

RMM LAW COLLEGE SAHARSA

Indian Penal Code

Ist Part

Paper -

TOPIC-

Topic- PROVISIONS AS TO BAILS AND BONDS

Lecture Notes by- BINOD KUMAR JHA

Date:- 29/11/2020

CHAPTER

II

General Explanations

6. Definitions in the Code to be understood subject to exceptions:

Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions", though those exceptions are not repeated in such definition, penal provision, or illustration.

Illustrations

(a) The sections, in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police-officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

7. Sense of expression once explained:

Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

8. Gender:

The pronoun "he" and its derivatives are used of any person, whether male or female.

9. Number:

Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

10. "Man"/"Woman":

The word "man" denotes a male human being of any age; the word "woman" denotes a female human being of any age.

11. "Person":

The word "person" includes any Company or Association or body of persons, whether incorporated or not.

12. "Public":

The word "public" includes any class of the public or any community.

13. Definition of "Queen":

Repealed by the A.O. 1950.

14. "Servant of Government":

The words "servant of Government" denote any officer or servant continued, appointed or employed in India by or under the authority of Government.]

15. Definition of "British India":

Repealed by the A.O. 1937.

16. Definition of "Government of India":

Repealed by the A.O. 1937.

17. "Government":

The word "Government" denotes the Central Government or the Government of
a[* * *] State.]

18. "India":

"India" means the territory of India excluding the State of Jammu and Kashmir.]

19. "Judge":

The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person,- who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definite, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations

(a) A Collector exercising jurisdiction in a suit under Act 10 of 1859, is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.

(c) A member of a panchayat which has power, under Regulation VII, 1816, of the Madras Code, to try and determine suits, is a Judge.

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

20. "Court of Justice":

The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration

A panchayat acting under Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. "Public servant":

The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :-

[Naval or Air] Forces [of India];

[Third. - Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;]

Fourth. - Every officer of a Court of Justice [(including a liquidator, receiver or commissioner)] whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth. - Every jury man, assessor, or member of a panchayat assisting a Court of Justice or public servant;

Sixth. - Every arbitrator or other person to whom, any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh. - Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth. - Every officer of [the Government] whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth. - Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of [the Government], or to make any survey, assessment or contract on behalf of [the Government], or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of [the Government], or to make, authenticate or keep any document relating to the pecuniary interests of [the Government], or to prevent the infraction of any law for the protection of the pecuniary interests of [the Government];

Tenth. - Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

[Eleventh. - Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;]

[Twelfth. - Every person -

(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).]

Illustration

A Municipal Commissioner is a public servant.

Explanation 1. - Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2. - Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

[Explanation 3. - The word "election" denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.]

STATEAMENDMENTS

:

RAJASTHAN. - In Section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860), in its application to the State of Rajasthan, after clause twelfth, the following new clause shall be added, namely :-

"Thirteenth. - Every person employed or engaged by any public body in the conduct and supervision of any examination recognised or approved under any law.

Explanation. - The expression 'Public Body' includes -

(a) a University, Board of Education or other body, either established by or under a Central or State Act or under the provisions of the Constitution of India or constituted by the Government; and

(b) a local authority." [Vide Rajasthan Act, 4 of 1993 Sec. 2 w.e.f. 11.2.1993]

]