

through writ of Mandamus.

Lecture-1

21/Jan

Chapter-7

## \* Law Relating to Crime & its Procedure \*

⇒ Jurisdiction of Bharatiya Nyaya Sanhita, 2023

### Intra-territorial jurisdiction:-

If crime is committed within the territory of India, BNS applies and court can try and punish irrespective of the fact that person who committed crime is Indian national or foreigner. This is called intra-territorial jurisdiction.

Territory of India as defined in article 1 of constitution of India.

### Extra-territorial jurisdiction:-

Any person liable, by any law for time being in force in India, to be tried for an offence committed beyond India shall be dealt with according to provision of BNS for any act committed beyond India in the same manner as if such act had been committed within India.

If any person commits an offence outside India they can still be prosecuted in India if that

act is punishable under Indian law.

BNS applies to offence committed by:-

- (a) any citizen of India in any place without and beyond India.
- (b) any person on any ship or aircraft registered in India wherever it may be.
- (c) any person in any place without and beyond India committing an offence targeting a computer resource located in India.

\* In Molkari Ali Ahmed V. State of Bombay

- Supreme Court held that Indian law applies to foreigners when they are in India, even if law is not known in their home country.
- The law only needs to be published in India not outside, for it to affect anyone who enters or is within India's border.

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22/Jan

Exemptions from Intra-territorial jurisdiction

- 1) Article 361(2) of Indian Constitution grants immunity to president and governors from criminal proceedings during their tenure.
- 2) Foreign sovereigns under International law principles are exempt from criminal proceedings in India.
- 3) Ambassadors and diplomats of foreign countries

enjoy immunity from prosecution while serving in India.

## # Corporate Body and Mens Rea

→ According to section 2(26) of BNS, person includes company or association or body of persons whether incorporated or not.

→ Company cannot claim immunity from criminal prosecution simply because it lacks a human mind. Instead mens rea of individuals in charge is imputed to the company.

→ This is based on 'alter ego' principle.

## \* In State of Maharashtra v. M/S Syndicate Transport

→ Court decided that corporate body's liability depends on nature of offence, role of its officers and agents and whether the company through its representatives intended to commit the crime.

23/Jan

Attempt :- Attempt is when person takes direct actions to commit a crime after making preparation, but crime is not fully completed. It is punishable under law. It is called as a preliminary crime.

If crime is completed, it is treated as a full

offence, if not it is treated as an attempt.

### # Categories of attempt:-

(i) Same punishment for attempt and completion of crime - Some crimes have same punishment whether crime is completed or just attempted

- Ex:- → Waging war against govt  
→ Assaulting president or governor  
→ Sedition  
→ Accepting or attempting to accept bribes  
→ Using false evidence  
→ Dacoity

(ii) Separate punishment for attempt and completion of crime - For some serious crimes, there are different punishment for attempt and for completing the crime.

- Ex:- → Attempt to murder  
→ Attempt to commit robbery  
→ Attempt to commit any crime punishable by death or life imprisonment.

(iii) Attempting suicide to influence a legal authority to force them to act in a certain way is crime.

Ex:- Deliberately harming oneself.

specific

(iv) Attempt where no<sup>^</sup> punishment exist - When no specific punishment is given for attempt and person tries to commit a crime, they will still be punished.

Punishment for attempt will be upto half the punishment.

Lecture-4

24 Jan 2025

## # Procedure of Arrest

In Armesh Kumar V. State of Bihar

→ Supreme Court criticised the routine misuse of arrest powers by police, emphasizing that arrest should not be made without valid reasons.

→ Power to arrest is often used arbitrarily by police officer leading to police offence and corruption. Court emphasize the need for caution when exercising drastic power of arrest to prevent misuse and protect individual liberties.

→ The above judgement applies to crime punishable with upto 7 years of imprisonment.

\* Section 187

- When accused is brought before magistrate, magistrate has authority to decide whether the person should remain in custody.
- Magistrate can allow accused to be detained for 15 days in whole or in part at any time during the initial 40 days or 60 days out of total detention 60 days or 90 days as the case may be.
- If magistrate has no jurisdiction and considers further detention unnecessary, he may order accused to be forwarded to magistrate having jurisdiction.

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# Warrants - It is described as a legal document issued by judge or magistrate, which empowers a police officer to make an arrest, search or seize premises.

Lecture - 10

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\* Essentials of Dishonest misappropriation of property.

- There should be misappropriation or conversion of property.

- The misappropriation and conversion should be dishonest.
- The property should be movable property.

### Lecture-12

4/Feb/2024

### # Offences related to Property Mark (Sec 345)

→ Section 345 deals with false property marks. A property mark shows that a movable property belongs to a specific person.

→ If someone marks property or goods to falsely make it appear they belong to someone else, it is considered a false property mark.

→ Punishment is imprisonment upto 1 year or fine or both.

### \* Bharatiya Nagrik Suraksha Sankhita (BNSS)

→ Bharatiya Nagrik Suraksha Sankhita is an act introduced to replace Criminal Procedure Code with the aim of modernising and improving criminal justice system in India.

→ The BNSS seeks to make criminal procedures more efficient, victim centric and aligned with current societal needs. It integrates technology, speed up trials, enhances digital evidence handling and ensures transparency.

- Act focuses on:-
- (i) Streamlining criminal procedures to reduce delays and redundancies.
  - (ii) Safeguarding individual's right while ensuring justice.
  - (iii) Strengthening fairness and transparency in legal processes.
  - (iv) Incorporating technological advancements to improve investigation and judicial system.

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\* In *Madhu Limaye V. State of Maharashtra* Supreme Court held that:-

- (i) BNSS grants high court special inherent powers to make orders necessary to ensure justice and prevent the abuse of court processes.

This can include actions like:-

- Quashing FIR or criminal investigation and proceedings.

\* Supreme Court in *Madhu Limaye V. State of Maharashtra* outlined key principles:-

- (i) High Court should not use these powers if specific remedy exist.
- (ii) It should be exercised cautiously to prevent abuse of process of court or to achieve justice.
- (iii) They should not contradict other legal provisions.

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\* Fine :- It is financial sum imposed as a <sup>Criminal nature</sup> punishment for an offence.

\* Penalty :- Penalty is sum to be forfeited <sup>Civil nature</sup> due to non-compliance <sup>monetary compensation</sup> of agreed conditions, such as failing to comply with regulations.

→ Fine is typically associated with offences. Penalty is linked to non compliance, referring to situation where individual fails to follow a rule or regulation.

\* As per Section 2(38) of General Clauses Act, offence means any act or omission made punishable by law for being in force.

Example of fine :- If company defaults in

complying with directions given under sec 16(1). Company shall be punishable with fine of ₹1000 for everyday during which default continues and officer in default shall be punishable with fine which shall not be less than ₹5000 which may extend to ₹1,00,000.

In this provision, default is in nature of offence and that is why here is fine as punishment.

Example of Penalty :- According to sec 13(8) of Companies Act, 2013 if any default is made in complying with requirement of sec 13 company & every officer who is in default shall be liable to pay penalty of ₹1,000 for everyday during which default continues but not exceeding ₹1,00,000.

In this provision, default is in nature of non-compliance, that's why there is liability of penalty.