

### **Passage 1:**

Common intention implies a pre-arranged plan and acting in concert pursuant to the plan. Common intention comes into being prior to the commission of the act, which need not be a long gap. To bring common intention into effect a pre-concert is not necessarily be proved, but it may well develop on the spot as between a number of persons and could be inferred from facts and circumstances of each case. For example A and B caught hold of C where only B stabbed C with a knife but A is also liable for murder as there was a pre concerted action. In the case Pandurang v. State of Hyderabad, Supreme court emphasized on this point that prior concert need not be something always very much prior to the incident, but could well be something that may develop on the spot, on the spur of the moment.

#### Common Intention and Similar Intention

Common intention does not mean similar intention of several persons. To constitute common intention it is necessary that the intention of each one of them be known to the rest of them and shared by them. In the case of Dukhmochan Pandey v. State of Bihar, the Supreme Court, held that: “Common intention which developed at the spur of the moment is different from the similar intention actuated a number of person at the same time....the distinction between a common intention and similar intention may be fine, but is nonetheless a real one and if overlooked, may lead to miscarriage of justice....” The mere presence of accused together is not sufficient to hold that they shared the common intention to commit the offence in question. It is necessary that the intention of each one of 'several persons' be known to each other for constituting common intention.

**Question 1:** A gang of six members went to a bank, armed with weapons to commit a heist. While five of the gang members went inside the bank, Mr. A (the sixth member) waited outside the bank to alert them on any threat. During the heist one of the gang members fired a gun at the branch manager, as a result he died. All five escaped but Mr. A was caught and arrested. Now, choose the most appropriate option as per the principle stated in the above passage.

- A. Mr. A is not liable for murder as he was outside the bank and there was no common intention.
- B. Mr. A along with all other members of the gang are liable for murder as there was common intention

- C. Only that person is liable for murder who actually fired the gun.
- D. Mr. A is liable only for the heist and no other offence.

**Question 2 :** Raman and Raghav were riding on a motorcycle on a busy street, suddenly Aman (another biker) bumped into their bike. A heated argument started between the three of them. While Raghav started abusing Aman, Raman hit Aman with an iron rod lying on the road and as a consequence he died. Now, chose the correct option.

- A. Both Raman and Raghav are liable for murder as there was a common intention developed on the spot.
- B. Raghav is not liable for murder as there was no common intention to kill Aman.
- C. No one is liable as Aman was a wrongdoer himself and he started the fight.
- D. Only Raghav is liable for murder as he started abusing Aman.

**Question 3** After reading the passage which of the following is not correct in relation to the difference between Common and Similar intention?

- A. Similar intention is developed prior to the commission of offence but the common intention is developed only at the time of commission of offence.
- B. Under Common intention each of the offender is equally liable for the offence but under similar intention each of the offender is differently liable.
- C. In order to determine the existence of Similar or Common intention, one must analyse the fact and circumstances of each case.
- D. The boundary between Similar and Common intention is very fine and it may sometime overlap.

**Question 4:** Mr. X and Mr. Y entered into a house at night to commit theft, while committing theft Mr. Y committed sexual assault on a minor girl of aged 11 years. Identify for which of the following offences Mr. X is liable for.

- A. Both Theft and Sexual Assault as there was a Common intention.
- B. Only Theft as there was a Similar intention.

- C. Only Theft as Mr. X had a different intention from Y.
- D. He would not be liable for any offence.

**Question 5:** Which of the following statements is correct in relation to the difference between common intention and similar intention?

- A. The intention of the accused and co-accused can be inferred from the facts and circumstances of each case.
- B. Under common intention, it is considered that all the accused have jointly committed the offence themselves and are jointly liable.
- C. Each accused is liable for the offence he has actually committed, if the common intention cannot be proved.
- D. All of the above.

## Passage 2

Article 20(1) of the Indian Constitution prohibits Ex Post Facto laws. The expression Ex Post Facto Law means a law, which imposes penalties or convictions on the acts already done and increases the penalty for such acts. In other words, Ex Post Facto Law, imposes penalties retrospectively. For example, The Dowry Prohibition Act, 1961 came into force from 20.5.1961. A person guilty of accepting dowry is punishable under the Act after 20.5.1961 and not before 20.5.1961.

Ex post facto laws are of three kinds as follows:(a) A law which declared some act or omission as an offence for the first time after the completion of that act or omission. (b) A law which enhances the punishment or penalty for an offence subsequent to the commission of that offence. (c) A law which prescribes a new and different procedure for the prosecution of an offence subsequent to the commission of that offence.

Clause (1) of Art. 20 provides protection only in respect of the above first two categories of ex post facto laws i.e. laws which declare acts as offences subsequent to the commission to those acts and laws which enhance the penalty subsequently.

Article 20(1) provides: *No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.* The first part of clause (1) provides that no person shall be convicted of any offence except for violation of law in force at the time of the commission of the act charged as an offence. The second part of clause (1) protects a person from a penalty greater than that which he might have been subjected to at the time of the commission of the offence.

**Question 6:** The Parliament of India legislated the Sexual Harassment at Workplace Act, in the year 2013 and simultaneously some new offences were also added to the Indian Penal Code, 1860. Mr. A is an employee of an institution, against whom departmental enquiry has been initiated for committing sexual harassment of a female colleague in the year 2012. Now, choose the correct option.

- A. Such inquiry is valid as per Article 20 (1) of the Constitution as the complaint was made after the act came into force.
- B. Article 20 (1) will not be applicable as the matter does not relate to an offence.
- C. As the Act was passed in the year 2013, any inquiry under such Act is invalid.
- D. Only inquiry may be conducted but no penal action can be taken against him after such inquiry.

**Question 7:** Article 20 (1) would not affect which of the following acts of the legislature?

- A. Act of the legislature enhancing the term of imprisonment.
- B. Act of the legislature enhancing the amount of fine.
- C. Act of the legislature changing the punishment of death to life imprisonment.
- D. Act of legislature changing the nature of imprisonment from simple to rigorous

**Question 8:** Mr. A is a student of Law, aged 19 years. He is socially active and expresses his opinion on every social and political event of the nation through social media platforms. In one of his blog, he severely criticised the policy of a state government of changing names of cities and towns. He also stated that the government is biased towards a particular religion. The said blog was posted on 19th April, 2020 and subsequently, an amendment was made to Indian Penal Code whereby ‘Hate Speech’ was made a distinct offence and punishment was prescribed. An action was brought against him under the said provision for the blog. Now, choose the most appropriate option amongst the following

- A. Mr. A may be liable for the offence of Hate speech as the blog was not removed even after the amendment.
- B. Mr. A may be liable for the offence of Hate speech as Article 20 (1) does not cover such areas.
- C. Mr. A may not be liable for the offence because the act was done before the amendment.
- D. Mr. A may not be liable for the offence as his blog was innocent and a fair criticism.

**Question 9:** Considering the fact situations given in the above question, the Parliament passes a legislation in September 2020, whereby an amendment is made to the Juvenile Act and now

a person below the age of 20 would be a Juvenile and special procedure would be followed for his trial. Choose the most appropriate option amongst the following

- A. Mr. A would not be considered as juvenile as it is prohibited under the scheme of Article 20 (1).
- B. Mr. A would not be considered as juvenile because the amendment came after he committed the offence.
- C. Mr. A would be considered a Juvenile and tried under the new procedure.
- D. None of the above.

**Question 10:** Considering the fact situation in the third question to this passage, the Parliament passes a legislation for the Probation of Offenders, under which any offender below the age of 21 will not serve the sentence of imprisonment in a prison, instead he will serve the sentence in a probation house. Now, choose the most appropriate option.

- A. Mr. A will get the benefit of Probation of Offenders Act.
- B. Mr. A will not get the benefit of Probation of Offenders act as it is prohibited by Article 20 (1) of the Constitution.
- C. It is discretion of Mr. A to decide whether he wants such benefit or not.
- D. None of the above.

## Answers

- 1) B
- 2) B
- 3) A
- 4) C
- 5) D
- 6) D
- 7) C
- 8) A
- 9) C
- 10) A