Bharatiya Nyaya Sanhita (BNS), 2023 at a glance

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Sl. No.	CRIME	CIVIL WRONG
1.	Ingredients= 1. Act or Omission 2. Guilty Intention (Mens Rea)	Ingredients= 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.***

S. 11: Sexual Harassment/POCSO & POSH

- ***Gender-neutral :***

- POCSO is gender-neutral, covering both male and female children as victims and offenders, while POSH primarily focuses on harassment of women in the workplace.

- **Applicability regardless of the location :**

- POCSO applies to any sexual offense against a child, regardless of the location, while POSH is ***specific to workplace settings***.

- **Punishment for Sexual Harassment of a Child**

- Anyone who commits sexual harassment against a child shall be punished with imprisonment of either description for a term that may extend up to ***three years***, and shall also be liable to a fine (Both BNS & POCSO=BNS Rigorous)

Distinction Between a Misconduct & an Offence

- ***PRESCRIBING*** Proportionate Punishment for an Offence
- Discretion to initiate or not to initiate DP
- Some Offences are Comprimisable (Compoundable/Plea Bargaining)
- Quasi-Judicial inquiry (No oath administered)
- Relaxation with respect to the rules of Evidence (Hearsay/Child)
- Preponderance of probabilities
- (CCA) Rules, 1991=Dismissal =Shall be imposed in ***proved cases*** of **(1)misappropriation, (2)bribery, (3) corruption, (4)moral turpitude, (5)forgery and (6) outraging the modesty of women**

POSH &Departmental Proceeding

- Both deal with Misconduct
- Inquiry Officer (Individual) /Committee
- Oath administered to witnesses
- Complaints Committee’s authority to receive a complaint
- Inquiry by Complaints Committee
- Recommend compensation and Penalty and Employer obligated to obey
- Compromise

Simplified BNS Structure

- BNS has been streamlined and it will now consist of only 358 Sections as opposed to 511 Sections in IPC, 1860.
- Main criminal code of India
- Substantive criminal law=Defines specific offences & prescribes punishments

Deleted Provisions of the BNS

Adultery – Section 497

- This Section, which criminalised and prescribed punishment, was criticised for treating a woman as the private property of her husband and imposing moral principles on married couples. This Section was finally struck down by the Supreme Court in September 2018 while disposing of the case of Joseph Shine v. Union of India.
- Still a ground of divorce
- Domestic Violence Angle

Unnatural Offences (Section 377):

- This provision that pertains to unnatural offences related to carnal intercourse against the order of nature has not been included in the BNS. It specifies that voluntary carnal intercourse against the order of nature with any man, woman, or animal is punishable by imprisonment for life or a term of up to ten years, along with a fine. The explanation provided states that penetration is sufficient to constitute the necessary carnal intercourse for the offence described in this section.
- Unnatural offences=Against the order of nature
- POCSO

Sedition/ S. 124 A to be kept in abeyance

- Sedition=Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by **law**
- SG Vombatkere v. Union of India(2022):The Supreme Court of India in 2022 took a landmark stance on Section 124A of the Indian Penal Code, which pertains to sedition. In a significant ruling, the Court effectively suspended the operation of this controversial provision. The apex court issued a comprehensive directive to both the Central and State Governments, instructing them to cease registering new cases under Section 124A. Furthermore, the Court ordered a halt to ongoing investigations and prohibited any coercive actions in pending sedition cases across the country until the Central Government exercise of reviewing this provision is complete.

Decriminalization of Suicide Attempts

- The Bharatiya Nyaya Sanhita (BNS) 2023 marks a significant shift in India's approach to suicide attempts, aligning criminal law with modern mental health perspectives. By removing the offence of 'attempt to commit suicide’ which was dealt by section 309 of the IPC, the BNS harmonizes with the progressive stance of the Mental Healthcare Act, 2017, recognizing suicide attempts as a mental health issue rather than a criminal act. This change reflects a more compassionate and scientifically-informed approach to mental health crises. However, the legislation maintains a nuanced stance by introducing Section 226, which specifically **criminalizes suicide attempts made with the intent to manipulate or obstruct public servants in their duties.**

NEW PROVISIONS INCORPORATED & INCLUDED

Abetment Outside India for Offence in India (Section 48):

- Section 48 of the Bharatiya Nyaya Sanhita addresses abetment of offences in India from outside the country's borders. The abettor must be "without and beyond India," and the act abetted must be an offence if committed in India. The provision emphasizes India's jurisdiction over crimes impacting its territory and citizens, allowing prosecution of abettors outside India. Enforcement may require cooperation between Indian authorities and foreign governments, involving extradition treaties and mutual legal assistance agreements. The provision emphasizes India's jurisdiction over crimes that have a direct impact on its territory and citizens. Thus, the abettor's location does not limit their liability under Indian law. Prosecuting individuals for abetment from abroad can be complex, involving issues of jurisdiction, evidence gathering, and international law.

Sexual intercourse by employing deceitful means, etc. (S.69):

- Section 69, a new provision, addresses sexual intercourse obtained through deceitful means or false promises of marriage. It outlines the punishment for individuals who engage in sexual intercourse with a woman by deceitful means or by making a promise to marry without any intention of fulfilling it. The punishment includes **IMPRISONMENT FOR UP TO TEN YEARS** and a fine. Section 69 also provides an explanation of "deceitful means," which encompasses inducement for employment or promotion, false promise of marriage by suppressing identity, or other forms of deception.

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

- This provision of the Bharatiya Nyaya Sanhita, 2023 (BNS) criminalizes hiring, employing, or engaging a child to commit any offence. Individuals found guilty of such acts face severe penalties, including **IMPRISONMENT RANGING FROM THREE TO TEN YEARS** and the imposition of a fine. The law holds accountable those who engage a child to commit a specific offence as if they had committed the offence themselves.

Combatting Organized Crime:

- To tackle ‘organized crime’, the offence of organized crime has been added in the Sanhita with deterrent punishments. 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 definition also encompasses the concept of an **"ORGANIZED CRIME SYNDICATE"** as a **GROUP OF TWO OR MORE PERSONS ENGAGING IN CONTINUING UNLAWFUL ACTIVITY**. 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.

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.

Tackling terrorism (Section 113):

- This provision aims to establish a comprehensive legal framework to combat terrorism by defining offences, specifying penalties, and addressing various aspects related to terrorist activities and individuals involved in such acts. 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.**

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

- The Bharatiya Nyaya Sanhita (BNS) 2023 introduces a groundbreaking provision in Section 103(2), addressing the critical issue of mob violence and lynching in India. This new category of culpable homicide specifically targets **group-based violence**, marking a significant legal step towards combating hate crimes and protecting vulnerable communities. The provision carefully delineates offences based on the severity of the act and the number of perpetrators involved, with a particular focus on crimes motivated by the victim's **race, caste, or community affiliation**.
- By mandating a minimum seven-year imprisonment for 'mob lynching' – without explicitly using the term –

Act endangering sovereignty, unity and integrity of India (S.152):

- Section 152 is a new provision related to secession, armed rebellion, and subversive activities that endanger the sovereignty, unity, and integrity of India. It specifies that anyone who purposely or knowingly excites or attempts to excite secession, armed rebellion, or subversive activities, or encourages feelings of separatist activities, or endangers the sovereignty or unity and integrity of India, shall be punished with imprisonment for life or up to seven years, and may also be liable to a fine.

Attempt to commit suicide to compel or restrain exercise of lawful power (S. 226):

- The BNS introduces Section 226 addressing a specific concern while maintaining the overall decriminalization of suicide attempts. This provision targets individuals who attempt suicide with the intent to manipulate or obstruct public servants in their lawful duties, striking a balance between mental health considerations and **preventing the misuse of suicide threats as a COERCIVE TACTIC.** The section prescribes a range of punishments, including imprisonment up to one year, a fine, or both, and notably introduces the option of community service as an alternative penalty.

Offence of ‘snatching’ (S.304):

- The Bharatiya Nyaya Sanhita (BNS), 2023, introduces a new offence of 'snatching', a criminal act previously unaddressed under the Indian Penal Code (IPC). This new provision, outlined in Section 304 of the BNS, specifically defines snatching as the forceful seizure or grabbing of movable property from an individual. By establishing snatching as a distinct offence, the BNS eliminates the ambiguity previously faced by law enforcement in categorizing such cases as either theft or robbery.

OTHER SIGNIFICANT CHANGES

Introduction of Community Service' as Punishment (S.4):

- The Bharatiya Nyaya Sanhita (BNS) 2023 introduces a groundbreaking reform in India's penal system by incorporating 'Community Service' as a form of punishment under Section 4, signaling a shift towards a more rehabilitative and reformative approach to justice. This innovative measure, primarily applicable to petty offences such as non-appearance in response to proclamations, **minor thefts, public misconduct, and defamation**, represents a significant departure from traditional punitive measures. The introduction of community service as a sentencing option offers multiple benefits: it provides offenders with opportunities for skill development and societal reintegration while reducing the stigma associated with imprisonment; for society, it promises direct community benefits, a reduced burden on the prison system, and potential decreases in recidivism rates.

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.*** This provision aims to deter hit-and-run incidents. However, the law demonstrates a thoughtful consideration of real-world scenarios by not penalizing drivers who initially flee to escape potential mob violence. 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.

Balancing Deterrence and Rehabilitation with respect to Theft:

- Specifically, a second conviction for theft carries a more severe sentence, with **IMPRISONMENT EXTENDING UP TO FIVE YEARS AND A MANDATORY MINIMUM TERM OF ONE YEAR.** Conversely, the law adopts a more reformative approach for minor, first-time offences. In cases where the stolen property's value does not exceed **5,000 rupees and the offender, being a first-time transgressor, voluntarily returns the stolen items**, the punishment is significantly more lenient. Instead of imprisonment, the law prescribes **community service** as the primary form of penalty.

Offence of mischief expanded:

- The offence has been made a punishable offence with imprisonment extendable up to **ONE YEAR**, or with fine, or with both (**as against just 6 months** or with fine, or both for the offence of mischief). In case the loss or damage is more than **20,000** rupees but less than one lakh rupees, the punishment is extended up to **TWO YEARS**, or with fine, or with both. Where loss or damage is above **one lakh rupees**, the punishment would be imprisonment extendable up to **FIVE YEARS**, or with fine, or with both.
- Mischief committed with preparation for causing death, hurt, wrongful restraint, or fear of death or hurt, carries a punishment of imprisonment of up to five years and a fine.

Other Changes

- **Consolidating Offences Against Women And Children under a single chapter**
- **Definition of "document" to include Electronic and Digital Records:**
- **Consolidation of Inchoate (incomplete category) Offences:** - Attempt, Abetment, and Conspiracy

Exceptions to the Doctrine of Mens Rea

I. Mens rea is not essential in respect of some offences in I.P.C., namely:

1.Waging war (S.147),

2.Bigamy (S.82(1)

4.Public Nuisance (Ss.270 &292)

II. Where a statute imposes strict liability

- Where a statute imposes strict liability, the presence or absence of a guilty mind is irrelevant. Several modem statutes passed in the interests of public safety and social welfare impose such strict liability, e.g. ***The Arms Act; Narcotic Drugs and Psychotropic Substances Act, 1985; The Public Liability Insurance Act, 1991; Essential Commodities Act, Food and Drug Act, Consumer Protection Act*** etc. Similarly, in other statutory offences like **bribing, smuggling, forex violations, sale of adulterated articles**, etc., the guilty mind is not taken into account by the courts.

III. Public Nuisance

- Another exception to the doctrine of mens rea is in case of public nuisance// // **Private Nuisance**

Section 270:-A person is guilty of a **public nuisance** who does any **act** or is guilty of an illegal omission which causes any common injury, danger or **annoyance** to the **public** or to the people in general who dwell or occupy property in the vicinity, ***or which must necessarily cause injury, obstruction, danger or annoyance to persons***

- **Difference=Criminal Law** vis-à-vis **Civil law**

IV. Ignorance of Law no excuse

Ignorance of law is no excuse. It is presumed that everybody knows the law of land. The principle of ignorantia juris non excusat is followed in almost all legal systems. This is an irrebuttable presumption that every person knows the law of the land

Child marriage=An 18 yr old boy marries a 17 year old girl

V. Insignificant Acts or Omissions(difficult to prove Mens Rea)

- When it is difficult to prove mens rea, where the penalties are **petty fines** and where a statute has done away with the necessity of mens rea on the basis of expediency, strict liability in criminal law may be imposed, e.g. ***parking offences/Not wearing a helmet/mask***

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;

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)**

Attempt- Examples

- "If 'A' shoots 'B' by pistol to kill him. ***If 'B' dies, then 'A' is liable for murder. If 'B' is injured, then 'A' is liable for Attempt*** to murder".
- "If 'A' ***makes an attempt to pick the pocket of 'Z'*** by inserting his hand into Z's pocket. Nothing in Z's pocket. A has committed Attempt.
- A, with intent to murder Z, by poison, purchases poison and mixes the same with food which remains in A's keeping. A is not yet guilty of an attempt. ***A places the food on A's table or delivers it to Z's servant to place it on Z's table***. It is an ATTEMPT

Attempt =Essential elements

i) Accused has an intention or means rea to commit the intended offence.

ii) He has taken a step forward (that is ***an act or step which was more than preparatory*** to the commission of the intended offence towards the commission of the contemplated offence).

iii)Direct movement towards the commission

iv) He ***failed to commit that intended offence*** by any reason.

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

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.

Abettor Or The Person Abetted Is A Public Servant

- If that offence is not committed in consequence of the abetment, and no express provision is made under this Sanhita for the punishment of such abetment, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-fourth of the longest term provided for that offence.
- A offers a bribe to B who is a public servant. B refuses to accept the bribe.
- If the abettor or the person abetted is a public servant whose duty it is to prevent the commission of such an offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Abetment by Instigation (S.45)

- Abetment=the act of ***helping or encouraging*** someone to do something wrong or illegal
- Instigation basically means ***suggesting, encouraging or inciting (PROVOKE)*** a person to do or abstain from doing something. Instigation may take place either directly or indirectly, by written or oral words, or even by gestures and hints.
- The instigation must be sufficient to actively encourage a person to commit an offence. It should not be mere advice or a simple suggestion.

Abetment by Conspiracy/ Conspiracy

- ***For abetment by conspiracy mere agreement is not enough. An act or illegal omission must take place in pursuance of the conspiracy and in order to do the thing conspired for***. But in the offence of conspiracy, ***the very agreement or plot is an act in itself and is the gist of the offence.***
- If act committed will amount to abetment by conspiracy, if the same is not committed will amount to conspiracy and will be punishable under section 120A and not for abetment by conspiracy.

Abetment by Aiding

- The third manner in which abetment may take place is by intentionally aiding the offender in committing that offence. This generally happens when the abettor facilitates the crime or helps in committing it. The intention to aid the offender is very important.
- For example, merely giving food or clothing to an alleged offender may not be punishable. But giving him food, clothing and shelter ***to help him hide from the police or commit a crime is punishable***.

Abetment- Punishment (Ss.49/55/56)

- Abetting waging war=Death sentence
- Abetment for an offence punishable with Death or Life IMP= 7 years(If an ***act which causes harm be done in consequence of abetment***= 14 yrs)
- Other cases=1/4th if the offence abetted is not committed
- Offence committed as a consequence of abetment=punishment is the same as the offence
- Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language etc., and doing acts prejudicial to harmony=3 years

OFFENCES AGAINST HUMAN BODY

Culpable homicide and murder

- Culpable homicide is a wider offence than murder. Culpable homicide is a genus and murder is a species. Murder is a special kind of culpable homicide. Simply put, the offence of murder requires a higher degree of *mens rea* and **far higher probability of the causing of death**.

CULPABLE HOMICIDE & MURDER/SS.100/101

- Where there is ***certainty of consequences and criminal use of force results in death*** of the person against whom such force is used, the offence is the higher offence of murder. Where there is ***no certainty but only the likelihood of the happening of the consequences,*** it means a lesser offence of "culpable homicide".

Culpable homicide and murder

- There is no radical difference between culpable homicide and murder. The true difference between culpable homicide and murder is only ***the difference in degrees of intention and knowledge. A greater the degree of intention and knowledge, the case would fall under murder. A lesser degree of intention or knowledge,*** the case would fall under culpable homicide. ***It is therefore difficult to arrive at any categorical demarcations or strait jacket differences between culpable homicide and murder.***

Punishment for Culpable Homicide/105

Part1=Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done *with the intention of causing the death, or of causing such bodily injury as is likely to cause death.*

Part2= or with imprisonment of either description for a term which may extend to ten years(or fine), if the act is done *with the knowledge that it is likely to cause death, but without any intention to cause death* ,or to cause such bodily injury as is likely to cause death.

Punishment for Murder

- Whoever commits murder shall be punished with death, or imprisonment for life and shall also be liable to fine.

EXCEPTIONS IN SECTION 101

- There are certain circumstances (exceptions in section 300) the existence of which reduces the offence of murder to culpable homicide not amounting to murder.

Circumstances which reduce the offence of murder to that of culpable homicide

- The circumstances which reduce the offence of murder to that of culpable homicide not amounting to murder are -----

1. Grave and sudden provocation
2. Exceeding right of private defence;
3. Public servant exceeding his powers;
4. Sudden fight; and
5. Consent(Mercy Killing).

Death by rash and negligent act

- S. 106 – A deals with death being caused by rash or negligent act of the accused. It has no application to a case where death is caused by an act which is in its nature, criminal, i.e. where there is an intention to cause death. Section304-A applies where there is neither intention nor knowledge to cause death. In other words, the section covers those offences which are outside the range of sections 100 and 101.

Death by rash and negligent act

The ingredients of the offence under the section are :-

1. The accused should cause the death of human being by an act.
2. The act should be rash and negligent
3. Neither intention nor knowledge to cause death shall be present.

Punishment=imprisonment for 5years/fine/both

Doctor=Medical Negligence==2 years imprisonment

Hit & Run==10 years//escapes without reporting it to a police officer or a Magistrate soon after the incident

Dowry Death (Section 80)

1. Where the death of woman is caused by any burns of bodily injury or occurs otherwise than under normal circumstances within seven year of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with any demand for dowry, such death shall be called Dowry Death, and such husband or relative shall be deemed to have caused her death.
2. Whoever commits dowry death shall be punished with imprisonment for a term ***which shall not be less than seven year but which may extend to imprisonment for life.***

PRESUMPTIONS

- Presumptions of fact =May Presume
- Presumptions of Law:-

(a)Rebuttable presumptions of law= Shall Presume

(b)Irrebuttable presumptions of law= Conclusive proof

May Presume

- Discretion to presume or not to presume
- Discretion to presume in favour of this party or that party

Shall Presume/ Conclusive Proof

- Obligated to presume
- No discretion but to presume in the way directed by law

May Presume/Shall Presume

Rebuttable= Disprovable

(Presumption drawn can be disproved)

Conclusive Proof

Irrebuttable= Cannot be disproved

Ingredients of Section 118 (Presumption)

1. The woman must have died on account of burns, bodily injury or otherwise in abnormal circumstances.
2. She must have died within 7 years from the date of the marriage
3. It must be shown that soon before her death she was subjected to cruelty or harassment for or in connection with a demand of dowry
4. When the above points are established then court shall presume that the person who shown to have subjected her to cruelty or harassment caused dowry death.
5. The presumption can be raised only if the accused is being tried for the offence under section 304-B, IPC

S.117 Presumption as to abetment of suicide

1. The case must be of suicide, not murder.
2. Suicide must have occurred within 7 years from the date of the marriage
3. The question in issue must be whether suicide was abetted by husband or his relatives.
4. The evidence must have been adduced to show that her husband or the relatives of her husband had subjected her to cruelty.
5. The law presumes that her husband and his relatives abetted her to commit suicide.
6. It is a may presumption

Distinction between Ss. 117 &118,BSA

- Section 117 ,BSA is read with Section 85 of the BNS. Whereas, section 118 is read with section 80 of the BNS
- Under section 117, the presumption is May presumption. Whereas, under section 118, the presumption is shall presumption
- Under Section 117 of the BSA and Section 85 of the BNS, the woman is subjected to cruelty and lastly she is compelled to commit suicide herself while under Section 118 of the BSA and Section 80 of the BNS it raises an adverse presumption against the accused that he had caused the dowry death ***(killed her)*** in question.
- Under section 118, dowry element is not necessary.

S.108. Abetment of suicide

- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine.
- Ex:Prathyusha

Burden of Proof

- ✓ **CRIMINAL CASES**= Burden on Prosecution
- ✓ **CIVIL CASES**=Burden on Both Parties to prove
- ✓ **CRIMINAL CASES**= Prosecution's burden is to prove the guilt beyond reasonable doubt

Accused's burden = is just to create a doubt about his innocence

- ✓ **CIVIL CASES**= Court determines on the basis of preponderance of probabilities whether a party has proved (WEIGHT in terms of QUALITY)
- ✓ CRIMINAL CASES= Conviction Rate low because of the operation of these principles(100 let free)

CHAPTER X OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

206. Absconding to avoid service of summons of other proceeding.

207. Preventing service of summons or other proceeding, or preventing publication thereof.

208. Non-attendance in obedience to an order from public servant.

210. Omission to produce document to public servant by person legally bound to produce it.

211. Omission to give notice or information to public servant by person legally bound to give it.

212. Furnishing false information.

213. Refusing oath or affirmation when duly required by public servant to make it.

214. Refusing to answer public servant authorised to question.

215. Refusing to sign statement.

216. False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.

217. False information, with intent to cause public servant to use his lawful power to the injury of another person.

218. Resistance to the taking of property by the lawful authority of a public servant.

219. Obstructing sale of property offered for sale by authority of public servant.

220. Illegal purchase or bid for property offered for sale by authority of public servant.

221. Obstructing public servant in discharge of public functions.

222. Omission to assist public servant when bound by law to give assistance.

223. Disobedience to order duly promulgated by public servant.

224. Threat of injury to public servant.

Offences by or relating to Public Servants

- S. 198. Public servant disobeying law, with intent to cause injury to any person
- S. 199. Public servant disobeying direction under law
- S. 200. Punishment for non-treatment of victim
- S. 201. Public servant framing an incorrect document with intent to cause injury
- S. 202. Public servant unlawfully engaging in trade
- S. 203. Public servant unlawfully buying or bidding for property
- S. 204. Personating a public servant
- S. 205. Wearing garb or carrying token used by public servant with fraudulent intent.