



## **FACULTY OF JURIDICAL SCIENCES**

**NAME OF THE FAULTY- Ms. Neha Khanna**

**SUBJECT NAME- LAW OF CRIMES**

**COURSE NAME- LLB, Ist Sem**

**SUBJECT CODE-LLB-103**

## **LECTURE-12**

For better appreciation and understanding the provisions of sections 34, 109 and 149 may be read as follows:

**Section 34 says**, when a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

**Section 149 provides** 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.

For proper understanding of the definition of the unlawful assembly section 149 should read in conjunction with **section 141** of the penal code which may be read as follows:

An Assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is-

**First**, to overawe by criminal force, or show of criminal force, or any public servant in the exercise of the lawful power of such public servant; or **Second**, to resist the execution of any law, or of any legal process; or **Third**, to commit any mischief or criminal trespass, or other offence; or **Fourth**, By means of criminal force or show of criminal force, to any person to take or obtain possession of any property or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

**Fifth**, By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

*Explanation;* An assembly which was not unlawful when it assembled may subsequently become an unlawful assembly.

Section 109 provides that, whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

*Explanation-* An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Section 34 of the Penal Code deals with common intention: it merely enunciates a principle of joint liability for criminal acts done in furtherance of common intention of the offenders. It means, that if two, or more persons intentionally do a thing jointly it is just the same as if each of them had done it individually.

### **MCQs-**

#### **i. Under Article 32:**

- A. time limit can be imposed on filing of petitions and so the Indian Limitation Act applies
- B. there is no lower and upper limit. The party aggrieved must move the court at the earliest possible time and it is the discretion of the court to decide whether it is reasonable delay or not.
- C. time limit can be imposed by council of ministers
- D. all of the above

#### **ii. According to Articles 25 and 26, what constitutes an essential part of religion or religious practice is to be decided by the court on the basis of:**

- A. doctrines of particular religion
- B. by referendum
- C. by majority
- D. by convening a religious meeting.

#### **iii. he fundamental rights as envisaged under Articles 12-35 are:**

- A. absolutely flexible
- B. can be amended
- C. not justiciable
- D. cannot be amended at all.

#### **iv. Right of disabled employee as equal citizens not to be defeated by their superiors and they have no right to defeat their lawful rights:**

- A. Sunil Poddar v. Union Bank of India
- B. Mani v. State of Tamil Nadu
- C. Bhagwan Dass v. Punjab State Electricity Board
- D. None of the above.

**v. In case of A.K. Gopalan v. State of Madras, the Preventive Detention Act, 1950 was found conflicting with the two Articles:**

- A. Articles 14 and 17
- B. Articles 19 and 21
- C. Articles 23 and 25
- D. Articles 23 and 32.