

CLAT 2019



Law of Crimes

Session 9 :

Force, Criminal Force & Assault with
Practice Questions

9.1 Criminal Force

- Every Individual has a right to live in the society without any UNREASONABLE interference by others.
- Sometimes people may interfere with the body of others by threat or force.
- Any such interference is considered as an offence.

9.1 Criminal Force

- Whoever intentionally uses force on any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person on whom the force is used, is said to have used criminal force on that other.

9.1 Criminal Force

- The term force means the exercise of one's energy upon another human being.
- It may be directly or indirectly.
- Force is applied against the human being.
- Force does not imply a causing or cessation of motion by personal contacts however the presence of parties are essential.

Illustrations:

- (a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.
- (b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here Z has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending, or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

Illustrations:

(c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence. A has used criminal force to Z.

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

Illustrations:

(e) A throws a stone, intending or knowing it to be likely that the stone will be thus be brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and throw up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produces the effect of causing any substance to come into contact with Z, or Z's clothes. A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.

Illustrations:

(g) Z is bathing. A pours into the bath water which he knows is boiling hot. Here A intentionally by his own bodily power causes such motion in the boiling water as to bring that water into contact with Z, or with that water so situated that such contact must affect Z's sense of feeling; A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force.

(h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z.

Ex-1

Principle : A person, intentionally causing harm to others, is liable for criminal force. A person is said to have intended the harm, in so far as he brings about the harm purposefully or knowingly.

Facts: : A teacher suffering from arthritis was moving around the classroom in the course of teaching. As she was moving backwards to reach her chair, a student saw a scorpion moving underneath the chair and immediately rushed to attack the scorpion and in that process, moved the chair. Meanwhile, the teacher fell down in the process of taking her seat and broke her hip. A suit was filed against the student for battery.

- (a) The student is not liable, since he wanted to save the teacher and others from the scorpion.
- (b) The student is liable, since he knew that the teacher would be taking her seat.
- (c) The student should be held additionally liable for the lack of attention to the teaching.

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

The student is not liable. The key part is to answer one basic question: Did the student have the intention to cause harm to his teacher? It is stated that the student had rushed to attack the scorpion and in that process had moved the chair. Hence, the intention to harm the teacher, was surely missing.

9.2 Assault

- Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault. Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

9.2 Assault

- It means putting someone in fear of immediate unlawful personal violence
- It is an unlawful attempt to do bodily hurt to another coupled with the present ability and intention to do act.
- Ability of the person is an important factor
- Apprehension has to be immediate in nature

Illustrations:

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z, A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

Ex-3

Principle : A person is said to have committed assault when an apprehension is caused in the mind of a person that he is about to use physical force against his body.

Facts: 'A' abuses 'B' while he was sitting in a moving train, by aggressively shaking his fists when 'B' was standing on the railway platform at a distance.

- (a) 'A' has committed assault against 'B'.
- (b) A has not committed assault against 'B'.
- (c) 'A' has caused apprehension of assault in the mind of 'B'.
- (d) 'A' has caused fear of assault in the mind of 'B'.

Ex-3**Answer: (B)****➤ Explanation:**

The condition stipulated for assault is that there should be an apprehension caused in the mind of a person that the offender is about to use physical force against his body. As per the facts, 'A' abused 'B' by shaking his fist while he was sitting in a moving train and 'B' was standing on the railway platform at a distance. A would not have been likely to follow up on his threat at that very moment and hence, we can conclude that there is no apprehension in the mind of 'B' that 'A' is about to use force. Option (d) is not the correct answer as fear is not the same as apprehension. Apprehension is when the person is under a belief that he is going to be harmed. It is more than 'fear'. In the present case we can say that B feared that A wanted to cause damage to him but there was no apprehension.

9.3 Aggravated form of Assault

- **Detering public servant from discharging his duties**
 - Use of Criminal Force
 - Such Criminal Force must be on Public Servant while he was on his duty or deterring him discharging his duty
- **Outraging Modesty of Woman**
 - Assault must be on Woman
 - Outraging Modesty-a virtue of woman
- **To Disrobe a Woman**
 - Any man who assaults or use criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked

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