

CLAT 2019

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Law of Crimes

Session 6 :
Criminal Breach of Trust, Mischief

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6.1 Criminal Breach of Trust

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Illustrations:

- (a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriate them to his own use. A has committed criminal breach of trust.
- (b) A is a warehouse-keeper. Z going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.
- (c) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.
- (d) A, a carrier, is entrusted by Z with property to be carried by air and or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Ex-1

A lady wanted to get a railway ticket but finding a crowd near the ticket window at the station, asked Raju, who was near the window, to get a ticket for her and handed him money for the same. Raju took the money and instead of getting the ticket, ran away with it. What offence has been committed by Raju?

- (a) No offence
- (b) Criminal breach of trust
- (c) Criminal misappropriation
- (d) Theft

Ex-1 **Answer: (B)****➤ Explanation:**

In the given facts, the lady entrusted Raju with her property (money in this case) which he dishonestly misappropriated. Hence, this is a case of Criminal Breach of Trust (as per Section 405 of the IPC). It would have been a case of Criminal Misappropriation if Raju had found that money lying on the road and would have used it without looking out for the person to whom the money belonged.

6.2 Cheating

- Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Illustrations:

- (a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.
- (b) A, by putting a counterfeit mark on an article, intentionally deceives Z into believing that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.
- (c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby, dishonestly induces Z to buy and pay for the article. A cheats.
- (d) A, by pledging, as diamonds, articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

Ex-2

Principle: A person is guilty of cheating, when he fraudulently induces another person to deliver the latter's property to him.

Facts: A falsely represented to B a shop-owner that he was an officer from the Commercial Taxes Department. While examining the accounts of the shop, A showed interest in buying a microwave oven on instalment basis. B readily agreed with the hope that he would get a favourable assessment from A regards his tax liability. A paid the first instalment, took the Microwave oven and disappeared from the scene. The police, however, managed to catch hold of A and prosecute him for cheating

- (a) A committed cheating, because he induced B to part with the Microwave oven posing as though that he was from the Commercial Taxes Department.
- (b) A committed cheating, because B handed over the article in order to get a favourable assessment from A.

Ex-2 **Answer: (A)****➤ Explanation:**

The correct answer is option (a). A is guilty of cheating as he falsely represented himself as someone from the Commercial Taxes Department. Option (a) refers to the inducement by A, because of which B delivered the Microwave to A, as he hoped to get a favorable assessment. Option (b) only refers to the handing over of the article to get a favorable assessment. Hence option (a) is clearly the most appropriate answer in this case based on the facts and the principle provided.

6.3 Mischief

- Whoever dishonestly or knowingly causes wrongful loss or damage to the public property or to the property of any person, or causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief".

Illustrations:

- (a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.
- (b) A introduces water into an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.
- (c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.
- (d) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

Ex-3

Principle - 1: Mischief is an injury to property with the intention of causing wrongful loss to any person or public.

Principle - 2: The person to whom the loss is wrongfully caused by mischief need not be the owner of the property himself.

Facts: A has leased his house to B for 5 years. After one year A feels the need for the house and requests B to vacate the house, but B refuses. A in order to get B to vacate the house, causes fire to it, but B with the help of the neighbours quickly extinguishes the fire before it could really damage the property.

- (a) A is guilty of mischief.
- (b) A cannot be guilty of causing mischief.
- (c) A is not guilty of mischief as there was no damage.

Ex-3 **Answer: (A)****➤ Explanation:**

The person to whom the loss is wrongfully caused by mischief does not need to be the owner of the property. In the given facts, A causes fire to the house which he had leased out to B. As it is B who is in possession of the house, we can safely assume that A has caused mischief. Another confusion which usually troubles students is the phrase 'before it could really damage the property' as it can be interpreted that no damage actually occurred. But that would be an incorrect interpretation. Even if there is not much damage (or in other words large scale damage), the fact that there is some damage points to the said principle.

Ex-4

Principle : Whoever with the intent to cause, or knowing that he is likely to cause wrongful loss or damage to the public or to any person, causes the destruction of property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits mischief. A went to B' s house for dinner. He saw that B had a statue made of ice, which was kept in a freezer, A removed the statue from the freezer for a few minutes, which led to the hand of the statue changing shape.

- (a) A has not committed mischief, since he did not have the intention to change the shape of the hand of the statue.
- (b) A has committed mischief because he should have known that his act was likely to damage the statue.
- (c) A has not committed mischief because the statue did not get destroyed.
- (d) A did not commit mischief because the value of the statue has not diminished.

Ex-4 **Answer: (B)****➤ Explanation:**

The basic question to be answered is whether A intended to cause or had knowledge, that by such an act he was likely to cause damage to the statue that belonged to B. It is clear from the facts that he removed the statue from the freezer for a few minutes. We can easily conclude that he must have had the knowledge that the act he was committing would cause damage and hence A has committed mischief.

Ex-5

Principle: Anybody with an intention to cause damage to the public or to any person, causes destruction of any property, he is said to have committed the offence of Mischief.

Facts: The workers of Premium Private Ltd. Co. were on strike demanding higher bonus. In the course of the strike, a worker by name Mr. Chandra Kumar has thrown stones at the company and damaged the costly glass windows.

- (a) Mr. Chandrakumar was justified in his act as the employer company behaved unreasonably by not paying the bonus properly.
- (b) Mr. Chandrakumar was on strike along with other workers. Hence he has immunity from all actions.
- (c) Mr. Chandrakumar has committed the offence of Mischief.
- (d) Mr. Chandrakumar has not committed the offence of mischief as he has only expressed his freedom of speech and expression which is a Fundamental Right.

Ex-5 **Answer: (C)****➤ Explanation:**

The principle states that destruction to any property caused intentionally would amount to the offence of Mischief. In the given facts, Mr. Kumar threw stones during the course of a strike and damaged the costly glass windows of the company. There was destruction of property and the act was intentional. Hence option (c) is the most appropriate answer.

6.4 Criminal Trespass

- Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".

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