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**FACULTY OF JURIDICAL
SCIENCES**

NAME OF THE FAULTY- Ms. Neha Khanna

SUBJECT NAME- LAW OF CRIMES

COURSE NAME- BA LLB, Vth Sem
SUBJECT NAME- LAW OF CRIMES

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LECTURE-22

Duress under Section 94

Act to which a person is compelled by threats. Except murder, and offences against the state punishable with death, nothing is an offence which done by a person compelled to do it under threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence, provided the person doing the act did not of his own accord, or from reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

- Example: A was caught by a gang of dacoits and was under fear of instant death. He was compelled to take gun and forced to open the door of house for entrance of dacoits and harm the family. A will not be guilty of offence under duress.

I. Trifles under Section 95

Act causing slight harm is included under this section. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Case law for Section 95

In *Mrs. Veeda Menezes v. Khan*, during the course of exchange of high tempers and abusive words between appellant's husband and the respondent, the latter threw a file of papers at the former which hit the appellant causing a scratch on the elbow. SC said that the harm caused was slight and hence, not guilty.

II. Private Defence under Section 96 – 106

Section 96: Things done in private defence.

Nothing is an offence in which a person harms another person in the exercise of private defence.

Section 97: Right of private defence of body and property.

Every person has a right to private defence, provided under reasonable restriction under Section 99.

1. Protecting his body or another person's body, against any offence in which there is a danger to life.

2. Protecting his or another person's movable or immovable property, against any offence like theft, robbery, mischief or criminal trespass or an attempt to commit theft, robbery, mischief or criminal trespass.
 - Example: A father, in order to protect the life of daughter from the attack of a thief, shoots him in his leg. But the father will not be liable as he was protecting the life of his daughter.

Case law for Section 97

In *Akonti Bora v. State of Assam*, the Gauhati High Court held that while exercising the right of private defence of property the act of dispossession or throwing out a trespasser includes right to throw away the material objects also with which the trespass has been committed.

Section 98: Right of private defence against the act of a person of unsound mind etc.

When an act which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

- Example: A attempts to kill Z under influence of insanity but A is not guilty. Z can exercise private defence to protect himself from A.

Section 99: Acts against which there is no right of private defence.

- There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or
- Attempted to be done, by a public servant acting in good faith under color of his office, though that act may not be strictly justifiable by law.
- There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or
- Attempted to be done, by the direction of a public servant acting in good faith under colour of his office though that direction may not be strictly Justifiable by law.
- There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.
- The harm caused should be proportional to that of imminent danger or attack.

Case law for Section 99

In *Puran Singh v. State of Punjab*, the Supreme Court observed that where there is an element of invasion or aggression on the property by a person who has no right of possession, then there is obviously no room to have recourse to the public authorities and the accused has the undoubted right to resist the attack and use even force, if necessary.

Section 100: When the right of private defence of the body extends to causing death.

- Assault causing reasonable apprehension of death.
- Reasonable apprehension of grievous hurt.
- Committing rape
- Unnatural lust
- Kidnapping or abducting
- Wrongfully confining a person in which that person reasonably apprehends the assault and not able to contact public authority.
- Act of throwing or attempting to throw acid, causing apprehension in the mind that assault will cause grievous hurt.

Case law for Section 100

In *Yogendra Morarji v. state*, the SC discussed in detail the extent and limitations of the right of private defence of the body. There must be no safe or reasonable mode of escape any retreat for the person confronted with imminent peril to life or bodily harm except by inflicting death.

Section 101: When such rights extend to causing any harm other than death.

If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

Case law for Section 101

In *Dharmindar v. State of Himachal Pradesh*, that onus of proof to establish the right of private defence is not as onerous as that of a prosecution to prove its case. Where the facts and circumstances lead to a preponderance of probabilities in favor of the defence case it would be enough to discharge the burden to prove the case of self-defence.

Section 102: Commencement and continuance the right of private defence of the body.

The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; it continues as long as such apprehension of danger to the body continues.¹

- Example: A, B, and C were chasing D to kill him in order to take revenge, but suddenly they saw a policeman coming from another side. They got afraid and turned back to run. But D shoots B in his leg, even when there was no imminent danger of harm. D will be liable as there was no apprehension of death or risk of danger.

MCQs-

i. The motive under section 81 of IPC should be:

- A. prevention of harm to person
- B. prevention of harm to property
- C. both (a) and (b)
- D. either (a) or (b).

ii. Infancy' as an exception has been provided under:

- A. section 80
- B. section 81
- C. section 82
- D. section 84

iii. Section 82 of IPC provides that nothing is an offence which is done by a child under:

- A. six years of age
- B. seven years of age
- C. nine years of age
- D. ten years of age.

iv. Section 82 of IPC enunciates:

- A. a presumption of fact
- B. a rebuttable presumption of law
- C. a conclusive or irrebuttable presumption of law
- D. none of the above.

v. A person is stated to be partially incapax under section 83, IPC if he is aged:

- A. above seven years and under twelve years
- B. above seven years and under ten years
- C. above seven years and under sixteen years
- D. above seven years and under eighteen years.