

Criminal Law

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SI. No.	CRIME	CIVIL WRONG
1.	<p>Ingredients=</p> <ol style="list-style-type: none"> 1. Act or Omission 2. Guilty Intention (Mens Rea) 	<p>Ingredients=</p> <ol style="list-style-type: none"> 1. Act or Omission 2. Injury (Infringement of a legal right)
2.	Focus= Accused and his intention	Focus= Victim and his injury or his right
3	Redress= Punishment	Redress= Compensation or some other but not punishment

Caselet 1:

- On April 4th, 2024, Raghav, along with his wife Yamini Priya and her two younger sisters, visited a beach. While the others preferred to stay on the shore, Yamini Priya was thrilled and decided to take a dip in the sea. Despite Raghav's warning to his wife, "Yamini, sea thrills but kills," she entered the sea. Subsequently, Yamini Priya found herself in a dangerous situation, unable to extricate herself and began crying out for help. Despite earnest pleas from Yamini Priya's sisters, Raghav did not attempt to assist his wife. Unfortunately, she drowned and died. Interestingly, Raghav is a proficient swimmer, having gained recognition by winning several swimming competitions. Has Raghav committed any wrongdoing by failing to help Yamini Priya?

Caselet 2:

- Rajani and Subhash are wife and husband living in Delhi. Both are Hindus. Subhash wanted to marry another girl named Roja. Subhash and Roja have decided to marry in Dehradun on 11/06/2024 at 11:00 a.m. without Rajani's knowledge. In Delhi, Rajani met with an accident and died on the spot on 11/06/2024 at 10:50 a.m. The marriage was performed at 11:00 a.m. Has Subash committed any wrong and if it is a wrong whether it's a crime or a civil wrong?

Caselet 3:

• In the ticket counter of a Cinema Theatre, there was an altercation between Suresh and Dharm, who were not acquainted with each other at that time. Consequently, Dharm became so impatient that he punched Suresh in the stomach, resulting in Suresh's death. Both are young men around 25. Is Dharm guilty of murder or culpable homicide?

Navjot Singh Sidhu's case:

- Sidhu (aged 25 in 1988), along with his friend Sandhu, was accused of assaulting and causing the death of a 65-year-old man named Gurnam Singh. The trial Court acquitted both on the ground that they were falsely implicated. However, the High Court reversed the verdict of the trial court and held both guilty of culpable homicide not amounting to murder for the death of Gurnam Singh and awarded a punishment of 3 years imprisonment. Both the convicts then appealed in the Supreme Court of India. In Appeal, the Supreme Court convicted them but only levied a fine of ₹1,000 without any imprisonment, stating that "there was no evidence to prove that the death was caused by the single blow" dealt by Sidhu. The court mentioned that Sidhu did not use a weapon. The complainants filed a review petition in the Supreme Court. In the review, the Supreme Court convicted him (on 19th May 2022) for voluntarily causing hurt (Section 323 of the Indian Penal Code) and sentenced him to 1-year rigorous imprisonment. Section 323 (punishment for voluntarily causing hurt) of IPC had a maximum jail term of up to one year or a fine up to Rs 1,000 or both.

Caselet 4:

- Chotu, a six-year-old child, was with his mother in an aquarium when he threw a ball with a lot of force at a fish tank (glass showcase), causing it to shatter. Consequently, the showcase was destroyed, and a few expensive fish died before they could be transferred to another safe tank. Does the child's action constitute a crime or a civil wrong and does his wrongdoing invite liability?

Caselet 5:

- Anand was a qualified voter in a parliamentary election, but Bikram, the returning officer, prevented Anand from exercising his franchise. In fact, no loss was caused to Anand by such prevention because the candidate for whom he wanted to vote, won the election with a huge margin. Furthermore, one vote does not matter. Is there a crime or a civil wrong committed by Bikram, and what about Anand's remedy?

Caselet 6:

- Amod had worked with Dev Medical Shop, owned by Dev, for around 19 years, but he was dismissed from service on 23.02.2024 by Dev due to Amod's misbehavior. In June 2024, Amod started another medical shop named Amod Medical Shop, right opposite Dev Medical Shop, after obtaining all necessary permissions. As a result, the profits of Dev Medical Shop halved in the months of June, July, and August. Now, Dev has brought an action in the Court of Law against Amod for the loss of his profits, alleging that Amod Medical Shop was started with an evil or a bad motive with a vengeance to cause loss of profits to Dev Medical Shop and thus sought an order from the Court directing Amod to compensate Dev for the loss caused as well as to restrain Amod from carrying on the medical shop business, which he has been conducting.

Caselet 7:

- Snoopy is a pet dog of Jaiveer. Snoopy has a vicious or savage propensity (dangerous and harmful by nature), and Jaiveer is aware of this fact. Every day, around 7 A.M., Jaiveer takes his pet dog for a walk. On 1-6-2024, Jaiveer, as usual, was taking Snoopy for a walk. Snoopy was tied to a chain, and Jaiveer had control over the chain. There was a call on Jaiveer's mobile phone, and while answering the call, Jaiveer carelessly left the chain, thus losing control of Snoopy. Before Jaiveer could regain control of Snoopy, it attacked Naresh, a passerby and caused hurt. Discuss the liability of Jaiveer.

Caselet 7

- Situation 2 Caselet 7: What would be the nature of wrong if Naresh is attacked by Snoopy on the instructions of Jaiveer.
- Situation 3 Caselet 7: A delivery boy went to deliver a parcel to someone on the fourth floor and suddenly found himself in the presence of a ferocious dog. He jumped from the fourth floor and died as a result. Discuss whether, in such circumstances, it constitutes a crime or a civil wrong.

Domestic Violence Act 2005

- The remedies envisaged under the Domestic Violence Act 2005 Act, are that of the power of the court to pass *“protection orders”* *“residence orders”*, (providing for woman's right to secure housing) *appointment of Protection Officers and NGOs* to provide assistance to the woman with respect to medical examination, legal aid, safe shelter, etc.

Pornographic Stuff

- Downloading or watching pornography in a private space is a crime (True/False).
- Storing pornographic stuff per se (by itself) is a crime (True/False).
- Uploading, transmitting pornographic stuff is a crime (True/False).

SCIENTER RULE

- For the purpose of the scienter rule, the animals have been divided into two categories: (a) animals dangerous by nature (Lions, tigers, bears, elephants, zebras, monkeys etc.,) (b) animals harmless by nature (Horses, camels, cows, dogs, cats, rabbits etc.,). In case of dangerous animals, the knowledge as to its dangerous nature is conclusively presumed and the person having their control will be liable for the damage caused by their escape even without any proof of negligence on his part. With respect to animals harmless by nature, the person having their control (keeper of the animal) is not liable for damage done by them unless it can be proved that the particular animal in question had a vicious or savage propensity and the person having its control had knowledge of the same.

Caselet 1:

- **On June 12, 2024, Ankit was insulted by Bablu in the presence of Ankit's colleagues, including physically assaulting him, for not repaying a debt Ankit owes to Bablu. Ankit decides to retaliate by planning to kill Bablu. For this purpose, he purchases a knife and writes a letter to Kumar, his brother, stating his determination to kill Bablu. Before the letter is posted, Ankit's roommate happens to read the letter and hands it over to the police. Is Ankit liable for committing any offence?**

Stages of crime

- Intention: Not necessary for waging war /sedition
 - Preparation
 - Attempt
 - Commission

Preparation

- i) Preparation to commit Dacoity
- ii) Waging war (Max P=Life)
- iii) Preparation for counterfeiting coins and government stamps;

Attempt =Punishment

- If the accused succeeds in his attempt, the offence is accomplished. If he missed then it is considered as an attempt.
- **Punishment**= Half of the longest term

Conspiracy [Ss.61(1)(2)]

- Conspiracy basically means *an agreement between two or more persons to commit an unlawful act.*
- Thus, the conspirators must actively agree and prepare themselves to commit that offence, it becomes a conspiracy. Furthermore, *the act which the conspirators conspire to commit itself must be illegal or punishable.*
- ‘Conspiracy’ consists in the agreement of two or more persons to do an unlawful act *or to do a lawful act by unlawful means (Giving a house/job for money)*

Caselet 1:

- **Trivikram and Akram own land next to each other. But they've been disputing vigorously lately about where their land ends. On May 23, 2024, they started arguing and insulting each other again. While they were arguing, Trivikram's friend Vikram placed an axe in the hand of Trivikram. But other neighbors stepped in and stopped the fight between the two of them, so the quarrel stopped for the day. Discuss the criminal liability of Vikram.**

Caselet 2:

- **Trivikram and Akram own land next to each other. But they've been disputing vigorously lately about where their land ends. On May 23, 2024, they started arguing and insulting each other again. While they were arguing, Trivikram's friend Vikram placed an axe in the hand of Trivikram. No one interfered between the two, and Trivikram used the axe to kill Akram and murdered Akram. Discuss the criminal liability of Vikram**

Caselet 3:

- Trivikram and Akram own land next to each other. But they've been disputing vigorously lately about where their land ends. On May 23, 2024, they started arguing and insulting each other again. While they were arguing, Trivikram asked his friend Vikram to give him an axe which is there a little far at a certain place mentioning the place where the axe is there. Vikram brought the axe and gave it to his friend Trivikram. However, other neighbors stepped in and stopped the fight between the two of them, so the quarrel stopped for the day. Discuss the criminal liability of Vikram

Caselet 4:

- **Trivikram and Akram own land next to each other. But they've been disputing vigorously lately about where their land ends. On May 23, 2024, they started arguing and insulting each other again. While they were arguing, Trivikram asked his friend Vikram to give him an axe which is there a little far at a certain place mentioning the place where the axe is there. Vikram brought the axe and gave it to his friend Trivikram. No one interfered between the two, and Trivikram used the axe to kill Akram. Discuss the criminal liability of Vikram.**

Caselet 5:

- **Trivikram and Akram own land next to each other. But they've been disputing vigorously lately about where their land ends. On May 23, 2024, Trivikram discusses with his closest friend Vikram and seeks Vikram's help in eliminating Akram. Vikram agrees to help Trivikram in killing Akram, and both devise a plan to kill Akram by stabbing him, on 30th May 2024. However, Akram dies on 28th May 2024, because of a heart attack and the plan became frustrated. Discuss the criminal liability of Vikram.**

Caselet 6:

- Trivikram and Akram own land next to each other. But they've been disputing vigorously lately about where their land ends. On May 23, 2024, Trivikram discusses with his closest friend Vikram and seeks Vikram's help in eliminating Akram. Vikram agrees to help Trivikram in killing Akram, and both devise a plan to kill Akram on 30th May 2024 by secretly shooting with a high-powered firearm, and for this purpose, Vikram assures to arrange an illegal revolver. On 25th May, Vikram purchases an illegal revolver for Rs. 22,000 from Vijay. However, Akram dies on 28th May 2024, because of a heart attack and the plan became frustrated.

Caselet 7:

- **Anand instigated Sundar to kill Naresh by way of stabbing. Sundar did so but Naresh recovered as the wound was not enough to cause death. Discuss the criminal liability of Anand.**

- A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of the property there. A is guilty of abetting burning of Z's house only.
- A abets B to assault C. B murders C. A is liable for abetment of assaulting C.
- A says to B that “I intend to kill C”. B says, “do as you like”. A kills C. B is not guilty but if B had said something like “go ahead and kill C”, or “I will help you to kill C” then he would be guilty of Abetment by instigation.
- A, a priest, knowingly officiates a bigamous marriage. A is guilty of abetment by intentional aiding.

Simplified BNS Structure

- BNS has been streamlined and it now consists of only 358 Sections as opposed to 511 Sections in IPC, 1860.

Provisions Dropped /Omitted

- **ADULTERY** – **S. 497** (Still a ground of divorce)(Joseph Shine v. Union of India (2018))
- **UNNATURAL OFFENCES (S. 377)**==Against the order of nature(NAVTEJ SINGH JOHAR VS. UNION OF INDIA, 2018)(decriminalized consensual homosexual acts)
- **SEDITION(S. 124 A)**(SG Vombatkere v. Union of India(2022)=was kept in abeyance)(reviewed by Central Government)(invoked Article 142)
- **DECRIMINALIZATION OF SUICIDE ATTEMPTS (S. 309 of the IPC)**, the BNS harmonizes with the progressive stance of the Mental Healthcare Act, 2017)
 - Section 226 **criminalizes suicide attempts made with the intent to manipulate or obstruct public servants in their duties.(Coercive Tactic)**
 - PART OF IPC but don't find place in BNS

NEW
PROVISIONS INCORPORATED
&
INCLUDED

Hiring, employing or engaging a child to commit an offence (Section 95):

- **IMPRISONMENT RANGING FROM THREE TO TEN YEARS** and the imposition of a fine.

Sexual intercourse by employing deceitful means, etc.

- Section 69==
- The punishment includes **IMPRISONMENT FOR UP TO TEN YEARS** and a fine.
- Section 69 also provides an explanation of **"deceitful means," include inducement for employment or promotion, false promise of marriage by suppressing identity etc.,**
- **Section 68=Sexual intercourse by a person in authority.**

Combating Mob Violence(Lynching) & Group-Based Hate Crimes (S.103 (2)):

- When a **group of five or more persons**, acting together, **commits murder based on race, caste, community, sex, place of birth, language, personal belief, or any other similar ground**, each member of such a group shall be punishable with **death or life imprisonment** and shall also be liable to a fine.

Tackling terrorism (Section 113):

- Section 113 defines a "terrorist act" as well as specifies the various actions that constitute such an act, including the **USE OF EXPLOSIVES, FIREARMS, OR OTHER LETHAL WEAPONS TO CAUSE HARM OR DAMAGE TO INDIVIDUALS OR PROPERTY**. This provision also details the penalties for committing a terrorist act, which include **DEATH OR LIFE IMPRISONMENT IF THE OFFENCE RESULTS IN THE DEATH OF A PERSON, AND IMPRISONMENT FOR A TERM NOT LESS THAN FIVE YEARS** in other cases.
- It also provides an explanation that the decision to register a case under this section or under the **Unlawful Activities (Prevention) Act, 1967**, is to be made by an officer not below the rank of **Superintendent of Police**.

Combatting Organized Crime (S.111)

- Section 111 provides for combatting organized crime, defining organized crime as **ANY CONTINUING UNLAWFUL ACTIVITY UNDERTAKEN BY A PERSON OR GROUP OF PERSONS** for direct or indirect material benefit. It includes a wide range of offences such as **KIDNAPPING, ROBBERY, EXTORTION, CYBER-CRIMES, HUMAN TRAFFICKING, AND ECONOMIC OFFENCES.**///The provision specifies stringent punishments for those involved in organized crime, including **IMPRISONMENT FOR LIFE OR DEATH PENALTY IF THE OFFENCE RESULTS IN THE DEATH OF ANY PERSON**, along with substantial fines.
- The New law introduces the concept of an "**ORGANIZED CRIME SYNDICATE**" as a **GROUP OF TWO OR MORE PERSONS ENGAGING IN CONTINUING UNLAWFUL ACTIVITY** (Min 5y/Max Life imprisonment /fine=5lmin
- **By use of violence, threat of violence, intimidation, coercion, or by any other unlawful means to obtain direct or indirect material benefit, including a financial benefit.**

Petty organised crime (Section 112):

- Section 112 outlines the definition and consequences of petty organised crime. It specifies that **INDIVIDUALS WHO ARE PART OF A GROUP OR GANG** and engage in acts such as **THEFT, SNATCHING, CHEATING, UNAUTHORIZED SELLING OF TICKETS, UNAUTHORIZED BETTING OR GAMBLING, SELLING OF PUBLIC EXAMINATION QUESTION PAPERS, OR SIMILAR CRIMINAL ACTIVITIES** are considered to be committing petty organized crime. The provision further explains that the term "theft" encompasses various forms of theft including trick theft, theft from vehicles, dwelling houses or business premises, cargo theft, pickpocketing, theft through card skimming, shoplifting, and theft of Automated Teller Machines. It states that **those found guilty of petty organized crime will face imprisonment for a period ranging from ONE TO SEVEN YEARS**, in addition to being liable for a fine.

OTHER SIGNIFICANT CHANGES

- Deaths Caused by Negligence:
- Section 106 of the Bharatiya Nyaya Sanhita (BNS) marks a significant evolution in India's approach to **deaths caused by negligence**, replacing and expanding upon Section 304A of the Indian Penal Code. This provision introduces a dual framework: a stricter general provision with increased punishment of up to 5 years imprisonment for causing death by rash or negligent acts, and a specialized provision for medical practitioners with a reduced maximum sentence of 2 years for deaths occurring during medical procedures.

Increased Punishment for Hit & Run Cases

- The Bharatiya Nyaya Sanhita (BNS), 2023, has significantly increased penalties for hit-and-run offences. Section 106(2) of the BNS prescribes a **maximum of ten years imprisonment** and a fine for individuals causing death due to rash or negligent driving and subsequently **fleeing the accident scene without reporting it**. The offence is only committed **when the escape is coupled with a failure to report the incident to the police or a magistrate soon after**.
- **Introduction of Community Service' = as a Punishment /S.4**
- **community service as work a convict may be ordered to perform, benefiting the community, for which they will not receive remuneration.**
- Petty offences such as minor thefts, defamation etc.,