



FACULTY OF JURIDICAL SCIENCES

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SUBJECT NAME- LAW OF CRIMES

COURSE NAME- LLB, Ist Sem

SUBJECT CODE-LLB-103

LECTURE-11

CONCEPT OF JOINT AND CONSTRUCTIVE LIABILITY IN IPC

Principles of Joint Liability with Special Reference to Sections 34, 109 and 149 of the Penal Code, 1860

The doctrine of joint liability deals with the conditions under which more than one person incurs responsibility before, during and after committing crimes. When one is accountable for another's conduct, it does not matter whether the defendant's own conduct, the conduct of the other or others or the conduct of all taken collectively or both together establish the elements of the crime charged.

The common law recognized four parties to Crime viz.

- (i) principals in the first degree- actual perpetrators;
- (ii) principals in the second degree – aiders and abettors, such as get way drivers, conspirators;
- (iii) accessories before the fact – aiders and abettors not present when the crimes are committed, such as one who supplies the weapon that a third person uses in a murder; and
- (iv) accessories after the fact- individuals who give aid and assistance to criminals who are fugitive. If they were not convicted before the accomplices were brought on trial, common law complicity shielded the accomplices even in the face of sure proof of their guilt.

Normally and naturally the person who is liable for wrong is be who does it. Yet both ancient and modern laws admit instances of vicarious liability in which one man is made answerable for the acts of another.

Modern civil law recognizes vicarious liability in two chief classes of cases. In the first place, masters are responsible for the acts of their servants done in the source of their employment. In the second place, representative of dead men are liable for deeds done in the flesh by those whom they represent.

The rational basis of this form of vicarious liability is in the first place evidential. There are such immense difficulties in the way of proving actual authority, that it is necessary to establish a conclusive presumption of it. A word, a gesture, or a tone may be a sufficient indication for a master to his servant that some lapse from the legal standard of care or honesty will be deemed acceptable service.

MCQs-

i. Which section of Preventive Detention Act, 1950 was declared ultra vires by the Supreme Court in case of A.K. Gopalan v. State of Madras:

- A. Article 17
- B. Article 11
- C. Article 14
- D. Article 19.

ii. In a Calcutta case, Manager of a Bank took security for overdraft from the customer and caused the security to be entered into the books of the banks. The Manager shortly afterwards returned the security to the customer before satisfaction of the overdraft. The fact of return of security was mentioned in the books of accounts.

- A. The Manager acted dishonestly under Section 24
- B. The customer acted of dishonesty under Section 24
- C. both the Manager and the customer acted dishonestly under Section 24
- D. Neither of them is guilty

iii. Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death and that it has not since been in the possession of any person legally entitled to it is dealt under-

- A. Section 402 of IPC
- B. Section 403 of IPC
- C. Section 404 of IPC
- D. Section 405 of IPC

iv. 148 Criminal breach of trust is dealt under-

- A. Section 406 of IPC
- B. Section 407 of IPC
- C. Section 408 of IPC
- D. Section 409 of IPC

v. Which of the following is false of Section 34 of the Indian Penal Code?

- A. it is only a rule of evidence

- B. it does not create a distinct offence
- C. lays down principle of liability
- D. it is a penal provision