

Weekly Update for Law optional UPSC

A mix of Conceptual, Current/Contemporary Topics

Date: 16th - 2nd July 2023

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1. Fine Distinction Between Two Parts of Section 304 IPC

(Relevant Topic: Offence against Human Body, IPC)

In a landmark judgment in the *Anbazhagan v. State* case, the Supreme Court of India outlined the nuanced distinction between the two parts of Section 304 of the Indian Penal Code (IPC).

The appellant, initially convicted by the Trial Court under Section 304 Part I of the IPC for culpable homicide not amounting to murder, appealed for his conviction to be altered to Section 304 Part II, arguing the case does not fall within clause thirdly of Section 300 of the IPC. The appellant argued that the attribution should be of 'knowledge' and not 'intention'.

Key Findings and Observations

- Identification of Offence:** The court held that to identify the crime, the true test is the intent or knowledge of the accused in doing the act. If these align with Clauses (1) to (4) of Section 300 of the IPC, it is murder even if there was a single injury.
- Classification of Offence:** The court explained that when the intention or knowledge of the accused falls within the clauses of Section 300 IPC, but one of the exceptions applies, the offence would be culpable homicide not amounting to murder.
- Guilty Intention vs Guilty Knowledge:** The court stated that the first part of Section 304 applies when there is a 'guilty intention', while the second part applies when there is no such intention but there is 'guilty knowledge'.
- Infliction of a Single Injury:** If a single intended injury that is sufficient in the ordinary course of nature to cause death is inflicted, the requirements of Clause thirdly to Section 300 of the IPC are fulfilled, and the offence would be murder.
- Consideration of Mens Rea:** The court stressed the importance of addressing mens rea - the intention or knowledge of wrongdoing. The intention to cause a specific injury must be proven for Clause thirdly of Section 300 to apply.

6. **Determining Guilty Intention:** Whether the accused had the required guilty intention is a question of fact determined on the specifics of each case.

Upon reevaluation of the evidence, the bench concluded that the appellant could only be attributed with the knowledge that it was likely to cause an injury, which was likely to cause death. Therefore, the court altered the conviction from Section 304 Part 1 IPC to Section 304 Part 2 IPC.

2. Application of Section 143A (1) of Negotiable Instruments Act, 1881

(Relevant Topic: NI Act, Law of Contract, Law Optional UPSC syllabus)

The Supreme Court of India recently, in *Pawan Bhasin v State of UP*, ruled that the interim compensation under Section 143A (1) of the Negotiable Instruments Act, 1881 can only be ordered after the accused has pleaded not guilty in a cheque dishonour case. The bench, led by **Justices Ravindra Bhat and Aravind Kumar**, was hearing a Special Leave Petition (SLP) against an Allahabad High Court's decision.

The petitioner had issued cheques to the complainant related to a financial agreement, which were dishonoured. The trial court directed the petitioner to deposit 10% of the cheque amount under Section 143A of the Act. However, this order was made prior to the accused pleading not guilty.

The Supreme Court noted that the order was made prematurely, before the plea was entered, which was in violation of Section 143A (1). Therefore, the Court found the order unsustainable in law and quashed it. Nevertheless, it pointed out that the trial was at an advanced stage, thus, the complainant could still seek relief under Section 143A at any stage.

3. Patents Act Takes Precedence over Competition Act in Patent Rights Issues

(Relevant Topic: Patent Act, IPR Laws, CLD Topic of Law optional)

In *Telefonakriebolet LM Ericsson v. Competition Commission of India & Anr.*, the Delhi High Court ruled that the Patents Act, 1970 has supremacy over the Competition Act, 2002 when it comes to the exercise of rights by a patentee. The judgement was delivered by a division bench of **Justice Najmi Waziri and Justice Vikas Mahajan**.

The court asserted that Chapter XVI of the Patents Act is a comprehensive code in itself covering all issues related to unreasonable licensing conditions, patentee status abuse, inquiry, and relief granting. The court noted, "the Patents Act is the special statute, and not the Competition Act,".

This decision emerged while dealing with appeals by multinational corporations Ericsson and Monsanto, and the Competition Commission of India (CCI), who contested CCI's ability to investigate the actions of a patentee asserting their rights under the Competition Act.

The court sided with the multinational corporations, ruling that the Patents Act, being a specific law dealing with patents, including anti-competitive agreements and dominant position abuse, has priority over the Competition Act. The bench clarified that the legislative intent was for the Patents Act to govern all issues pertaining to patents and licensing conditions.

4. Arbitrability and Writ Petition

(Relevant Topic: ADR in CLD, Arbitration conciliation act, Laws of Contract)

In a case involving IDFC Bank and Hitachi MGRM Net Limited, the Delhi High Court, presided over by Justice Prathiba M. Singh, has ruled that a writ petition against an arbitral tribunal order rejecting an application under Section 16 of the Arbitration & Conciliation (A&C) Act is maintainable only in exceptional cases.

The dispute emerged from two agreements signed by IDFC Bank and Hitachi MGRM Net Limited in 2017, which aimed at promoting each other's businesses. Following a disagreement, IDFC Bank demanded a refund of Rs. 15 crores paid as an advance. When Hitachi failed to return the amount, the bank invoked arbitration in 2019. However, the arbitration tribunal rejected an application from IDFC Bank arguing that the dispute was non-arbitrable due to the Vidya Drolia Supreme Court judgment, which decreed that dispute under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDB Act) are not arbitrable as the Debt Recovery Tribunal (DRT) has exclusive jurisdiction.

IDFC Bank challenged the tribunal's decision under Article 226 of the Constitution, claiming that the tribunal lacked jurisdiction in the light of Vidya Drolia's ruling. They argued that their case fell within the broad scope of 'debt' as defined by the RDB Act, and that the Debt Recovery Tribunal should have jurisdiction.

The Delhi High Court rejected the challenge, referring to Supreme Court judgments which stated that a party aggrieved by a tribunal order refusing to grant relief under Section 16 of the A&C Act must await the completion of the arbitral proceedings and then challenge the award under Section 34 of the Act. Furthermore, the Court noted that while disputes falling under the RDB Act are non-arbitrable, it would not interfere with arbitral proceedings unless the dispute is clearly covered by the RDB Act.

The Court also noted that the bank's partnership with another entity to promote business does not necessarily constitute banking activity. Therefore, the amount due to the bank may not qualify as a 'debt' under the RDB Act.

The Court concluded that it wasn't an exceptional circumstance to exercise powers under Article 226 and dismissed the challenge, advising the parties to raise all objections before the tribunal.

5. UN Condemns UK Illegal Migration Bill

(Relevant Topic: Human rights and Statelessness, International law Syllabus of Law optional)

The United Nations has criticized the United Kingdom's Illegal Migration Bill, which recently received parliamentary assent. The UN has claimed that the bill, which is awaiting royal assent to become law, is against the UK's obligations under international law. The UN refugee and human rights chiefs issued a joint statement indicating that the legislation undermines international human rights and refugee law, and could have serious implications for those in need of international protection.

The contentious bill aims to halt the arrival of thousands of migrants on UK shores via small boats. It successfully passed its last parliamentary hurdle despite attempts to block it in the House of Lords, the UK's upper house.

The legislation forms a key part of UK Prime Minister Rishi Sunak's campaign to "stop the boats". UN refugees head Filippo Grandi criticized the legislation for eroding the legal protections for refugees and exposing them to serious

risks in violation of international law. UN human rights chief Volker Turk urged the UK to uphold its commitment to human rights by overturning this law and ensuring the rights of all migrants, refugees, and asylum-seekers are respected.

Once enacted, the bill will prohibit anyone arriving by boat from applying for asylum in the UK. The bill now awaits royal assent from King Charles III.

Additionally, the legislation includes a provision that could enable the UK to transfer any irregular arrivals to 'safe' third countries, such as Rwanda. In 2022, over 45,000 migrants reached southeast England via small boats, marking a 60% annual increase.

However, recently, three UK Court of Appeal judges ruled that Rwanda cannot be considered a safe third country, a decision the UK government plans to appeal. Prime Minister Sunak has expressed his disagreement with the judges' conclusions.

6. Case of the Week: Carlill v Carbolic Smoke Ball Company (1893)

Background: The Carbolic Smoke Ball Company made a product called the "smoke ball" that it claimed could protect users from influenza. The company advertised that it would pay £100 to anyone who got sick with influenza after using the product as per the instructions for two weeks. Mrs. Carlill used the smoke ball but contracted influenza anyway. She filed a claim against the company for the £100.

Legal Issue: The main issues before the court were:

1. Whether the advertisement constituted a contract offer.
2. Whether Mrs. Carlill had accepted the offer by using the smoke ball.
3. Whether the company's promise to pay was enforceable.

Court's Decision: The court ruled in favor of Mrs. Carlill. It found that the advertisement constituted an offer of a unilateral contract - a contract where only one party has obligations. The court held that Mrs. Carlill accepted the offer by using the smoke ball, performing the action required in the advertisement.

Furthermore, the court ruled that the company's promise to pay was enforceable. The advertisement implied a contract term that the company had confidence in its product's efficacy, which the court regarded as a key element in deciding the case.

Significance of the Case:

1. **Unilateral Contracts:** The case established that advertisements could be considered offers of unilateral contracts, with the action of buying and using the product being seen as acceptance of the offer. This has profound implications on how businesses can advertise their products.
2. **Consideration:** The case helped clarify the concept of consideration in contract law - the idea that both parties must exchange something of value for a contract to be valid. The court found that using the smoke ball was adequate consideration for the £100 reward.

This case continues to be relevant today, particularly in relation to online advertising and e-commerce. It offers a clear illustration of the fundamental principles of contract law and has influenced a significant amount of subsequent case law.

7. PYQ - Repeated Question

Question: Explain the Doctrine of 'Respondeat Superior' [10 marks]

This principle is based on the Latin maxim, "Let the master answer," and it is the most common basis for vicarious liability. Under this doctrine, an employer is held responsible for the tortious acts committed by their employees during the course of their employment. The rationale is that employers have control over their employees and benefit from their work, so they should be accountable for any harm caused by the employees' actions.

Under this principle, an employer may be held liable for the wrongful acts or omissions committed by their employees in the course of their employment, even if the employer did not directly authorize or intend for such acts to be committed.

There have been several cases in India where the principle of respondeat superior has been applied. One such case is the **State of Rajasthan v. Mst. Vidhyawati** (1962), where the Supreme Court held that the state government was liable for the negligent acts of a government doctor who caused the death of a woman during childbirth. The court held that the doctor was acting within the scope of his employment and that the state government was vicariously liable for his actions.

Another notable case is **Soma Muniswamy v. State of Karnataka** (2001), where the Supreme Court held that a government official was liable for the acts of his subordinates in a case of custodial torture. The court held that the official was responsible for the actions of his subordinates and that the state government was vicariously liable for the torture inflicted upon the victim.

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