convicted of an offence with the aid of section 34, it must be shown that the criminal act was done jointly. Evidence for the existence of common intention:- In order to prove the existence of common intention it is necessary that the accused must be physically present at the place of crime and participated in its happening. Where a person stands on guard outside the room in which the offence is committed he will be considered present in the eye of law.

COMMON OBJECT:

Section 149 of PPC 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.

ESSENTIALS OF COMMON OBJECT SECTION 149 OF PPC:

Offence must be committed to achieve common object, this section requires that the offence must be committed to achieve the common object of the unlawful assembly. This section does not apply to offences under a special Acts e.g., an offence under the Railways Act.

UNLAWFUL ASSEMBLY:

The term 'unlawful assembly' has been defined in section 141 of the PPC in the following words: "An assembly of five or more persons is called 'unlawful assembly' when common object of the persons of that assembly is unlawful.

MEMBER OF UNLAWFUL ASSEMBLY:-

This section applies when it is proved that accused is the member of the unlawful assembly.

IN PROSECUTION OF THE COMMON OBJECT:-

To hold every member of an unlawful assembly responsible for an offence committed by another member, it must be shown that the offence was committed in prosecution of the common object.

DIFFERENCE BETWEEN COMMON INTENTION & COMMON OBJECT:

Section 34 of PPC may apply to a case where the culprits are more than one.

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

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.

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.

AS TO OFFENCE: Sec 34 explains a doctrine of criminal liability and every criminal act in furtherance of common intention is made liable.

SEC 149 applies to an offence committed by any member of an unlawful assembly whose common object is one mentioned in sec 141 PPC.

Q.02. 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.

ANSWER

INTRODUCTION

Punishment is a term from psychological Learning, Theory that has a precise meaning; it refers to something that causes a behavior to lessen. There is nothing that is intrinsically punishing. A thing is called punishing if, when it is applied, it results in the reduction of behavior that you want to reduce. Section 53 of PPC defines several types of punishments for different offences.

RELEVANT PROVISIONS ABOUT PUNISHMENT

Section 53 Pakistan Penal Code.

DEFINITION OF PUNISHMENT

The term punishment has been defined in Black's Law Dictionary thus:

"Any fine, penalty or confinement inflicted upon a person by the authority of the law and the judgment and sentence of a Court, for some crime or offence committed by him or for his omission of duty enjoined by law."

PURPOSE OF PUNISHMENT

The purpose of punishment is the prevention of PPC offences.

The punishments to which offenders are liable under the provisions of this Code are as follows:

Firstly, Qisas;

Secondly, Diyat;

Thirdly, Arsh;

Fourthly, Daman;

Fifthly, Ta'zir;

Sixthly, Death;

Seventhly, Imprisonment for life;

Eighthly, Imprisonment which is of two descriptions, namely

(i) Rigorous, i.e., with hard labour;

(ii) Simple;

Ninthly, Forfeiture of property;

Tenthly, Fine

KINDS OF PUNISHMENT UNDER SECTION 53 PPC

QISAS

Literal Meanings the word Qisas is derived from the word Al Qasas which means' to follow in some on footsteps.

LEGAL MEANINGS

Legally it means to shed blood in repetition or retribution.

QURANIC INJUNCTIONS REGARDING QISAS

" Believe! Retaliation is prescribed for you in the matter of the murdered; the free man for the free man and the slave for the slave and the female for the female. And for him who is forgiven somewhat by his (injured) brighter, prosecution according to usage and payment unto him in kindness. This is an alleviation and mercy from you lord. He who transgressed after this will have painful doom. And there is life for you in retaliation, men of understanding, that ye may ward of (evil)." (Surah-Al Baqara 178,179)

SOLITARY CONFINEMENT:

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 contract with other persons during imprisonment.

RELEVANT PROVISIONS

Sections 73 & 74 of Pakistan Penal Code 1860.

SOLITARY CONFINEMENT AWARDED BY COURT

Court can award solitary confinement. However, condition is that court can award such confinement only in that case in which a person is convicted of an offence for which the court has power under Pakistan Penal Code to sentence him to rigorous imprisonment.

SCALE OF SOLITARY CONFINEMENT

Under Pakistan Penal Code, court can order to keep offender in solitary confinement for any portion or portions of imprisonment to which he is sentenced and such solitary confinement should not exceed three months in the whole. Solitary confinement can be awarded at either of following three scales.

FOR A PERIOD NOT EXCEEDING ONE MONTH

If term of imprisonment, to which an offender is sentenced, does not exceed six months, offender can be kept in solitary confinement for a period, which should not exceed one month.

FOR A PERIOD NOT EXCEEDING TWO MONTHS

If term of imprisonment, to which an offender is sentenced, does not exceed one year, offender can be kept in solitary confinement for a period, which should not exceed two months.

FOR A PERIOD NOT EXCEEDING THREE MONTHS

If term of imprisonment, to which an offender is sentenced, exceeds one year, offender can be kept in solitary confinement for a period, which should not exceed three months.

SENTENCE OF SOLITARY CONFINEMENT CAN BE EXECUTED THROUGH FOLLOWING TWO MODES

FOURTEEN DAYS

In executing a sentence of solitary confinement, such solitary confinement should in no case exceed fourteen days at a time, with intervals between periods of solitary confinement of not less duration than such periods.

SEVEN DAYS

In executing a sentence of solitary confinement when imprisonment awarded exceeds three months, the solitary confinement should not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Q.03. What is the jurisdiction of PPC. Write a comprehensive note with illustrations and relevant case laws if any.

ANSWER

TERRITORIAL JURISDICTION

Section No.2

Punishment of offences committed within Pakistan.

Every person shall be liable to punishment under this code and not otherwise for every act or omission in contrary to the provision thereof, of which he shall be guilty within Pakistan.

Section No.3

Punishment of offences committed beyond, but which by law may be tried within Pakistan.

Any person liable, by any Pakistani law, to be tried for an offence committed beyond Pakistan shall be dealt with according to the provision of this code for any act committed beyond Pakistan in the same manner as if such act had been committed within Pakistan.

EXTRA-TERRITORIAL JURISDICTION

Section No.4 Extension of Code for Extra- Territorial offences.

The provision of this code apply also to any offence committed by.

(1) Any citizen of Pakistan or any person in the service of Pakistan in any place without and beyond Pakistan.

(2)

(2) Any person on any ship or aircraft registered in Pakistan wherever it may be.

Extra territorial jurisdiction is subject to fulfillment of conditions that accused is not found at any place in Pakistan under any circumstances and certificate of political agent or sanction of federal government as the case may be is obtained. If either the conditions I not satisfied, a criminal court in Pakistan cannot have the extra territorial jurisdiction to try any person alleged to have committed an offence outside Pakistan. Offence committed in foreign country and private complaint filed in criminal court in Pakistan in which trial court issued process against the accused who was a resident of foreign country accused raising plead guilty that after commission of offence he never arrived/brought in Pakistan, therefore the court has no jurisdiction, presence of accused anywhere in Pakistan and

pronouncement of his attendance not shown, therefore courts in Pakistan taking cognizance of the offence U/s: 190 (1) Cr.P.C upon receiving a complaint has not jurisdiction to deal with the accused.

(PLD 2007 Karachi Page No.91) Nationality not relevant if cas covered Section No.4 (PLD 1956 S.C (Ind) 81) provisions attracted when any citizen of pakistan commits such offence even beyond the territories of the country.

(1989 P.Crl. Law Journal 369)