



STAGES OF CRIME UNDER THE INDIAN PENAL CODE 1860.

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ABSTRACT In India, every human must survive and obey the Law and Order. The classification of the society as per Religion, Cast, Sex, Birth Place, Age, Languages etc. Indian civilization is the one of the few oldest civilization in the world. India is very rich as per culture, philosophy, religious, social, humanity and languages. It is clear that we need society in peaceful environment and for that we have to control the crime means we have to prevent the crime and criminal for the betterment of society. We always want to see crime less society, but it is might not 100% possible, but we are trying and trying for reducing the crime. To live with peace from fear / crime is possible only and only when the state makes law and order very strictly. The effective and strong penal law helps the society to maintain peace and order. The term crime includes some important stages. The article is clear the stages of crime under the Indian Penal Code 1860.

KEYWORDS : Crime - I.P.C. 1860 – Law and Order – Stages of Crime.

INTRODUCTION

*“Everything has been said already,
but as no one listens,
we must always begin again.”*

Andre Gide French thinker and writer

Before we study the article, first of all we must define the term “CRIME”. What is Crime? It is phenomenal task to define the crime. Mahatma Gandhi Bapu : All crime is a kind of disease and should be treated as such¹. In independence India of the non-violent type, there will be crime but no criminals. They will not be punished. Crime is a disease like any other malady and is a product of the prevalent social system. Therefore, all crime including murder will be treated as a disease. Whether such as India will ever come into being is another question.² Section 2 (4) of Indian Penal Code 1860 defines offence as : Except in the 2 [Chapters] and sections mentioned in clauses 2 and 3 of this section, the word “offence” denotes a thing made punishable by this Code.

community, particular area etc. such act is forbidden and punishable by the law. Revenge, anger, jealous, or pride is the main reasons for committing the crime. The term criminal law generally refers to substantive criminal law. Substantive criminal law defines the crime and giving detail prescribes on punishment. As per the definition given by Blackstone crime as an act committed or omitted in violation of a public law either forbidding or commanding it. Crime is the brain child of our own choice and our own will. The act should be voluntary. In the childhood most probable every child pleads that “I did not mean to” this sentence is shadow of human routine also. Every persons somehow speaks this sentence. Concept of this sentence also speaks the elements of Mens Rea. A man was 'prima facie answerable for all the consequences of his wrong whether done accidentally or negligently.³

However, the rule is not absolute and is subject to the limitations indicated in the Latin maxim, *actus non facit reum, nisi mens sit rea*. “There can be no crime, large or small, without an evil mind,” says Bishop. “It is therefore a principle of our legal system, as probably it is of every other, that the essence of an offence is the wrongful intent, without which it cannot exist”.⁴

Actus me invito factus non est mens actus, In criminal law, two essential elements namely, (a) the physical elements which is also known as actus reus, and (b) the mental element, commonly known as mens rea, are necessary to constitute a crime. Sir Mathew Hale in his book “History of Pleas of the Crown” who stated “where there is no will to commit an offence, there can be no just reason to incur the penalty.”⁵

• **FUNDAMENTAL ELEMENTS OF CRIME :-**

1. HUMAN BEING (S-11 of IPC {Person})
2. MENS REA
3. ACTUS REUS
4. INJURY (S-44 of IPC)

• **STAGES OF CRIME :-**

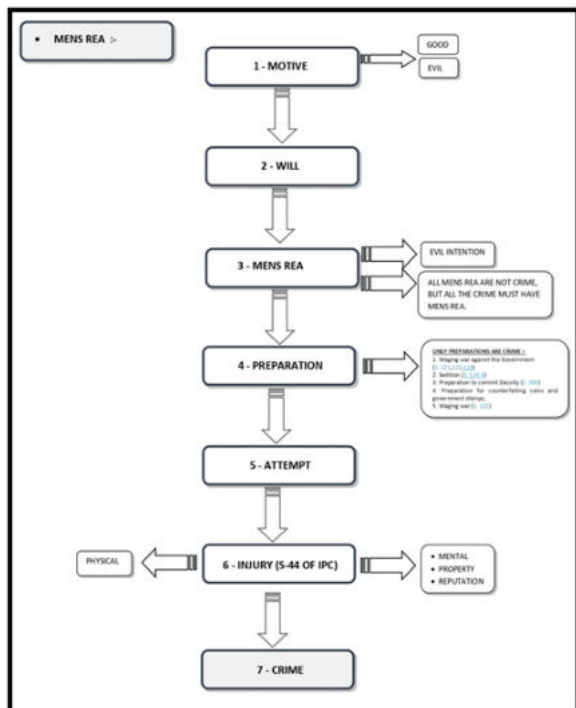
1. INTENTION (MENS REA)
2. PREPARATION
3. ATTEMPT
4. UNJURY (S-44 of IPC)

INTENTION (MENS REA) :-

Mens Rea, it is basically know as evil mind / will. In our routine day to day life we are probable daily thinking some evil act, most probable. Sometime we thinks I will hit him once, I have to kill him, this is my enemy I will kill him, this is anti social we must punish him. We know the punishment is the part of the Judiciary even thou sometime we are following our dreamy judiciary, we are pronouncing one side judgement about any one, and therefore we are giving them dreamy punishment. Here I am saying that there are lot of guilty mind / will are always active in our mind, but most probable we are not getting punishment for that, we all are know that.

PREPARATION :-

Preparation is very important factor of the Mens Rea. 'Preparation'



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*“Where there is no will to commit an offence,
there can be no just reason to incur the penalty”.*
- Sir Mathew Hale. [History of Pleas of the Crown]

A crime is any act forbidden by the law of the land / state. A crime is harmful not only for a person but also harmful for the society,

means 'to arrange means or necessary measures for the commission of the crime'. Basically offence starts from here for which we get the punishment. While preparation for commit an offence is not generally defined to be an offence but special variety of acts are defined to be offences although they may constitute preparation to commit those offences. For example under Section 122 I.P.C. collecting men, arms and ammunition to prepare to wage war against the government of India; under Section 126 I.P.C. committing depredations on territories of any power in alliance or with the peace with the government of India; under Sections 233, 235 and 257 I.P.C. making or selling or being in possession of instrument for counterfeiting coins or government stamps; under Sections 242, 243, 259 and 262 I.P.C. the possession of counterfeit coin, government stamps, false weight or measures and under Section 399 I.P.C. making preparation to commit dacoit have been made punishable, offences.

ATTEMPT :-

The 'Attempt' is the third stage in the commission of crime. It is also known as a 'Preliminary Crime'. The term 'Attempt' means "the direct movement towards the commission of crime after necessary preparation have been made." The Hon'ble Supreme court in the case of State of Maharashtra V/s Mohd. Yakub [(1980) 3SCC 57, 1980 SCC (cri.)513] has observed that an attempt to defined the term 'attempt' is a futile exercise. The attempt stage is reached when culprit takes deliberate overt steps to commit the offence, which need not be penultimate act.

INJURY :-

The fourth essential of crime is the 'Injury' to another person or to society at large. Such injury must be illegally caused to a person. The word 'Injury' has been defined under Section 44 of Indian Penal Code as "the word 'injury' denotes any harm whatever illegally caused to any person in body, mind, reputation or property". Thus, the word 'injury' is wide enough to include all injuries caused by tortuous act. The threat of injury is also punishable under the Indian Penal Code as there are three sections in the Code which specifically deals with the threat of injury – Section 189- Threat of injury to public servant, Section 190 - Threat of injury to induce person to refrain from applying for protection to public servant, and Section 385- Putting a person in fear of injury in order to commit extortion.

1. CONCLUSION :-

"Injustice anywhere is a threat to justice everywhere" –
Martin Luther King, Jr.

QUEST FOR TRUTH OR PROOF?

According to Swami Vivekananda, for an average man, truth tantamount to justice and thus, when truth flounders, justice also fails (Berti and Tarabout, 2017, p.12). However, there is no place for truth in the present criminal justice system that is followed by India. On one hand, lawyers are more concerned with resolving controversies and representing their client's interests rather than finding truth; on the other hand, Judges are merely concerned with 'proof', and not 'truth.' (Parker, 2004, p.50)⁶

In the language of layman we can say that *Mens Rea's* foundation is that any person can control on his own act, he can decide that whether his act breaks the criminal laws or not. The *Biggs*, Chief Justice of United States of America states : "The Concept of Mens Rea, guilty mind, is based on the assumption that a person has the capacity to control his behaviour and to choose between alternative courses of conduct. This assumption, though not unquestioned by theologians, philosophers, and scientists, is necessary to maintain and administration of social controls. It is only through this assumption that society has found it possible to impose duties and create liabilities designed to safeguard persons and property... Essentially these duties are intended to operate upon the human capacity for choice and control of conduct so as to inhibit and deter socially harmful conduct. When person possessing capacity for choice and control, nevertheless breaches a duty of this type he is subjected to the sanctions of criminal law."

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