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Imprisonment for Life

Life imprisonment is one of the types of punishment which is recognized under Section 53 of the IPC. Earlier this was also known as transportation for life. This punishment is given for serious crimes wherein the convicted remains in prison until his/her last breath.

Scope of Section 57

Section 57 of the IPC is used when fractions of terms of punishment need to be calculated. However, it is important to understand that this section does not give any implied or explicit right to the prisoner to reduce his life imprisonment to 20 years of the sentence.

Under some sections like Section 116,119,120 and 511 of the Code, the prisoners can ask for relief under this section.

Is Life Sentence does Period of 14 Years?

In the case of Duryodhan Rout vs State Of Orissa (2014), the Apex Court clearly stated that reading Section 55 of the Code and Section 433 and 433 A of Cr.P.C, life imprisonment is not confined to 14 years of imprisonment, only the appropriate government can commute the life imprisonment of the prisoner.

The government can commute the punishment of life imprisonment to the imprisonment of term equal to or less than 14 years, or if the prisoner exceeded 14 years of imprisonment then he can be released.

In 1961 in Gopal Vinayak Godse vs. The State of Maharashtra & Ors., the question ‘whether there is any section in the law wherein the life imprisonment without formal remission by the appropriate government can be automatically treated as one for a definite period?’ came to the Apex Court as a question of law. Answering the question the court pointed out the observation made by the judicial committee which stated that, the transportation for life shall be deemed to be transportation for 20 years, however, this does not say that it shall be deemed to be considered the same for all purposes. Further, the provisions under which transportation for life has been amended to imprisonment for life can also not be put under Section 57 IPC. Therefore, a sentence of imprisonment for life or transportation for life must prima facie need to be considered as imprisonment or transportation for the whole life of the prisoner till his natural death.

The distinction between ‘Commutation’ under Section 55, Indian Penal Code 1860, and Section 433, Code of Criminal Procedure 1973

There is a thin line difference between Section 55, IPC and Section 433, Cr.P.C. Section 55 of IPC covers only the commutation of life imprisonment for a term not exceeding 14 years. Whereas Section 433 of Cr.P.C. covers the following powers of commutation to the appropriate government:

1. Death sentence- to any other punishment can be given which is recognised under the IPC.
2. Life imprisonment- to imprisonment not exceeding 14 years or fine.

3. Sentence of rigorous imprisonment- to any term of simple imprisonment (within the term he is convicted) or fine.
4. Sentence of simple imprisonment- Fine.

However, both provisions give power to the appropriate government to commute the sentencing of the offender without the consent of the offender. For the understanding of the section, the appropriate government can be either State or Central Government. If the order is passed under the matter which is exclusively covered by the union list, then the central government will be considered as an appropriate government. Otherwise, in all other cases, the State Government will have the power to commute the sentence.

In the case of Harishankar, Gayaprasad Jaiswal vs State Of Gujarat, the Gujarat High Court observed that Section 55 of IPC is independent of Section 433 (b) of Cr.P.C.

Imprisonment

The general meaning of imprisonment means captivity or to put someone in prison. Under Section 53 of IPC, imprisonment can be of two types. One is simple and the other is rigorous. As per Section 60 of the IPC, the competent court has the discretion to decide the description of sentencing. It can be of various types, like:

1. Wholly or partly rigorous; or
2. Wholly or partly simple; or
3. Any term to be rigorous and the rest simple.

Minimum Wages for Prisoners

The prisoners who are prisoned in jail get wages for doing work inside the jail. The work done by them either can be voluntary or it can be part of their punishment. The wages of the prisoners are fixed as per their skills. Their classification is based on a) skilled, b) semi-skilled and c) unskilled.

Kerala High Court was the first High Court which took the initiative of giving minimum wages to the prisoners. The National Human Rights Commission (NHRC) after taking into the recommendation of the Mulla Committee proposed Indian Prisons Bill 1996. As per the Bill, it was prescribed that the wages should be fair, adequate and equitable wage rates. While considering the minimum wage rate it shall be prevalent to each State and Union territory agricultural, industry, etc. wage rate. Units of work shall also be prescribed for such minimum wages. The average per capita cost of the food and clothing shall be reduced from the wages and the remaining wages shall be paid to the prisoners.

The wages are given on per day basis. The idea of the prisoner's wage is to compensate the victim or the relative of the victim from the fund made by the prisoner's wage. As per Prison Statistics India 2015 of National Crime Records Bureau (NCRB), the highest wages were paid in Puducherry, followed by Delhi's Tihar and Rajasthan. The wages for skilled varied from Rs.180- Rs.150, for semiskilled Rs.160- Rs.112 and for unskilled Rs.150- Rs.103 as per the top three high waged states.

Forfeiture of Property

Forfeiture generally means the loss of property without any compensation in return, which is the result of the default caused by the person in terms of contractual obligation, or in paying penalty for illegal conduct.

In two provisions the forfeiture of the property has been abolished:

1. Under Section 126 for committing depredation on territories of Power at peace with the Government of India.
2. Under Section 127 for receiving property taken during war or depredation mentioned in sections 126 and 126 of IPC.

Fine

The court may impose a fine as an alternative for imprisonment or can add it as an addition to the imprisonment. In certain cases the fine is added along with imprisonment. Section 63 to 69 covers various fines under the IPC. However, as per Section 64 of the Code, when there is a default in the payment of a fine, the court may order for imprisonment.

Amount of Fine should not be Excessive

As per Section 63 of the IPC, when the sum is not expressed under the provisions of the Code, the amount of fine to which the offender is liable is unlimited, however, the fine shall not be excessive.

In the case of Palaniappa Gounder v. State of Tamil Nadu, the Apex Court stated that the sentence given by the court shall be proportionate to the nature of the offence which includes the sentence of fine. And the punishment shall not be unduly excessive.

Sentence of Imprisonment for Non-payment of Fine

Under IPC Section 64, the following offences are covered:

1. Imprisonment with fine;
2. Imprisonment or fine;
3. Fine only and where the offender is sentenced to:

(i) imprisonment; or

(ii) fine or both.

In such cases, the court of competence shall direct the sentence to the offender for a certain term. Under Section 66 of the IPC, the court has the discretion to provide any description for the imprisonment.

In the case of H.M Treasury (1957), the court said that in the case if the death of the convict has occurred then also the fine will be recovered from his property.

Scope of Section 65

As per Section 65 of IPC, the court shall limit the imprisonment when the offender is sentenced to imprisonment and fine because of non-payment of fine. The limit of imprisonment shall not exceed one-fourth of the term of imprisonment which is the maximum period of the particular offence.

Scope of Section 67

Under Section 67 of IPC, the offences for which this section will be applicable is the offence which is punishable with fine only.

1. The imprisonment so awarded shall be simple only;

2. However, the term shall not exceed the following scale:
 - If fine does not exceed Rs. 50- the term shall not exceed two months;
 - If fine does not exceed Rs. 100- the term shall not exceed four months;
 - If fine exceeding of Rs. 100 to any amount- term shall not exceed six months.

Recovery of Fine

Under Sec 421 of the Cr.P.C., the Court after passing the sentence can take the action for the recovery of the fine in two ways:

1. The court can issue a warrant to levy the amount by attaching and selling any movable property which belongs to the offender; or
2. Can issue a warrant to the collector of the district at the place of living of the offender, authorizing him to take the money from the immovable property or movable property or both.
3. Provided that such actions shall not be ordered by the court if the offender has undergone imprisonment due to the default he made for the payment of the fine. Further, if the court gives any such order as after the offender has undergone imprisonment, then the court shall give special reasons for the same.

Further, in the case of Raju Tiwari v. State of Chhattisgarh, the Chhattisgarh High Court stated that without giving a proper 'special reason' the court can not order for the levy of money under Section 421 of CrPC when the offender already had undergone imprisonment for non-payment.

Conviction for Doubtful Offences

As per Section 72 of the IPC, when there is doubt regarding which offence has been committed by the offender and there is a problem to get evidence for the offences committed by the offender, in such circumstances the court can give the lowest punishment if the same punishment provided for all.

Solitary Confinement

Section 73 of the IPC covers solitary confinement (“Sol. Conf.”). The Code gives the description of the way punishment to be ordered by the Court. While giving solitary confinement the court shall keep in mind not to exceed three months in total. The scale is as follows:

- If the term not exceeds more than six months- Sol. Conf. not exceeding one month;
- If the term exceeds more than six months but not exceed one year- Sol. Conf. not exceeding two months;
- If the term exceeds one year- Sol. Conf. not exceeding three months.

Section 74 of the IPC gives the limit of Solitary Confinement while executing the Sol. Conf. the duration shall not exceed fourteen days.

And further, if the solitary confinement given exceed three months, then confinement shall not exceed 7 days in one month.

Scope of the Sections Providing Solitary Confinement

In the case of Sunil Batra Etc vs Delhi Administration And Ors, the court observed that the Sol. Conf. should not be ordered unless it is deemed to be required as per the offence committed by the offender. The offence shall be extreme violence or the commission of the offence shall be brutally committed by the offender. However, the court felt that Sol. Conf. inhumane and horrendous.

In the case of Smt. Triveniben & Ors vs State Of Gujarat & Ors, the court had a similar view and held that under Sec 30 (2) of the Prisons Act, the jail authorities do not have right to Sol. confine the prisoner who is under sentence of death.

Enhanced Punishment

Scope of Section 75

Under Section 75 of the Code when a person is convicted for the second time of an offence which is punishable under Chapter XII (Offences Relating to Coin and Government Stamps) or Chapter XVII (Offences Against Property), if sentenced for more than three years imprisonment, they are liable to greatly enhanced sentence.

However, even when it seems like under Section 348 of the Cr.P.C. the magistrate is competent, the magistrate is not competent to award sentence under this provision when viewed with the amendment in Section 30 of Cr.P.C. wherein the Session Judge has the power to adjudicate such matters. Even though Section 75 makes certain classes of cases liable to be enhanced, it is not obligatory to the Court to do so while sentencing. generally this provision is used to give a deterrent effect. Further, it needs to be noted that the previous convictions for the attempt to commit an offence not covered under the ambit of this section.

Compensation to Victims of Crime

The purpose of the criminal justice system is to protect the rights of the individuals and give punishment to the offenders. In such cases, the accused is caught and he is punished. However, an essential part is left over i.e. the 'victim'. Earlier no one used to consider the losses of the victim. Thereby compensation is the method to provide justice to the victim.

Compensation to Victims of Crime from Fine

The IPC provided various provisions under which fine is given as a mode of punishment. However, the fine sometimes is not sufficient enough to realise the actual loss of the victim. And the amount prescribed under IPC is minimal which need to be amended as per the current requirements.

Compensation to Victims of Crime from Victim Compensation Scheme

In 2009, the Central Government ordered the State to prepare a scheme for the compensation of victims. The main objective of the scheme was to support the dependents of the victims who suffered the loss or injury due to offence. Under this scheme, the rehabilitation can also be made.

Compensation to Victims of Crime from Wages of Prisoners

Under this, from the wages of the prisoners, a certain percentage of money is deducted and the saved money is converted into a fund for the welfare of the victims. However, recently a PIL was filed in the High Court of Delhi wherein the deduction of the wage of the Prisoners was considered to be arbitrary in nature and asked for repealing such provisions. Another interesting fact is as per the records of 2006 around Rs.15 crore was collected out of which only Rs.14 Crore

is lying unutilised. However, the Delhi High Court held that deduction in prisons wages not wrong if allowed under the law.

Proposals for Reform

The proposals for reform in sentencing can be as follows:

- Reclassification of criminal offences: There is a huge increase in the types of offences, therefore to classify offences into different classes or separating them into different codes will make the Code more understandable and lucid. Further under the different codes the procedure and nature of trial can also be explained.
- The punishments need to be deterrent at the same time it shall not be severe. Therefore, it is time for Indian Judiciary to have a sentencing policy, so there is no space for ambiguity and bias of the Judge which creates a barrier while sentencing. And this step will also reduce the appeals for enhancing or reducing punishment which will be a great relief for the judiciary.
- A proper victim compensation fund can be created under the Code, wherein the confiscated assets from organised crime can also be included.

regularly produce writing assignments and work on practical exercises as a part of their coursework and develop themselves in real-life practical skill.