

LL.B. - II Term

Paper – LB – 203 - Criminal Law – II **(General Principles and Procedure)**

Objectives of the Course

The primary objective of criminal law is to maintain law and order in the society and to protect the life and liberty of people. It is for this reason that the people place their ultimate reliance on this branch of law for protection against all injuries that human conduct can inflict on individuals and institutions. Due to these reasons, the penal law cannot afford to be weak, ambiguous or ineffective. Nor can it be harsh and arbitrary in its impact. The application of criminal law has to be uniform regardless of any discrimination on grounds of class, caste, religion, sex or creed etc. of either the criminal or the victim. The subject of Criminal Law-II has been so designed as to generate critical thinking among the students about the stated objectives of criminal law and enable them to scrutinize the recent developments and changes that have taken place in the field.

Criminal Law-II has two parts. One part focuses on the general principles of criminal liability and the other on the criminal procedure. The two parts have been thoughtfully designed to provide a clear understanding of the basic principles and procedure in the operations of criminal law and their role in preventing crime and promoting justice.

The principle of *mens rea* has undergone change with increasing recognition of the distinct nature of socio-economic offences and the need to deal with them differently. The distinction between mistake of fact and mistake of law and exclusion of mistake of law as a defence is basic to criminal law practice. It further belies the principle of *mens rea* by imposing liability on people who had no knowledge or intention to commit an offence. In direct contrast is the right of private defence which arises from the natural instinct of self preservation where the state protection is not available, but has certain well defined limits on its operation. The principle of group liability has acquired added importance with the increase in organized crime and communal violence. A clear understanding between preparation, attempt and commission of crime is indispensable before imposing criminal liability. State's right to prevent people from taking their own lives, as much as it prevents them from taking the lives of others is definitely a great concern to discuss.

The Code of Criminal Procedure contains the machinery for the investigation of crime, apprehension of suspected persons, and the imposition of suitable punishment on the guilty. It is further aimed at trying to provide a balance between the needs of the investigating and adjudicatory bodies to detect crime, maintain law and order and the rights of the accused. With the increasing complaints regarding abuse of powers of arrest by the police, custodial torture and death, denial of bail, etc., the course particularly focuses on investigation, arrest, bail and principles of fair trial. The provision relating to plea bargaining has been included in the course not only because it is new but also to critically examine the operations under the criminal law which may be oppressive unless all the stakeholders are equally positioned.

The primary objectives of this course are to:-

- Familiarize the students with the key principles of criminal liability as incorporated in the Indian Penal Code.
- Explain the relationship between substantial criminal law and criminal procedure.
- Focus on the balancing of interests of society as well as the accused as done by the Criminal Procedure Code.
- Introduce the basic procedural safeguards as contained in the Code of Criminal Procedure on commission of a crime.

PART- A : GENERAL PRINCIPLES OF CRIMINAL LIABILITY

Prescribed legislation: The Indian Penal Code, 1860

Prescribed books:

1. R. C. Nigam, *Law of Crimes – Principles of Criminal Law*, Vol. 1 (1965)
2. Syed Shamsul Huda, *The Principles of the Law of Crimes in British India* (1902)
3. Y. V. Chandrachud & V. R. Manohar (ed.), **Ratan Lal & Dhiraj Lal's Indian Penal Code** (33rd ed., 2010)
4. K. I. Vibhute (Rev.), **P.S.A. Pillai's Criminal Law** (11th ed., 2012)
5. K.D. Gaur, *Criminal Law – Cases and Materials* (5th ed., 2008)
6. V.B. Raju, *Indian Penal Code, 1860*, (5th ed., 2002)
7. K.N.C. Pillai & Shabistan Aquil (Rev.), *Essays on the Indian Penal Code* (The Indian Law Institute, 2005)
8. K.N. Chandrasekharan Pillai, *General Principles of Criminal Law* (2nd ed., 2011)

I. Principle of Mens Rea and Strict Liability 4 Lectures

Common Law principle of *actus non facit reum, nisi mens sit rea* and exceptions to this principle - Strict Liability Offences

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| 1. <i>State of Maharashtra v. Mayer Hans George</i> , (1965) 1 SCR 123
AIR 1965 SC 722 | 1 |
| 2. <i>State of M.P. v. Narayan Singh</i> , (1989) 3 SCC 596 | 23 |
| 3. <i>State of Orissa v. K. Rajeshwar Rao</i> , AIR 1992 SC 240. | |

II. General Exceptions

(a) Mistake (Sections 76, 79 IPC) 2 Lectures

Principles of *ignorantia facti excusat* and *ignorantia juris (legis) non (neminem) excusat* which mean that ignorance of fact, if in good faith, is an excuse/defence but ignorance of law under no circumstances is a defence.

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| 4. <i>State of Orissa v. Ram Bahadur Thapa</i> , AIR 1960 Ori. 161 | 31 |
| 5. <i>State of Orissa v. Bhagaban Barik</i> , (1987) 2 SCC 498 | 35 |

(b) Private Defence (Sections 96-106 IPC) 5 Lectures

The right of private defence has come to be recognized by all civilized societies as a preventive and protective right where the state protection is not available; this right is essentially protective and preventive and never punitive. There are limitations on the exercise of this right both in relation to offences against human body and specific offences against property. The extent of this right, against whom it can be exercised, when this right commences and how long it lasts are dealt with elaborately in IPC

6.	<i>State of U.P. v. Ram Swarup</i> (1974) 4 SCC 764 :AIR 1974 SC 1570	39
7.	<i>Deo Narain v. State of U.P.</i> (1973) 1 SCC 347: AIR 1973 SC 473	46
8.	<i>Kishan v. State of M.P.</i> (1974) 3 SCC 623 : AIR 1974 SC 244	50
9.	<i>Mahabir Choudhary v. State of Bihar</i> (1996) 5 SCC 107	52
10.	<i>James Martin v. State of Kerala</i> (2004) 2 SCC 203	55

(c) Unsoundness of Mind and Intoxication (Sections 84, 85-86 IPC) 3 Lectures

Law assumes every person to be of sound mind, having the potentiality to form a criminal intent. However, in certain situations like insanity and intoxication, the cognitive faculty of a human being may be incapacitated and he/she may not be capable of forming criminal intent. IPC provides general defences in cases of insanity and involuntary intoxication from criminal liability (burden of proof to prove that state of mind is on the accused)

11.	<i>Queen-Empress v. Kader Nasyer Shah</i> , (1896) ILR 23 Cal. 604	62
12.	<i>Lakshmi v. State</i> , AIR 1959 All 534	65
13.	<i>Shrikant Anandrao Bhosale v. State of Maharashtra</i> , (2002) 7 SCC 748	69
14.	<i>Basdev v. State of PEPSU</i> (1956) SCR 363 : AIR 1956 SC 488	73

III. Group Liability (Section 34, Sections 141, 149 IPC) 5 Lectures

Provisions for providing for group liability in crimes including sections 34 and 149 of the IPC are exceptions to the general rule of criminal liability that a man should be held liable for his own criminal acts and not for those of others. These provisions providing for vicarious liability/group liability are intended to deter people from committing offences in groups and to spare the prosecution to prove specific *actus reus* of each member of the group

15.	<i>Mahbub Shah v. Emperor</i> , AIR 1945 PC 118	78
16.	<i>Pandurang v. State of Hyderabad</i> (1955) 1 SCR 1083 : AIR 1955 SC 216	82
17.	<i>Maina Singh v. State of Rajasthan</i> (1976) 2 SCC 827: AIR 1976 SC 1084	90
18.	<i>Mizaji v. State of U.P.</i> , AIR 1959 SC 572	97
19.	<i>Chandra Bihari Gautam v. State of Bihar</i> (2002) 9 SCC 208	103
20.	<i>Suresh v. State of U.P.</i> (2001) 3 SCC 673	107

IV. Attempt (Sections 511, 307, 309 IPC) 4 Lectures

There are four stages in the commission of crime – (i) intention to commit an offence, (ii) preparation, (iii) attempt and (iv) forbidden consequence ensuing from the act of the accused

after the stage of preparation is over. An attempt is direct movement towards the commission of an offence after the preparation is made. An accused is liable for attempting to commit an offence even if the forbidden consequence does not ensue for reasons beyond his control and he is to be punished for creating alarm and scare in the society

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| 21. <i>Asgarali Pradhania v. Emperor</i> , AIR 1933 Cal. 893 | 120 |
| 22. <i>Abhayanand Mishra v. State of Bihar</i> , AIR 1961 SC 1698 | 126 |
| 23. <i>Om Parkash v. State of Punjab</i> , (1962) 2 SCR 254 : AIR 1961 SC 1782 | 133 |
| 24. <i>State of Maharashtra v. Mohd. Yakub</i> , (1980) 3 SCC 57:
AIR 1980 SC 1111 | 139 |
| 25. <i>Gian Kaur v. State of Punjab</i> , (1996) 2 SCC 648 | 147 |

PART – B : CRIMINAL PROCEDURE

Prescribed Legislation: The Code of Criminal Procedure, 1973

Prescribed Books:

1. K.N.Chandrsekharan Pillai (Rev.), **R. V. Kelkar's Criminal Procedure**, (5th ed., 2008)
2. K.N.Chandrsekharan Pillai (Rev.), **R. V. Kelkar's Lectures on Criminal Procedure**, (4th ed., 2006)

I. Introduction

1 Lecture

- a. Importance of Criminal Procedure
- b. Hierarchy of Criminal Courts
- c. Functionaries under the Criminal Procedure Code

II. Rights of Arrested Persons

3 Lectures

There are certain fundamental rights of arrested persons guaranteed under Articles 20, 21 and 22 of the Constitution of India. The Supreme Court, while interpreting these articles, has built up jurisprudence of the rights of arrested persons. In addition, certain basic rights of arrested persons have been incorporated in the Code of Criminal Procedure, 1973, some of which are as under:

- Ss. 41-41D, 46-47 - Arrest
- S.50 Persons arrested to be informed of grounds of arrest and of right to bail.
- S.50A Obligation of person making arrest to inform about the arrest etc., to a nominated person.
- S.57 Persons arrested not to be detained more than 24 hours
- S.303 Right of the accused to be defended by a Lawyer of his choice
- S.304 Legal Aid to accused at State expense in certain cases
- S.327 Trial to be held in open court

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| 26. <i>Dilip K. Basu v. State of West Bengal</i> (1997)6 SCC 642 | 159 |
| 27. <i>State of Haryana v. Dinesh Kumar</i> (2008) 3 SCC 222 | 162 |

III. Police Investigation (Sections 154-176 with focus on 154, 160, 161, 162, 164, 167, 173, 176 Cr.P.C.) 6 Lectures

In the scheme of the Code of Criminal Procedure, 1973, for the purposes of setting criminal investigating agency into motion, offences are classified into two categories: (i) cognizable offences and (ii) non-cognizable offences. In case of cognizable offences, a police officer can arrest an accused without a warrant but in case of non-cognizable offences he cannot arrest or investigate into such an offence without authorization in this behalf by the magistrate. In case of cognizable offences, an F.I.R forms the basis for putting the investigative machinery into motion. A general overall view of investigation will be given to the students with special emphasis on the essentials of F.I.R and its evidentiary value, police officer's powers to investigate cognizable cases, procedure for investigation, police officer's powers to require attendance of witnesses, examination of witnesses by the police, recording of confessions and statements and report of police officer on completion of investigation.

28.	<i>Lalita Kumari v. Govt. of Uttar Pradesh</i> 2008(11) SCALE 154	169
29.	<i>Lalita Kumari v. State of Uttar Pradesh</i> (2012)4 SCC 1	171
30.	<i>State of Orissa v. Sharat Chandra Sahu</i> (1996) 6 SCC 435	196
31.	<i>Madhu Bala v. Suresh Kumar</i> (1997) 8 SCC 476	198
32.	<i>Sakiri Vasu v. State of Uttar Pradesh</i> (2008) 2 SCC 409	202

IV. Law Relating to Bail: (Sections 436-439 Cr. P.C.) 5 Lectures

Criminal offences are further classified under the Cr.P.C. into bailable and non-bailable offences. In case of bailable offences, an accused is entitled to bail as a matter of right on furnishing of surety. In case of non-bailable offences, bail is a matter of discretion with the courts and the discretion becomes narrower depending upon the severity of the punishment that an offence entails. How this discretion is to be exercised and what are the principles governing grant of bail in such cases is discussed in the cases given below. The concept of anticipatory bail and the principles governing its grant are also a subject matter of study here. Further, principles governing cancellation of bail are also discussed here.

33.	<i>State v. Captain Jagjit Singh</i> , (1962) 3 SCR 622	207
34.	<i>Moti Ram v. State of M.P.</i> (1978) 4 SCC 47	210
35.	<i>Gurcharan Singh v. State (Delhi Admn.)</i> AIR 1978 SC 179	218
36.	<i>Sanjay Chandra v. Central Bureau of Investigation</i> (2012) 1 SCC 40	228
37.	<i>Shri Gurbaksh Singh Sibbia v. State of Punjab</i> , AIR 1980 SC 1632	245
38.	<i>State (Delhi Administration) v. Sanjay Gandhi</i> , (1978) 2 SCC 411	262

V. Basic Features of Fair Trial - Cr PC 3 Lectures

- S.273 Evidence to be taken in presence of accused.
- S.300 Person once convicted or acquitted not to be tried for the same offence
- S.313 Power to examine the accused.
- S.316 No influence to be used to induce disclosure.

- S.317 Provision for inquiries and trial being held in the absence of accused in certain cases.
- S.321 Withdrawal from prosecution
- 39. *Abdul Karim v. State of Karnataka* (2000) 8 SCC 710 268
- S. 406 Power of Supreme Court to transfer cases and appeals
- 40. *Zahira Habibulla H. Shiekh v. State of Gujarat* (2004) 4 SCC 158 287
- S.479 Cases in which the Judge or Magistrate is personally interested.
- VI. Victim Protection and Participation (Ss. 2(wa), 265A-L, 357, 357A, 372 Cr PC) 3 Lectures**
 - a. Victim Protection and Compensation
 - b. Rights of Victims
 - i. Lawyer
 - ii. Appeal
 - iii. Plea Bargaining
- 154th Report of the Law Commission of India, pp. 51-54 (1996). 306
- 41. *Mrs. Neelam Katara v. Union of India* ILR (2003) II Del 377 310

IMPORTANT NOTE:

1. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
2. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.
3. The Question Paper shall have two Parts and a student shall have to attempt at least **two** questions from each Part. Three question papers set for the examinations held in the past are printed below for guidance of the students but please note that the pattern has changed as mentioned above.

Question Paper

Note: Attempt *five* questions including Question No. 1 which is compulsory and at least *one* question from Part II. All questions carry *equal* marks.

1. Attempt briefly any *four* of the following:
 - (a) *Ignorantia facti excusat, ignorantia juris non excusat.*
 - (b) “Involuntary drunkenness, that is, drunkenness caused without one’s knowledge or against one’s will is an excuse.” Comment.
 - (c) Distinguish cognizable offences from non-cognizable offences.
 - (d) Discuss the evidentiary value of F.I.R. in a criminal trial.
 - (e) Justification of Plea Bargaining in criminal trials.

PART- I

2. “There is a presumption that *mens rea* is an essential ingredient in a statutory offence, but this presumption is liable to be displaced either by the words of the statute creating the offence or by the subject-matter with which it deals.” Elaborate this statement with the help of decided cases.
3. When and under what circumstances can death lawfully be caused in exercise of the right of private defence? Explain with the help of provisions of law and judicial decisions.
4. (a) “Irresistible impulse by itself affords no valid defence, but should be a good defence only where there is evidence of an antecedent unsoundness of mind.” Comment.
(b) A sacrificed his son B by thrusting a knife in his throat inside the mosque and went straight to inform his brother. The story of the accused was that he believed that he had been directed by someone in paradise to sacrifice his son to God. Can he plead defence due to unsoundness of mind under Section 84 I.P.C. for an offence of murder? Discuss.
5. A group of 11 persons caught hold of X who was carrying a sum of Rs. 2 lakhs. Three of them inflicted severe injuries by a sharp-edged weapon. Two ran away with the cash. ‘X’ succumbed to his injuries in the hospital. Seven members of the group were identified, charge sheeted and prosecuted for the offence of murder under Section 302 read with Section 149 I.P.C. Out of seven, three were acquitted by the trial court, giving them benefit of doubt and remaining four have been convicted u/s 302 with Section 149 I.P.C. They challenged the conviction under Section 149 I.P.C. before the High Court. Decide with the help of decided cases.
6. A with an intention to kill B, once a business partner, purchased poison from a chemist C and invites B to a restaurant for a cup of tea. A secretly mixes poison in B’s tea. Is A guilty of criminal attempt in the following situations:
 - (a) When unknown to A the chemist C supplied him a harmless substance which causes no harm to B on consuming tea?
 - (b) When B takes the poisoned tea but does not die because the quantity of poison consumed was insufficient to cause death?
 - (c) When B takes the poisoned tea but is saved by prompt medical aid?

PART - II

7. (a) What factors should be taken into consideration while considering a bail application in non-bailable offences?
(b) A, an eminent doctor, was alleged to have committed rape on 'B' a blind patient and a report was made to this effect by B.A, apprehending arrest, moves an application for anticipatory bail under Section 438 Cr. P.C. Will he succeed?
8. (a) Describe briefly the principal features of a fair trial.
(b) What are the rights of an accused or arrested person during various stages of trial?

Question Paper – December, 2008

Note: Attempt *five* questions including Question No. 1 which is compulsory and at least *one* question from Part II. All questions carry *equal* marks.

1. Attempt briefly any *four* of the following:
 - (a) Distinguish between mistake of fact and mistake of law;
 - (b) Attempt to commit suicide under Section 309 I.P.C.;
 - (c) Right to consult a legal practitioner;
 - (d) Confessional statement under Section 164 Cr. P.C.;
 - (e) Rights of an arrested person.

Part - I

2. “*Mens rea*, by necessary implication, can be excluded from a statute only where it is absolutely clear that the implementation of the object of a statute would otherwise be defeated.”
Explain this statement with the help of various judgments given by the Supreme Court.
3. (a) Where the accused struck a blow with a spear causing death in return for an attack by the deceased with a lathi, has the accused exceeded his right of private defence?
(b) A makes an attack upon B. It appeared by the manner of the assault, the weapon used and the other circumstances attending the assault, that life of B was in imminent danger. B killed A. Will the killing of A be justified under the provisions of private defence?
4. (a) A killed his wife and daughter with a chopper, locked himself inside the house and shouted. ‘save my wife, save my child, call the police’. When the door was opened from outside with an axe, he was found standing near the door with a chopper in his hand, while his wife and daughter were lying on the ground with bleeding injuries. A plea of insanity was set up. Will he succeed?
(b) X, who was drunk at his friend’s birthday party, ravished a girl of 4 years of age and, in aid of the act of rape, he placed his hand upon her mouth to stop her from screaming, at the same time pressing his thumb upon her throat with the result that she died of suffocation. Drunkenness was pleaded as a defence. Argue.
5. (a) A administers B one of a series of doses of poison, the cumulative effect of which is to kill him. Decide the liability, if any, of A.

- (b) Z administers to Y a drug with an intent to procure an abortion. It turns out that Y was not actually pregnant. Can Z be guilty of attempt to cause miscarriage?
- 6. (a) Under Section 34 I.P.C., joint liability is based on common intention, while under Section 149 it is based upon common object and knowledge of the probability. Compare the two sections.
- (b) About 100 people forcibly entered into one of the leading corporate offices in Delhi. Some of them assaulted people in the office and one of the officials was even killed. All of them were arrested and subsequently charged under Section 302/149 of the I.P.C. Those who did not participate but simply witnessed the happening plead defence. Argue from both sides.

Part - II

- 7. (a) Commenting on the principle of ‘bail not jail’ enumerate the guidelines evolved by courts in granting bail in respect of non-bailable offences.
- (b) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. Can A be tried for culpable homicide?
- 8. (a) State the procedure of investigation in cognizable cases.
- (b) “Western concept of plea bargaining is best suited to Indian conditions.” Critically evaluate this statement.

Question Paper – 2009-10

Note: Attempt *five* questions including Question No. 1 which is compulsory and at least *one* question from Part II. All questions carry *equal* marks.

- 1. Attempt briefly any four of the following :
 - (a) Concern towards victim’s rights in the scheme of ‘plea bargaining’ under the Criminal Procedure Code, 1973.
 - (b) Salient features of ‘fair trial’.
 - (c) The concept of public prosecutor withdrawing from the prosecution of any person.
 - (d) Bring out the difference between involuntary intoxication and voluntary intoxication as defence to a criminal charge under the IPC.
 - (e) Explain and illustrate the maxim *ignorantia facti excusat, ignorantia juris non excusat*.
- 2. “In absence of any clear term of *mens rea* in statutory offences it is always necessary to look to its object and purposes.” Discuss in the light of decided cases.
- 3. “ ‘Legal insanity’ is not the same things as ‘medical insanity’ and a case that falls within the latter category need not necessarily fall within the former. Further, the case where a murderer is stuck with an insane delusion is different from the case of a man suffering from organic insanity.”

Critically examine the above statement and bring out clearly the essential requirements of defence of unsoundness of mind to a criminal charge under section 84 of IPC and the judicial interpretation of the provision in various decided cases.

4. "An attempt to define 'attempt' has to be frustrating exercise. Nonetheless a search to discover the characteristics of an attempt, if not an apt definition of attempt, has to be made."

Critically examine the statement and bring out the distinction between the stages of preparation and attempt in the commission of a crime with the help of decided cases.

5. Discuss the law relating to right of private defence under the IPC with the help of judicial decisions in respect of offences against human body with special reference to commencement and continuation of this right, extent of force that can be used, the limitations on the exercise of this right and the circumstances in which this right can be used even against public servants.
6. A, B, C, D and E with a common object to rob a bank start for the bank. A, B, C and D enter the bank to rob it carrying sophisticated weapons and mobile phones. E stands at a distance and oversees their actions through a binocular and instructs them through mobile phone as to how effectively the common intention could be implemented. While trying to run away with loot amount A, B, C and D face stiff resistance from the guard who is eventually killed by A. A, B, C, D and E are tried for the offence of murder and other related offences read with section 149 IPC. Decide.

Part II

7. (a) Discuss the rights of the arrested person with the help of constitutional and other statutory provisions and their interpretation by the Supreme Court of India.
(b) Discuss powers of police to arrest and the changes brought by the Amendment Act of 2005.
8. Discuss the principles laid down by the Supreme Court in the matter of grant of bail in non-bailable offences and also the considerations which should be taken into account by a court if subsequently an application for cancellation of bail already granted to an accused is filed before the court.

Question Paper – 2011

Note: Attempt *five* questions including Question No. 1 which is compulsory and at least *one* question from Part II. All questions carry *equal* marks.

PART I

1. Attempt briefly any *four* of the following :

- a) Constitutional validity of Section 309 IPC as discussed by Supreme Court in Gian Kaur Vs. State of Punjab, (1996) 2 SCC 648;
 - b) What is the justification for the rule, Ignorantia juris non excusat, Ignorantia facti excusat;
 - c) Procedure of investigation in cognizable and non-cognizable cases.
 - d) Evidentiary value of statements made to the police;
 - e) Rights of an arrested person.
2. Is the publication of a notification in the official Gazette on Nov. 24, 1962 sufficient to presume that A, a passenger knew about it, when he left Zurich on his way to Manila on Nov. 27, 1962? Is there any difference on the point between the approach of the majority and minority judges? Discuss in the context of the judgment as laid down by the Supreme Court in State of Maharashtra Vs. M.H. George, A.I.R. 1965 S.C. 722.
 3.
 - (a) A assaults and knocks Z without any excuse. As a result, Z slaps A. A becomes enraged and breaks Z's tooth. A, is prosecuted for causing grievous hurt to Z. Can A, take the plea of right of private defence? Discuss with the help of cases.
 - (b) What are the limitations to the exercise of the right of private defence of body and property?
 4.
 - (a) Do you think that the absence of motive on the part of the accused for killing his wife and the child, and the absence of desire to run away when the door was broken are sufficient to indicate that the accused was a man of unsound mind when the alleged offence was committed? Substantiate your answer with the help of decided cases.
 - (b) "Drunkenness is ordinarily neither a defence nor excuse for crime, and where it is available as a partial answer to a charge, it rests on the prisoner to prove it, and it is not enough that he was excited or rendered more irritable." Explain with the help of the judgment given by the Supreme Court in Basdev v. State of PEPSU; AIR 1956 S.C. 488.
 5.
 - (a) Define 'Common intention' and 'Common object'. What is the difference between Section 34 and Section 149 of the Code? Illustrate your answer with the help of a few leading cases.
 - (b) D, the deceased was murdered by A one of the two accused with a sharp edged weapon at 10.30 p.m. while he was sleeping on a cot in his house while the other accused B, his brother, without taking part stood by with a spear in his hand to overcome any outside interference with the attainment of the criminal act and both the accused ran away together after the murder. What is the culpability of B for the murder of D?

6. 'A' with an intention to kill 'B' buys poison from a chemist 'C' and invites 'B' to his home for a cup of tea. 'A' secretly mixes poison in 'B's tea. Is 'A' guilty of criminal attempt in the following situations:
- (a) When unknown to 'A' the chemist 'C' supplied him a harmless substance which causes no harm to 'B' on is taking the tea?
 - (b) When 'B' takes the poisoned tea but does not die because the quantity of poison consumed was insufficient to cause death?
 - (c) When 'B' takes the poisoned tea but is saved by prompt medical aid?

PART II

7. (a) "The basic rule is 'Bail and not Jail'. Comment, enumerating the guidelines evolved by courts in granting bail in non-bailable offences.
- (b) N, a leading neuro-surgeon was alleged to have committed rape on W, a young woman, who had come to him for treatment. She made a report to this effect to the police station. N, apprehending his arrest, moves an application for anticipatory bail under Section 438 Cr.P.C. Decide with the help of judgments.
8. As reasonableness or fairness is a relative concept so too is the concept of fair criminal trial. Try to trace the changing patters of fair criminal trial in relation to
- (a) independent, impartial and competent judiciary;
 - (b) free legal aid to indigent accused;
 - (c) expeditious trial;
 - (d) presumption of innocence.