

Mid Semester Test: August-2016

Law of Crimes

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR****Course: Law of Crimes
Semester-III (Batch: 2015-20)****Mid Semester Test: August-2016****Date: 09th August 2016****Duration: 2 hours****Max. Marks: 30****Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Draw the diagrams only with pencil.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Bare Act is not allowed.**

PART-A**Answer all Questions****Marks
(3x7
=21)**

- Q.1 If the conduct of the defendant is regarded as omission, the question arises whether the offence with which he is charged is one for which a conviction can be secured on the basis of an omission rather than an act. Cases will be rare where an intention to commit an offence by omission can be proved. It seems strange then to contemplate an offence of attempt by omission. In one such rare case:

D seriously injured his wife by striking her with an axe and a knife. The Prosecution's case is that he struck the blows with the axe or the axe handle. When that did not work he went and got a knife and stabbed her with that kitchen knife... and also that he slashed her arms with a Stanley knife and when he did those acts, his intention was that she should die. He then forced her to abandon her attempt to dial 100 to call for assistance of police helpline. The emergency services of police helpline rang back on the number she had used but D took the call and told them that his grandchildren must have been fooling around with the phone. The police remained suspicious so attended the scene and found D's wife, whose injuries were not fatal. D was charged with voluntarily causing hurt by dangerous weapons or means under sections 324 IPC and with attempt to murder under section 307 IPC. He pleaded guilty to the voluntarily causing hurt.

Answer the following:

- (a) Whether an attempt to withhold emergency services constitutes attempted murder, knowing he has pleaded guilty to voluntary causing hurt? Whether the withholding of the emergency services helps you to see as to what his intention was? Or by seeing what he did after the event do you get an insight as to what his intention was?
- (b) Whether attempting to divert the emergency services would in itself constitute attempt to murder? Was not D's conduct in taking the return call and lying a

- (b) Whether attempting to divert the emergency services would in itself constitute attempt to murder? Was not D's conduct in taking the return call and lying a sufficient act? Why should D not be guilty of attempted murder?

Q.2 Intending accessories may be parties to a conspiracy, if they have a mutual intent that

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the object of the conspiracy be carried out. If D1, D2 and D3 conspire that D2 and D3 are to place a ladder against a building, so that D1 shall subsequently use the ladder to enter the building and steal, all three are guilty conspiring to burgle (*i.e.* conspiring that a burglary shall be perpetrated by D1). The position is different if they merely conspire to be accessories. In one such an instance:

Suppose D1 and D2 are in the pub when they overhear D3 saying that he is going to burgle house X. Let us assume house X belongs to D1's and D2's arch rival, Y. Even they do not know D3 and do not communicate with him, they decide that it would be a good idea to make it easy for D3 to burgle Y's house, so they leave a ladder by the front of house X. When D3 gets to the house he loses confidence and decides not to do the burglary.

Answer the following:

- (a) Whether D1 and D2 were conspiring with D3 to commit burglary? Whether it can be said at most they were conspiring to assist D3's crime?
- (b) Whether encouragement and assistance given by D1 and D2 conspire to commit a crime and do commit a statutory conspiracy? Whether criminal liability only derives when the substantive offence is attempted or consummated?

Q.3 Section 100 declares that the right of private defence of body extends to causing death of the assailant, if the offence which occasions the exercise of the right is an assault of any one of the descriptions enumerated in that section. That may reasonably cause grievous hurt or will otherwise be the consequence of such act. In one of such circumstances:

The appellant along with other co-accused went to the house of the deceased with the intention of causing physical harm to him. They pulled the deceased out of his house and subjected him to punching and kicking. The deceased managed to escape from their grip, and caught hold of a *khutai* and struck three blows on the head of the accused. The appellant snatched the *khutai* from the hands of the deceased and gave two or three blows on his head causing profuse bleeding inside his brain, which proved fatal and the man died.

Answer the following:

- (a) Whether the accused could claim the right of private defence? Whether the deceased was acting in the exercise of right of private defence of body.
- (b) Whether the accused could be held liable for murder? Whether appeal would be allowed?

PART-B

Answer any two questions

(2x4.5
=09)

allowed?

PART-B

(2x4.5
=09)

Answer any two questions

- Q.4 What is the difference in the use of phrase '*every person*' in Section 2 and '*any person*' in Sections 3 and 4 of the IPC? How does Sections 3 and 4 extend extra-territorial operation to the IPC?
- Q.5 Discuss whether a sentence for life imprisonment, without any formal remission by the appropriate government, can automatically be treated as one for a definite period of 20 years?
- Q.6 What are the essential conditions that must be present in order to make consent valid in law? Examine the impact of the decision in a case where parents refuse to allow their child to be operated?

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