

Section 34: Criminal Liability:

- If prospectus includes any statement { untrue
misleading



Every person who authorises prospectus

↳ Liable u/s 447

Section N.A. if a person proves that:

- (a) such statement/omission was immaterial
- (b) that he has RGTB that statement was true or inclusion/omission was necessary.

Section 35: Civil Liability:

- Where a person has subscribed for securities
- Acting on any misleading statement of prosp.
- and has sustained loss as a consequence



Co. & every person who is :



shall be liable to compensate every person who has sustained loss.

- Director
- future director
- Promoter
- Expert
- Authorized issuer of prospectus

Exception: No person shall be liable if ^{he} proves:

(a) Having consented to become director →
withdrew consent + prospectus issued w/o
consent

(b) Prospectus issued w/o knowledge or consent
+ on becoming aware → reasonable public
notice given

(c) such statement was made on basis of
expert's report and:

(i) such statement is true and fair rep. of
expert's statement

(ii) such person had R&TB that expert is
competent

(iii) expert has given consent + not withdrawn

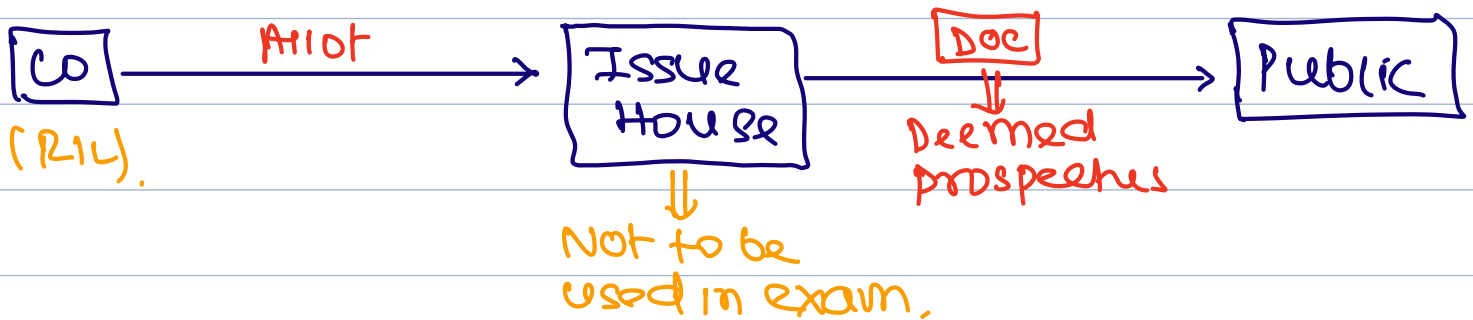
If proven that prospectus is issued with
intent to defraud – Every person personally
liable without limitation of liability

Peek vs Gurney – Remedy u/s 35 not available
in case of "Purchase" of securities.

Sec 447: Punishment for fraud:

- NO PI — Jail 6m - 10 years **AND**
Fine upto 3x of amt
 - Public intt. — Jail 3 years - 10 years **AND**
Fine upto 3x of amt
- ↑ _____ 1% of T10 or
↓ Jail upto 5 years RS. 10 lakh ↓
- OR
- Fine upto ₹ 50 lakhs

Section 25: Document containing OFS of securities to be deemed prospectus



Meaning:

- Where a Co. (PIL) offers its securities,
- with a view that those securities shall be offered for sale to public,
- Any doc. with which such OFS is made shall be deemed to be a prospectus

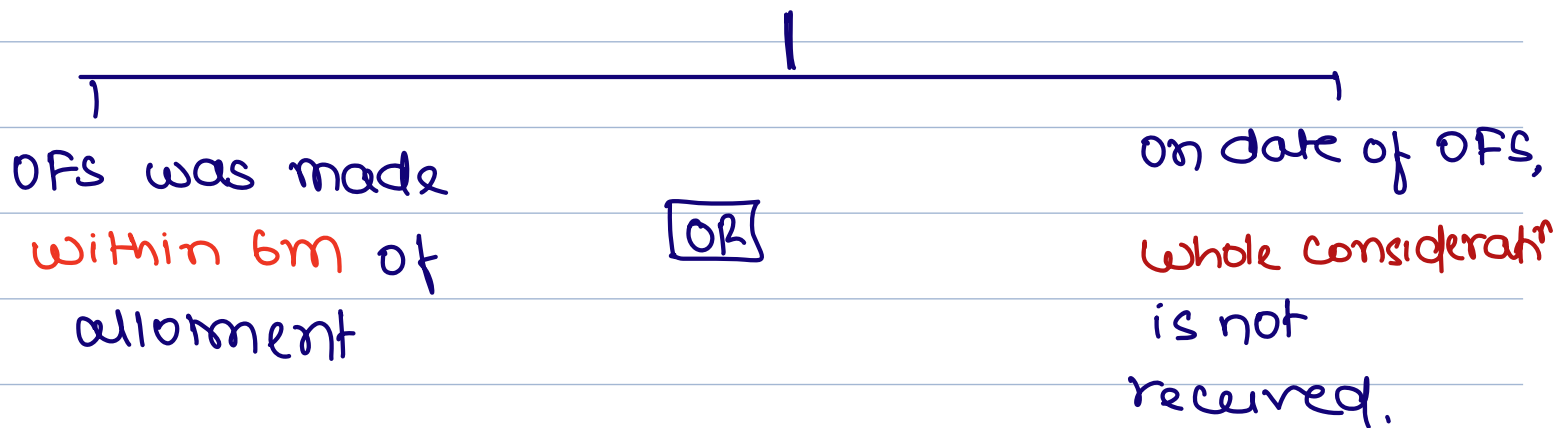
Effect:

1) Law related to { content vs 26
Liability vs 34/35 }] Applicable

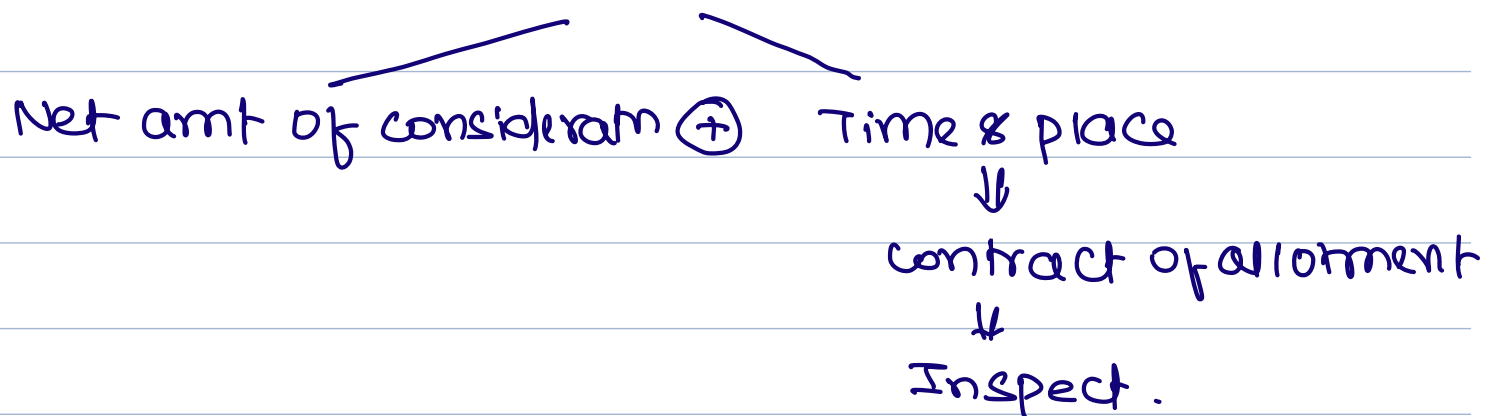
2) Person making OFs \Rightarrow Director of Co.

Presumption:

Unless the contrary is proved, it shall be evident that allotment was made with a view to make OFs if it is shown that:



Additional matter: (over & above sec 26)



Signature:

