

Law**Stories**

Interpretation of Statutes

Q&A Exam Guide

◦ Osmania University ◦ Year 2 · IV Semester ◦ Part C

Literal Rule

Golden Rule

Mischief Rule

General Clauses Act

Penal Statutes

Taxing Statutes

Harmonious Construction

Internal & External Aids

Presumptions

Repeal & Amendment

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Interpretation of Statutes | Part C

All Units: Problem Bank

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7 recycled problem scenarios that appear in every paper.
Prepare all 7. At least 3 will appear in your exam.

IoS | Part C | Problem Scenarios

The 7 Recycled Problems | IREAC Format

Exam Pattern

Part C has 4 problems. At least 3 come from this pool of 7.
The commodity/statute name changes; the legal principle never does.

Q1. Penal Statute — Two Interpretations (Narrow vs Wide)

PRIORITY: ★★★ | PART: C | FREQ: 7

Issue

Whether, when an expression in a penal statute is capable of two interpretations, one narrow leading to acquittal and the other wider leading to conviction, the court should adopt the narrow or the wider interpretation. The question engages the fundamental rule of strict construction of penal statutes and the constitutional protection of personal liberty under Article 20 of the Constitution of India.

Rule

Penal statutes are interpreted strictly in favour of the accused. Where a penal provision is ambiguous and capable of two reasonable meanings, the interpretation more favourable to the accused is adopted. This rule is grounded in three principles: first, the liberty of the subject cannot be curtailed except by clear and express legislative language; second, the principle of legality (*nullum crimen sine lege*) requires that citizens know in advance what conduct is criminal; third, Article 20(1) of the Constitution of India protects against retrospective criminalisation. The Supreme Court of India (SCI) confirmed this principle in *Tolaram Relumal v State of Bombay (1954)*, holding that where a penal provision is reasonably capable of two constructions, the one less harsh to the accused must be preferred.

Application

The expression in question admits two linguistically available meanings. On the narrow construction, the accused's conduct falls outside the prohibition and acquittal follows. On the wider construction, the conduct falls within the prohibition and conviction follows. The narrow construction does not render the provision meaningless or absurd; it merely restricts its reach to a smaller class of conduct. Since both interpretations are reasonably available and no absurdity results from the narrow reading, the court must prefer the interpretation that preserves the liberty of the subject. The prosecution bears the consequence of legislative ambiguity: where Parliament did not speak with sufficient clarity to cover the accused's conduct beyond reasonable doubt, the accused goes free.

Exception

The strict construction rule does not apply where the narrow interpretation would defeat the manifest object and purpose of the statute or would lead to absurdity. The Supreme Court in *State of Maharashtra v Tapas D. Neogy* (1999) held that strict construction does not mean that the provision should be interpreted so narrowly as to defeat the obvious legislative intent. Where the wider interpretation is the only one consistent with the legislative purpose and the narrow reading produces an absurd or manifestly unreasonable result, the wider interpretation prevails even in a penal statute. Additionally, where the statute contains a definition clause that explicitly defines the term in a wider sense, the definition prevails over ordinary meaning.

Conclusion

The narrow interpretation leading to acquittal is preferable. Penal statutes are strictly construed in favour of the accused. Where the legislature intended the wider meaning, it should have used clearer language. The benefit of legislative ambiguity falls on the citizen, not on the state. The accused is entitled to acquittal.

[!example]- Case Laws

Tolaram Relumal v State of Bombay (Supreme Court of India (SCI), 1954)

Facts

The accused was charged under a provision of the Forward Contracts (Regulation) Act. The expression defining the offence was capable of two interpretations: one covering the accused's conduct, the other not.

Held

The SCI held that where a penal provision is reasonably capable of two constructions, the one less harsh to the accused must be adopted.

Principle

The benefit of ambiguity in a penal statute falls on the accused; conviction requires clear and unambiguous legislative language.

State of Maharashtra v Tapas D. Neogy (SCI, 1999)

Facts

The accused was charged under a penal provision of a regulatory statute. He argued the provision should be strictly construed to exclude his conduct.

Held

The SCI held that strict construction does not mean the provision should be so narrowly read as to defeat the manifest legislative purpose; where only the wider interpretation achieves the object without absurdity, it may be preferred.

💡 Principle

Strict construction has limits: it cannot defeat the obvious purpose of the statute or produce absurd results.

Strict Construction as the Shield of Liberty in Penal Law

Ambiguity in a penal statute is resolved in favour of the accused; the narrow interpretation prevails unless it defeats the manifest object of the statute or produces an absurd result.

Q2. Vegetable / Sales Tax Exemption (Betel Leaves / Ginger / Sugarcane)

PRIORITY: ★★★ | PART: C | FREQ: 7

Issue

Whether betel leaves (or green ginger, or sugarcane, depending on the variant) fall within the meaning of "vegetables" exempt from sales tax under the relevant Sales Tax Act, and whether the court should apply the popular meaning or the dictionary/botanical meaning of the term "vegetables." The question tests the application of the Literal Rule and the popular meaning doctrine in interpretation of exemption provisions.

Rule

Where a word is used in a statute but not defined therein, the court applies the popular meaning — the meaning in which the word is understood in common parlance by ordinary people, not the technical, botanical, or dictionary meaning. This is the popular meaning doctrine, an application of the Literal Rule. The Supreme Court of India (SCI) established this principle in *Ramavatar Budhaiprasad v Assistant Sales Tax Officer* (1961), holding that "vegetables" in a Sales Tax Act means vegetables as understood in common parlance and trade usage, not vegetables in the botanical sense. In common parlance, "betel leaves" are not vegetables — they are a distinct commodity consumed for chewing, not eaten as food in the manner of vegetables. Similarly, "sugarcane" is not commonly understood as a vegetable.

Application

The Sales Tax Act exempts "vegetables" from assessment to sales tax. The commodity in question (betel leaves / ginger / sugarcane) is sought to be brought within the exemption by the dealer, who argues that botanically or in dictionary definitions the commodity qualifies as a vegetable. However, the court does not apply the botanical or dictionary meaning. It applies the popular meaning — how ordinary people in the marketplace understand the word. In common parlance, no reasonable person buying betel leaves at a shop would describe the purchase as "buying vegetables." The commodity is a distinct article of trade with its own identity separate from vegetables. Therefore, it does not fall within the exemption and is subject to sales tax.

The exception is green ginger: in *State of West Bengal v Washi Ahmed* (1977), the SCI held that green ginger IS commonly understood as a vegetable (sabji/tarkari) in common parlance, and therefore falls within the exemption. The outcome depends on how the specific commodity is understood in ordinary commercial and household usage.

Exception

Where the statute itself provides a definition clause defining "vegetables" to include or exclude specific items, the statutory definition prevails over the popular meaning. Additionally, if the legislature subsequently amends the exemption list to explicitly include or exclude the commodity, the amendment governs. The popular meaning doctrine yields to express legislative definition. Furthermore, where the term is used in a scientific or technical statute clearly intended to bear a technical meaning, the technical meaning may apply rather than the popular meaning.

Conclusion

Betel leaves are not "vegetables" in common parlance and are therefore not exempt from sales tax. The popular meaning prevails over the botanical meaning. The dealer's contention fails. However, if the commodity in question is green ginger or a similar item commonly understood as a vegetable in household usage, the exemption applies. The answer turns on how the specific commodity is understood by ordinary people in the marketplace.

[!example]- Case Laws

Ramavatar Budhaiprasad v Assistant Sales Tax Officer (SCI, 1961)

Facts

A dealer in betel leaves was assessed to sales tax. He claimed exemption on the ground that betel leaves are "vegetables" within the meaning of the Sales Tax Act's exemption clause. He relied on the botanical definition under which betel leaves are part of a plant and therefore a vegetable.

Held

The SCI rejected the contention and held that "vegetables" in the Sales Tax Act means vegetables as understood in common parlance — items commonly eaten as food (sabji). Betel leaves are not vegetables in popular understanding; they are a distinct commodity consumed for chewing.

Principle

Where a word is not defined in a statute, the popular meaning (common parlance) prevails over the technical, botanical, or dictionary meaning. Betel leaves are not vegetables.

State of West Bengal v Washi Ahmed (SCI, 1977)

Facts

Green ginger was subjected to sales tax. The dealer claimed exemption on the ground that green ginger is a "vegetable" within the exemption clause. The tax authorities argued ginger is a spice, not a vegetable.

Held

The SCI held that green ginger IS commonly understood as a vegetable (sabji/tarkari) in common parlance in India and falls within the exemption.

Principle

The popular meaning test produces different results for different commodities: ginger is a vegetable in common parlance (exempt); betel leaves are not (taxable). The test is applied commodity-by-commodity.

Popular Meaning as the Governing Test for Undefined Statutory Terms

Where a term is not defined in a statute, the popular meaning — how ordinary people understand the word in common parlance and trade — prevails over botanical, dictionary, or technical meanings. The answer varies by commodity.

Q3. Prostitute Soliciting from Balcony — "In a Street"

Issue

Whether a prostitute who attracts the attention of men passing in the street by soliciting from a balcony or window of a private house commits the offence of soliciting "in a street" under the Street Offences Act 1959, or whether the offence requires the person to be physically present in the street. The question tests the distinction between the Literal Rule and the Mischief Rule of interpretation.

Rule

Under the Literal Rule, the words "soliciting in a street" would require the person to be physically present in the street. Under the Mischief Rule (Heydon's Case, 1584), the court looks at the mischief the statute was enacted to suppress and adopts the interpretation that suppresses the mischief and advances the remedy. The Street Offences Act 1959 was enacted to suppress the mischief of prostitutes soliciting members of the public in streets and public places. The Queen's Bench Division in *Smith v Hughes* (1960) applied the Mischief Rule and held that "soliciting in a street" includes soliciting from a balcony or window directed at persons in the street, because the mischief targeted was the effect on persons in the street, not the physical location of the solicitor.

Application

The prostitute is not physically in the street — she is on a private balcony or behind a window of her house. Under a strict literal interpretation, she is not "in a street" and does not commit the offence. However, applying the Mischief Rule, the court asks: what was the mischief Parliament sought to remedy? The mischief was the nuisance and harassment caused to persons using the streets by prostitutes soliciting them. That mischief is equally caused whether the prostitute is physically in the street or solicits from an adjoining private premises with the solicitation directed at persons in the street. The Act targets the activity of soliciting as it affects the street, not the physical location from which it originates. The Mischief Rule produces the interpretation that suppresses the mischief: the offence is committed.

Exception

The Mischief Rule is subordinate to the Literal Rule where the words are clear and unambiguous. If the statute had said "physically present in a street while soliciting," the Mischief Rule could not override the express language. The Mischief Rule operates only where the literal meaning is ambiguous or produces a result that defeats the obvious legislative purpose. Additionally, if the prostitute was not directing her solicitation at persons in the street (for example, soliciting by telephone to persons not in the street), the mischief targeted by the Act is not engaged and the offence would not be committed regardless of interpretation.

Conclusion

The prostitute is guilty of the offence. The Mischief Rule prevails over the Literal Rule where the literal interpretation would defeat the obvious legislative purpose. The mischief targeted was solicitation affecting persons in the street; the physical location of the solicitor is irrelevant. *Smith v Hughes* (1960) is directly on point and resolves the question.

[!example]- Case Laws

Smith v Hughes (Queen's Bench Division (QBD), 1960)

Facts

Six prostitutes were charged under the Street Offences Act 1959 with soliciting "in a street" for the purpose of prostitution. They had solicited men from balconies and windows of houses adjoining the street, attracting attention by tapping on windows, making signs, and calling out to passers-by.

Held

Lord Parker CJ held that the women were guilty: "in a street" includes soliciting from adjoining premises directed at persons in the street. The mischief the Act sought to suppress was the nuisance to persons using the street, not merely the physical presence of the solicitor in the street.

Principle

The Mischief Rule prevails where the literal interpretation would defeat the statutory purpose; "soliciting in a street" means soliciting that has its effect in the street, regardless of where the solicitor is physically located.

Heydon's Case (Court of Exchequer, 1584)

Facts

The case concerned the interpretation of a statute relating to land conveyances. The Court of Exchequer formulated four matters to be considered in interpretation of statutes.

Held

The court held that four things are to be discerned: (1) what was the common law before the Act; (2) what was the mischief and defect for which the common law did not provide; (3) what remedy Parliament appointed to cure the mischief; (4) the true reason of the remedy. The court must adopt the construction that suppresses the mischief and advances the remedy.

Principle

The Mischief Rule requires the court to identify the defect in the prior law, the remedy Parliament intended, and to adopt the construction that best suppresses the mischief and advances the remedy.

Mischief Rule as the Corrective to Literal Absurdity

Where the Literal Rule produces a result that defeats the obvious legislative purpose, the Mischief Rule supplies the interpretation that suppresses the targeted mischief. *Smith v Hughes* is the stock example: the mischief was nuisance to the street, not the location of the solicitor.

Q4. Factory — Salt Manufacturing in Open Lands (Beneficial Construction)

PRIORITY: ★★★ | PART: C | FREQ: 4

Issue

Whether salt manufacturing units located in open lands, rather than enclosed premises, fall within the definition of "factory" under the Factories Act 1948 for the purpose of extending statutory benefits to the workmen employed therein. The question tests the application of Beneficial Construction to a welfare/protective statute.

Rule

The Factories Act 1948 is a beneficial statute enacted to protect the health, safety, and welfare of workers. Beneficial statutes are interpreted liberally to advance the protective purpose for which they were enacted. Where the words of a beneficial statute are capable of two interpretations, one that advances the statutory purpose and extends protection to the intended beneficiaries, and the other that restricts it, the liberal interpretation is preferred. Section 2(m) of the Factories Act defines "factory" as premises including the precincts thereof where manufacturing process is carried on. The Supreme Court in *ArdesHIR H. Bhiwandiwala v State of Bombay (1962)* held that "premises" in the Factories Act should be construed broadly to include open spaces where manufacturing is carried on, because a restrictive interpretation would defeat the protective purpose.

Application

The salt manufacturing units are located in open lands — not enclosed buildings. Under a strict literal interpretation of "premises," an argument could be made that open land is not "premises" in the ordinary sense (which might suggest an enclosed structure). However, the Factories Act is a beneficial statute designed to protect workers. The workers in salt manufacturing units face the same risks (heat exposure, physical labour, lack of facilities) as workers in enclosed factories. Denying them the protection of the Factories Act merely because their workplace is open-air rather than enclosed would defeat the protective purpose of the legislation. Beneficial Construction requires the liberal interpretation: "premises" includes the open land where the manufacturing process is carried on, and the units qualify as "factories" under Section 2(m).

Exception

Beneficial Construction does not permit the court to go beyond the words of the statute entirely. If the definition clause expressly limits "factory" to enclosed structures or premises with walls and roofing, the court cannot override that express limitation through Beneficial Construction. The liberal interpretation must be linguistically available from the words used; it cannot add words the legislature did not use. Additionally, if the unit has fewer than the minimum number of workers specified in Section 2(m) (10 workers with power, or 20 without), it does not qualify as a factory regardless of interpretation. The statutory threshold is a condition precedent that Beneficial Construction cannot waive.

Conclusion

The salt manufacturing units qualify as "factories" under the Factories Act 1948. Beneficial Construction requires the liberal interpretation that advances the protective purpose. "Premises" includes open lands where the manufacturing process is carried on. The workmen are entitled to the benefits of the Act. The employer's contention that open lands are not "premises" fails because it defeats the manifest legislative purpose of protecting workers.

[!example]- Case Laws

Ardeshir H. Bhiwandiwalla v State of Bombay (SCI, 1962)

Facts

The question arose whether salt pans located in open lands fell within the definition of "factory" under the Factories Act 1948. The employer argued that open salt pans without enclosed structures were not "premises."

Held

The SCI held that the Factories Act is a beneficial legislation and its provisions must be liberally construed to achieve the protective purpose. "Premises" includes open areas where manufacturing is carried on.

Principle

Beneficial statutes are liberally construed; "premises" in a protective labour statute includes open lands where the manufacturing process is conducted.

Bengal Immunity Co v State of Bihar (SCI, 1955)

Facts

The question was whether an exemption from sales tax should be interpreted narrowly (favouring the state) or broadly (favouring the taxpayer).

Held

The SCI held that exemption clauses in a taxing statute are to be construed strictly (in favour of the revenue), but beneficial welfare statutes are construed liberally in favour of the intended beneficiaries.

💡 Principle

The interpretive approach depends on the nature of the statute: taxing statutes are strict against the revenue on the charging side but strict for the revenue on exemptions; beneficial statutes are liberal in favour of the persons the statute protects.

Beneficial Construction as the Preferred Approach for Protective Legislation

The Factories Act is a protective welfare statute. Beneficial Construction requires that its provisions be interpreted to advance, not defeat, the protection of workers. Open-land manufacturing units qualify as "factories" where the manufacturing process and workers are present.

Q5. Repeal During Pending Trial — Effect on Prosecution

PRIORITY: ★★★ | PART: C | FREQ: 4

Issue

Whether the repeal of a penal statute during the pendency of a criminal trial for an offence committed while the statute was in force extinguishes the prosecution, or whether the trial may continue and result in conviction despite the repeal. The question tests the effect of repeal under Section 6 of the General Clauses Act 1897 and the savings clause principle.

Rule

Section 6 of the General Clauses Act 1897 provides that unless a different intention appears, the repeal of an enactment does not affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against the repealed enactment, nor does it affect any investigation, legal proceeding, or remedy commenced or pending under the repealed enactment. The effect is that pending proceedings survive repeal: a prosecution commenced before repeal continues after repeal as if the statute had not been repealed. The savings clause preserves the legal consequences of acts done under the repealed statute. The Supreme Court confirmed this in *Kolhapur Canesugar Works Ltd v Union of India* (2000), holding that Section 6 preserves rights, liabilities, and proceedings unless the repealing Act expressly provides otherwise.

Application

Mr. X committed the offence while the Act was in force. The prosecution was commenced while the Act was in force. The trial is pending when the Act is repealed. Under Section 6 of the General Clauses Act, the repeal does not affect the pending trial. The prosecution continues as if the Act had not been repealed. Mr. X can be convicted and sentenced under the repealed provision because the offence was committed and the proceedings were commenced while the statute was operative. The repeal does not retrospectively decriminalise conduct that was criminal when committed and for which proceedings were already initiated.

Exception

Section 6 applies "unless a different intention appears." If the repealing Act expressly provides that pending proceedings shall abate, or that no conviction shall follow after the date of repeal, the express contrary intention overrides Section 6. Additionally, where the repealed Act is simultaneously replaced by a new Act (repeal and re-enactment), Section 6 is displaced by Section 6A of the General Clauses Act if the new Act contains a corresponding provision under which the offence would still be punishable. In such cases, proceedings continue under the new Act rather than the old. If the new Act does not contain a corresponding offence, the prosecution under the old Act survives only if Section 6 savings are not expressly excluded.

Conclusion

The pending trial is not affected by the repeal. Mr. X can be convicted under the repealed statute. Section 6 of the General Clauses Act 1897 preserves pending proceedings unless the repealing Act expressly provides otherwise. The repeal does not benefit an accused whose trial has already commenced.

[!example]- Case Laws

Kolhapur Canesugar Works Ltd v Union of India (SCI, 2000)

Facts

A statute under which proceedings were initiated was repealed. The question arose whether the pending proceedings survived the repeal or were extinguished.

Held

The SCI held that Section 6 of the General Clauses Act preserves pending proceedings, rights accrued, and liabilities incurred unless the repealing Act manifests a different intention.

Principle

Repeal does not affect pending proceedings: Section 6 General Clauses Act saves them automatically unless expressly overridden by the repealing enactment.

T. Barai v Henry Ah Hoe (SCI, 1983)

Facts

A penal provision was amended to reduce the maximum sentence after the offence was committed but before conviction. The question was whether the accused should benefit from the reduced sentence.

Held

The SCI held that where a penal provision is amended to reduce punishment, the accused is entitled to the benefit of the lesser punishment even though the offence was committed under the earlier harsher provision. This reflects the principle that a humanitarian provision benefits the accused.

Principle

Where repeal or amendment reduces the penalty, the accused benefits from the lighter sentence; this is a humanitarian exception to the strict savings clause approach of Section 6.

Section 6 General Clauses Act as the Preservation of Pending Proceedings

Repeal of a statute does not extinguish pending proceedings: Section 6 saves them. The accused can be convicted under a repealed law if the offence was committed and prosecution commenced while the law was in force, unless the repealing Act expressly provides otherwise.

Q6. Substantive vs Procedural Law Conflict

PRIORITY: ★★★ | PART: C | FREQ: 5

Issue

Whether, when a provision of substantive law conflicts with a provision of procedural law, the substantive law prevails or the procedural law prevails, and what principles govern the resolution of such conflict. The question tests the distinction between substantive and procedural law and the rules governing their retrospective operation.

Rule

Substantive law creates, defines, and regulates rights and obligations. Procedural law prescribes the method and machinery for enforcing those rights. The fundamental rule is: substantive law governs rights; procedural law governs remedies. When the two conflict, the following principles apply. First, substantive law is presumed to operate prospectively: it does not take away vested rights retrospectively unless express language or necessary implication so provides. Second, procedural law is presumed to operate retrospectively: changes to procedure apply to all pending and future proceedings regardless of when the cause of action arose, because no vested right exists in any particular form of procedure. Third, where a provision appears procedural but in substance affects rights (such as limitation periods or burden of proof), it is treated as substantive and interpreted prospectively. The Supreme Court in *Hitendra Vishnu Thakur v State of Maharashtra* (1994) laid down the test: if a new law affects substantive rights, it is prospective only; if it merely alters procedure, it is retrospective.

Application

In the given conflict, the court must first classify each provision: is it substantive (creating/defining rights) or procedural (prescribing enforcement machinery)? If the substantive provision creates a right and the procedural provision purports to take it away or restrict its enforcement, the substantive right prevails because no vested substantive right can be destroyed by a mere procedural change. If the procedural provision merely changes the method of enforcement without affecting the underlying right, the procedural law applies retrospectively to all proceedings including pending ones. The test is substance over form: a provision labeled "procedural" that in reality affects vested rights is treated as substantive.

Exception

Four qualifications apply. First, where the legislature expressly provides that the procedural change shall not affect pending proceedings, the express provision governs. Second, where a statute contains a non obstante clause giving one provision overriding effect over another, that clause determines precedence regardless of substantive/procedural classification. Third, limitation provisions, though procedural in form, are treated as substantive because they affect the right to sue: a shortened limitation period does not apply retrospectively to causes of action already accrued. Fourth, where the special statute overrides the general statute under the maxim *generalia specialibus non derogant*, the special statute prevails regardless of whether the conflicting provision is substantive or procedural.

Conclusion

Substantive law prevails over procedural law when they conflict, because vested substantive rights cannot be taken away by procedural changes. Procedural law operates retrospectively (applying to pending proceedings) but only insofar as it does not affect substantive rights. The *Hitendra Vishnu Thakur* test governs: classify the provision by its substance, not its label.

[!example]- Case Laws

Hitendra Vishnu Thakur v State of Maharashtra (SCI, 1994)

Facts

A new statutory provision was enacted after the commission of an offence but before the trial concluded. The question was whether it applied retrospectively to the pending case.

Held

The SCI laid down the test: if a new provision takes away or impairs a vested right acquired under existing law, it is substantive and prospective only. If it merely alters the mode of procedure for enforcing the right, it is procedural and retrospective.

💡 Principle

Classification as substantive or procedural determines retrospectivity; the test is the effect on vested rights, not the label given by the legislature.

Garikapati Veeraya v N. Subbiah Choudhry (SCI, 1957)

📄 Facts

A suit was pending when a new statute amended the right of appeal. The question was whether the amended provision applied retrospectively to the pending suit.

🔨 Held

The SCI held that the right of appeal is a vested substantive right, not merely a procedural right. A change in the law that takes away or impairs a vested right of appeal does not apply retrospectively to pending proceedings unless the new statute expressly so provides.

💡 Principle

Vested substantive rights (including the right of appeal) survive procedural changes unless expressly taken away; pending proceedings are governed by the substantive law in force when the right accrued.

Substantive Rights Prevail Over Procedural Machinery

Substantive law creates rights; procedural law prescribes the method of enforcement. When they conflict, substantive rights prevail because they represent vested entitlements that cannot be destroyed by procedural changes operating retrospectively.

Q7. Retrospective Operation — Prosecution for Act Before Commencement

PRIORITY: ★★★ | PART: C | FREQ: 3

Issue

Whether a person can be prosecuted for an act committed before the commencement of the statute that criminalises that act, and whether a penal statute can be given retrospective operation. The question tests Article 20(1) of the Constitution of India and the presumption against retrospective operation of penal statutes.

Rule

Article 20(1) of the Constitution of India provides an absolute constitutional protection: "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." This is the constitutional embodiment of the principle of non-retroactivity in criminal law (*nullum crimen sine lege, nulla poena sine lege*). Additionally, Section 3(1) of the General Clauses Act 1897 provides that unless the contrary is expressed, a Central Act or Regulation shall be construed as coming into operation on the date of its commencement and not before. The presumption against retrospective operation is strongest for penal statutes: no penal statute is given retrospective operation unless the legislature expressly so provides in clear and unambiguous terms, and even such express retrospectivity would be void if it violates Article 20(1).

Application

The act of public smoking was committed on 31-3-2020 at 11 pm. The law criminalising public smoking came into force on 1-4-2020. The act preceded the commencement of the statute by one hour. At the time the accused smoked in public, no law in force made that conduct criminal. Article 20(1) absolutely prohibits conviction for an act that was not an offence under any law in force at the time of its commission. The prosecution is constitutionally invalid: the accused cannot be convicted because no offence existed at the time of the conduct. The validity of the prosecution must be struck down as violative of Article 20(1).

Exception

Article 20(1) does not protect against retrospective application of procedural changes or changes that benefit the accused. If a new law reduces the penalty for an offence already committed, the accused may benefit from the lighter sentence (beneficial retrospectivity). However, no exception exists that would permit retrospective criminalisation: Article 20(1) is an absolute prohibition against ex post facto criminalisation. Even Parliament cannot, by express words, retrospectively criminalise conduct that was lawful when done, because Article 20(1) is a fundamental right that cannot be abrogated. Additionally, the prohibition applies to substantive criminal law only, not to procedural changes in the mode of trial.

Conclusion

The prosecution is invalid and must be quashed. The act was committed before the law came into force. Article 20(1) of the Constitution absolutely prohibits conviction for an act that was not an offence under any law at the time of its commission. No penal statute can operate retrospectively to criminalise conduct that was lawful when done. X is entitled to acquittal.

[!example]- Case Laws

Rao Shiv Bahadur Singh v State of Vindhya Pradesh (SCI, 1953)

Facts

The accused was convicted under the Prevention of Corruption Act for offences committed before the Act came into force in the Vindhya Pradesh region. He challenged the conviction as violative of Article 20(1) of the Constitution.

Held

The SCI held that Article 20(1) prohibits conviction for an act that was not an offence at the time of its commission; the accused cannot be convicted under a law that was not in force when the act was done.

Principle

Article 20(1) is an absolute constitutional bar against ex post facto criminal legislation; no person can be convicted for an act that was lawful when done.

T. Barai v Henry Ah Hoe (SCI, 1983)

Facts

A penal provision was amended to reduce the maximum sentence after the offence was committed but before conviction. The question was whether the accused should benefit from the reduced sentence.

Held

The SCI held that where a penal provision is amended to reduce punishment, the accused is entitled to the benefit of the lesser punishment even though the offence was committed under the earlier harsher provision. Article 20(1) prohibits retrospective enhancement of penalty but does not prevent beneficial retrospective reduction.

💡 Principle

Article 20(1) protects against retrospective enhancement of punishment; conversely, where amendment reduces the penalty, the accused benefits from the lighter sentence as a humanitarian principle.

Article 20(1) as the Absolute Bar Against Retrospective Criminalisation

No penal statute operates retrospectively. Article 20(1) of the Constitution provides an absolute and unqualified protection: conviction requires a law in force at the time of the act. Prosecution for conduct preceding the statute's commencement is constitutionally void.

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