

THE INDIAN PENAL CODE

CHAPTER I INTRODUCTION

The [Indian Penal Code](#) was drafted by the First Indian Law Commission presided over by Lord Thomas Babington Macaulay. The draft underwent further revision at the hands of well-known jurists, like Sir Barnes Peacock, and was completed in 1850. The [Indian Penal Code](#) was passed by the then Legislature on 6 October 1860 and was enacted as Act No. XLV of 1860.

Preamble.

**WHEREAS it is expedient to provide a general
[Penal Code](#) for India; It is enacted as follows:—**

COMMENT.—The [Indian Penal Code, 1860 \(IPC, 1860\)](#) exhaustively codifies the law relating to offences with which it deals and the rules of the common law cannot be resorted to for inventing exemptions which are not expressly enacted.^{1.} It is not necessary and indeed not permissible to construe the [IPC, 1860](#) at the present day in accordance with the notions of criminal jurisdiction prevailing at the time when the Code was enacted. The notions relating to this matter have very considerably changed between then and now during nearly a century that has elapsed. It is legitimate to construe the Code with reference to the modern needs, wherever this is permissible, unless there is anything in the Code or in any particular section to indicate the contrary.^{2.}

[s 1] Title and extent of operation of the Code.

This Act shall be called the [Indian Penal Code](#), and shall ^{3.}[extend to the whole of India ^{4.}[except the State of Jammu and Kashmir].]

COMMENT—

Before 1860, the English criminal law, as modified by several Acts,^{5.} was administered in the Presidency towns of Bombay, Calcutta and Madras. But in the mofussil, the Courts were principally guided by the Mohammedan criminal law, the glaring defects of which were partly removed by Regulations of the local Governments. In 1827, the judicial system of Bombay was thoroughly revised and from that time the law which the criminal Courts administered was set forth in a Regulation^{6.} defining offences and specifying punishments. But in the Bengal and Madras Presidencies the Mohammedan criminal law was in force till the [Indian Penal Code](#) came into operation.

[s 1.1] Trial of offences under [IPC, 1860](#).—

All offences under [IPC, 1860](#) shall be investigated, inquired into, tried and otherwise dealt with according to the provisions of the [Code of Criminal Procedure, 1973 \(Cr PC, 1973\)](#).^{7.}

[s 1.2] Overlapping Offences.—

Where there is some overlapping between offences contained in [IPC, 1860](#) and other enactments, the Supreme Court has held that it would not mean that the offender could not be tried under [IPC, 1860](#). The Court concerned can pronounce on such issues on the basis of evidence produced before it. There may be some overlapping of facts in the cases under [section 420 IPC, 1860](#) and [section 138 of the Negotiable Instruments Act, 1881](#) but ingredients of offences are entirely different. Thus, the subsequent case is not barred.⁸ A "terrorist act" and an act of "waging war against the Government of India" may have some overlapping features, but a terrorist act may not always be an act of waging war against the Government of India, and *vice versa*. The provisions of Chapter IV of the [Unlawful Activities \(Prevention\) Act, 1967](#) and those of Chapter VI of the [IPC, 1860](#) including section 121, basically cover different areas.⁹ The mere fact that the offence in question was covered by the [Customs Act, 1962](#) did not mean that it could not be tried under [IPC, 1860](#) if it also falls under it.¹⁰

1. *MC Verghese v Ponnai*, [AIR 1970 SC 1876 \[LNIND 1968 SC 339\]](#) : (1969) 1 SCC 37 [[LNIND 1968 SC 339](#)] : 1970 Cr LJ 1651 .
2. *Mobarik Ali v State of Bombay*, [AIR 1957 SC 857 \[LNIND 1957 SC 81\]](#) : 1957 Cr LJ 1346 (SC).
3. The original words have successively been amended by Act 12 of 1891, section 2 and Sch I, the A.O. 1937, the A.O. 1948 and the A.O. 1950 to read as above.
4. Subs. by Act 3 of 1951, section 3 and Sch, for "except Part B States" (w.e.f. 1-4-1951).
5. 9 Geo. IV, section 74; Acts VII and XIX of 1837; Act XXXI of 1838; Acts XXII and XXXI of 1839; Acts VII and X of 1844; Act XVI of 1852. See Pramod Kumar, *Perspectives of the New Bill on Indian Penal Code and Reflections on the Joint Select Committee Report—Some Comments*, (1980) 22 JILI 307.
6. XIV of 1827.
7. [Section 4\(1\) Code of Criminal Procedure, 1973](#). Also see commentary under [section 3 of IPC](#) *infra*.
8. *Sangeetaben Mahendrabhai Patel v State of Gujarat*, [AIR 2012 SC 2844 \[LNIND 2012 SC 1473\]](#) : (2012) 7 SCC 621 [[LNIND 2012 SC 1473](#)] .
9. *Mohammed Ajmal Mohammad Amir Kasab v State of Maharashtra*, (2012) 9 SCC 1 [[LNIND 2012 SC 1215](#)] : [AIR 2012 \(SCW\) 4942](#) : [AIR 2012 SC 3565 \[LNIND 2012 SC 1215\]](#) : 2012 Cr LJ 4770 : JT 2012 (8) SC 4 [[LNIND 2012 SC 1215](#)] : 2012 (7) Scale 553 [[relied on State \(NCT of Delhi\) v Navjot Sandhu @ Afsan Guru, AIR 2005 SC 3820 \[LNIND 2005 SC 580\]](#) : (2005) 11 SCC 600 [[LNIND 2005 SC 580](#)] : (2005) 2 SCC (Cr) 1715]
10. *Natarajan v State*, (2008) 8 SCC 413 [[LNIND 2008 SC 1093](#)] : (2008) 3 SCC (Cr) 507.

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[s 2] Punishment of offences committed within India.

Every person ¹ shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within ¹¹.¹²[India] ¹².¹³].²

COMMENT—

This section deals with the intraterritorial operation of the Code. It makes the Code universal in its application to every person in any part of India for every act or omission contrary to the provisions of the Code.

[Section 2](#) read with [section 4](#) of the [IPC, 1860](#) makes the provisions of the Code applicable to the offences committed "in any place without and beyond" the territory of India; (1) by a citizen of India or (2) on any ship or aircraft registered in India, irrespective of its location, by any person not necessarily a citizen. Such a declaration was made as long back as in 1898. By an amendment in 2009 to the said section, the Code is extended to any person in any place "without and beyond the territory of India", committing an offence targeting a computer resource located in India.¹³

1. 'Every person'.—Every person is made liable to punishment, without distinction of nation, rank, caste or creed, provided the offence with which he is charged has been committed in some part of India. A foreigner who enters the Indian territories and thus, accepts the protection of Indian laws virtually gives an assurance of his fidelity and obedience to them and submits himself to their operation. It is no defence on behalf of a foreigner that he did not know he was doing wrong, the act not being an offence in his own country. A foreigner who commits an offence within India is guilty and can be

punished as such without any limitation as to his corporal presence in India at the time.¹⁴ Indian Courts have jurisdiction against foreigners residing in foreign countries but their acts connected with transaction or part of transaction arising in India.¹⁵

[s 2.1] Corporate Criminal Liability

A company is liable to be prosecuted and punished for criminal offences. Although there are earlier authorities to the fact that the corporation cannot commit a crime, the generally accepted modern rule is that a corporation may be subject to indictment and other criminal process although the [criminal act](#) may be committed through its agent. The majority in the [Constitution](#) bench held that there is no immunity to the companies from prosecution merely because the prosecution is in respect of offences for which the punishment is mandatory imprisonment and fine.¹⁶ When imprisonment and fine is prescribed as punishment the Court can impose the punishment of fine which could be enforced against the company.¹⁷

In *CBI v Blue Sky Tie-up Pvt Ltd*,¹⁸ the question again came up for consideration before the Supreme Court and it was held that since the majority of the [Constitution](#) Bench ruled in *Standard Chartered Bank v Directorate of Enforcement* [*supra*] that the company can be prosecuted even in a case where the Court can impose substantive sentence as also fine, and in such case only fine can be imposed on the corporate body, the contrary view taken by the learned single Judge cannot be approved.

[s 2.2] Vicarious Liability.—

[Indian Penal Code](#), save and except some matters does not contemplate any vicarious liability on the part of a person. Commission of an offence by raising a legal fiction or by creating a vicarious liability in terms of the provisions of a statute must be expressly stated. The Managing Director or the Directors of the Company, thus, cannot be said to have committed an offence only because they are holders of offices.¹⁹ Vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. Statutes indisputably must contain provision fixing such vicarious liabilities. Even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability.²⁰ The provisions of the [Essential Commodities Act, 1955](#), [Negotiable Instruments Act, 1881](#), Employees' Provident Fund (Miscellaneous Provision) Act, 1952, etc., have created such vicarious liability. It is interesting to note that section 14A of the 1952 Act specifically creates an offence of criminal breach of trust in respect of the amount deducted from the employees by the company. In terms of the explanations appended to [section 405 of the IPC, 1860](#) a legal fiction has been created to the effect that the employer shall be deemed to have committed an offence of criminal breach of trust. Whereas a person in charge of the affairs of the company and in control thereof has been made vicariously liable for the offence committed by the company along with the company but even in a case falling under [section 406 of the IPC, 1860](#) vicarious liability has been held to be not extendable to the Directors or officers of the company.²¹

There is no exception in favour of anyone in the [Penal Code](#), but the following persons are exempted from the jurisdiction of criminal Courts of every country:—

(a) Foreign Sovereigns.—The real principle on which the exemption, of every sovereign from the jurisdiction of every Court, has been deduced is that the exercise of such jurisdiction would be incompatible with his regal dignity—that is to say, with his absolute independence of every superior authority.²²

(b) Diplomats.—United Nations Privileges and Immunities Act, 1947, and the [Diplomatic Relations \(Vienna Convention\) Act, 1972](#), gave certain diplomats, missions and their member's diplomatic immunity even from criminal jurisdiction. The [Diplomatic Relations \(Vienna Convention\) Act](#) had been enacted to give effect to the Vienna Convention on Diplomatic Relations, 1961. The effect of section 2 of the Act is to give the force of law in India to certain provisions set out in the Schedule to the Act.

A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction except in the case of:

- (i) A real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (ii) An action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- (iii) An action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.²³ A diplomatic agent is not obliged to give evidence as a witness.²⁴ Privileges and immunities are conferred on United Nations and its Representatives as well as on other international organisations and their representatives by the United Nations (Privileges and Immunities) Act, 1947.²⁵

(c) Alien enemies.—In respect of acts of war alien enemies cannot be tried by criminal Courts. If an alien enemy commits a crime unconnected with war, e.g., theft, he would be triable by ordinary criminal Courts.

(d) Foreign army.—When armies of one State are by consent on the soil of a foreign State they are exempted from the jurisdiction of the State on whose soil they are.

(e) Warships.—Men-of-war of a State in foreign waters are exempt from the jurisdiction of the State within whose territorial jurisdiction they are. The domestic Courts, in accordance with principles of international law, will accord to the ship and its crew and its contents certain immunities. The immunities can, in any case, be waived by the nation to which the public ship belongs.²⁶

(f) President and Governors.—Under [Article 361](#) of the Indian [Constitution](#), the President and Governors are exempt from the jurisdiction of Courts.

2. 'Within India'.—If the offence is committed outside India it is not punishable under the [Penal Code](#), unless it has been made so by means of special provisions such as sections 3, 4, 108A, etc., of the Code. Under [section 179 of the Cr PC, 1973](#) even the place(s) wherein the consequence (of the [criminal act](#)) "ensues" would be relevant to determine the Court of competent jurisdiction. Therefore, even the Courts within whose local jurisdiction, the repercussion/effect of the [criminal act](#) occurs, would have jurisdiction in the matter. When the consequence of an act committed by a foreigner outside India if ensued in India, he can be tried in India.²⁷ Normally crime carries the person. The commission of a crime gives the Court of the place where it is committed jurisdiction over the person of the offender.²⁸

[s 2.3] Territorial jurisdiction.—

The territory of India is defined under [Article 1 of the Constitution of India](#). [Article 1 of the Constitution of India](#) deals only with the geographical territory while [Article 297](#) deals with 'maritime territory'.

[Article 297\(3\)](#) authorises the Parliament to specify from time to time the limits of various maritime zones such as, territorial waters, continental shelf, etc. Clauses (1) and (2) of the said Article make a declaration that all lands, minerals and other things of value and all other resources shall vest in the Union of India.²⁹ [Section 18 of the IPC, 1860](#) defines India as the territory of India excluding the state of Jammu and Kashmir. These territorial limits would include the territorial waters of India.³⁰ Under the [General Clauses Act, 1897](#), India is defined to mean all territories for the time being comprised in the territory of India as defined in the [Constitution of India](#). Under the provisions of [Article 297 of the Constitution of India](#), all lands, minerals and other things of value underlying the ocean within the territorial waters or the continental shelf or the exclusive economic zone of India vest in the Union. The [Constitution of India](#) does not itself define the terms territorial waters, continental shelf, and exclusive economic zone. Clause (3) of [Article 297](#) states that their limits shall be such as may be specified by Parliament. In 1976, Parliament implemented the amendments to the [Constitution of India](#) by passing the Maritime Zones Act, 1976.³¹ Insofar the Republic of India is concerned, the limit of the territorial waters was initially understood to be three nautical miles. It had been extended subsequently; up to six nautical miles by a Presidential proclamation dated 22 March 1952 and to 12 nautical miles by another proclamation dated 30 September 1967. By The Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 80 of 1976, it was statutorily fixed at 12 nautical miles. Section 3 of the Act stipulates that the sovereignty of India extends to the territorial waters, the limit of which is 12 nautical miles. Section 5 of the Territorial Waters Act, 1976 defines the contiguous zone of India as an area beyond and adjacent to territorial waters to a distance of 24 nautical miles from the nearest point of the baseline. Section 7 of the Act defines the Exclusive economic zone of India as an area beyond and adjacent to territorial waters up to a limit of 200 nautical miles.³²

[s 2.4] Jurisdiction beyond Territorial Waters

In the case of *British India Steam Navigation Co Ltd v Shanmughavilas Cashew Industries*,³³ the Supreme Court examined the effective operation of the statutes of a country in relation to foreigners and foreign ships.

In general, a statute extends territorially, unless the contrary is stated, throughout the country and will extend to the territorial waters, and such places as intention to that effect is shown. A statute extends to all persons within the country if that intention is shown. The Indian Parliament, therefore, has no authority to legislate for foreign vessels or foreigners in them on the high seas. Thus a foreign ship on the high seas, or her foreign owners or their agents in a foreign country, are not deprived of rights by our statutory enactment expressed in general terms unless it provides that a foreign ship entering an Indian port or territorial waters and thus coming within the territorial jurisdiction is to be covered. Without anything more Indian statutes are ineffective against foreign property and foreigners outside the jurisdiction.

It is this principle which is reflected in [section 2\(2\) of the Merchant Shipping Act, 1958](#).³⁴

Earlier in *Aban Loyd Chiles Offshore Ltd v UOI*,³⁵ it was held that India has been given only certain limited sovereign rights and such limited sovereign rights conferred on India in respect of continental shelf and exclusive economic zone cannot be equated to extending the sovereignty of India over the continental shelf and exclusive economic zone as in the case of territorial waters.

1. *MC Verghese v Ponnaiyan*, AIR 1970 SC 1876 [LNIND 1968 SC 339] : (1969) 1 SCC 37 [LNIND 1968 SC 339] : 1970 Cr LJ 1651 .
2. *Mobarik Ali v State of Bombay*, AIR 1957 SC 857 [LNIND 1957 SC 81] : 1957 Cr LJ 1346 (SC).
11. The original words "the said territories" have successively been amended by the A.O. 1937, the A.O. 1948, the A.O. 1950 and Act 3 of 1951, section 3 and Sch (w.e.f. 3-4-1951), to read as above.
12. The words and figures "on or after the said first day of May, 1861" rep. by Act 12 of 1891, section 2 and Sch I.
13. *Republic of Italy through Ambassador v UOI*, (2013) 4 SCC 721 : 2013 (1) Scale 462 [LNINDORD 2013 SC 9114] .
14. *Mobarik Ali v State of Bombay*, AIR 1957 SC 857 [LNIND 1957 SC 81] : 1957 Cr LJ 1346 (SC). See also *State of Maharashtra v Mayer Hans George*, 1965 (1) SCR 123 [LNIND 1964 SC 415] : AIR 1965 SC 722 [LNIND 1964 SC 208] : 1965 (1) Cr LJ 641 .
15. *Lee Kun Hee v State of UP*, (2012) 3 SCC 132 [LNIND 2012 SC 89] : AIR 2012 SC 1007 [LNINDORD 2012 SC 443] : 2012 Cr LJ 1551 .
16. *Standard Chartered Bank v Directorate of Enforcement*, (2005) 4 SCC 530 [LNIND 2005 SC 476] : AIR 2005 SC 2622 [LNIND 2005 SC 476] : 2005 SCC (Cr) 961; *Asstt Commr v Velliappa Textiles Ltd*, 2003 (11) SCC 405 [LNIND 2003 SC 794] : 2004 SCC (Cr) 1214 **Overruled**.
17. *Standard Chartered Bank v Directorate of Enforcement*, AIR 2006 SC 1301 [LNIND 2006 SC 145] : (2006) 4 SCC 278 [LNIND 2006 SC 145] : (2006) 2 SCC (Cr) 221. See also *CBI v Blue Sky Tie-up Pvt Ltd*, (2011) 6 Scale 436 : AIR 2012 (SCW) 1098 : 2012 Cr LJ 1216 . Also see *Aneeta Hada v Godfather Travels & Tours*, (2012) 5 SCC 66 : 2012 Cr LJ 2525 : AIR 2012 SC 2795 [LNIND 2012 SC 260] .
18. *CBI v Blue Sky Tie-up Pvt Ltd*, (2011) 6 Scale 436 : AIR 2012 (SCW) 1098 : 2012 Cr LJ 1216 . Also see *Aneeta Hada v Godfather Travels & Tours*, (2012) 5 SCC 66 : 2012 Cr LJ 2525 : AIR 2012 SC 2795 [LNIND 2012 SC 260] in which it is held that directors cannot be prosecuted without the Company being arraigned as an accused—138 NI Act.
19. *Keki Hormusji Gharda v Mehervan Rustom Irani*, (2009) 6 SCC 475 [LNIND 2009 SC 1276] : 2009 Cr LJ 3733 : AIR 2009 SC 2594 [LNIND 2009 SC 1276] .
20. *Maksud Saiyed v State of Gujarat*, (2008) 5 SCC 668 [LNIND 2007 SC 1090] : JT 2007 (11) SC 276 [LNIND 2007 SC 1090] : (2008) 2 SCC (Cr) 692.
21. *SK Alagh v State of UP*, AIR 2008 SC 1731 [LNIND 2008 SC 368] : (2008) 5 SCC 662 [LNIND 2008 SC 368] : 2008 Cr LJ 2256 : (2008) 2 SCC (Cr) 686.
22. *Per Brett, LJ in The Parlement Belge*, (1880) 5 PD 197 , 207.
23. Article 31 (1) of Diplomatic Relations (Vienna Convention) Act, 1972.
24. Article 31 (1) of Diplomatic Relations (Vienna Convention) Act, 1972.
25. United Nations (Privileges and Immunities) Act, Act No. XLV of 1947.
26. *Chung Chi Cheung*, (1939) AC 160 .
27. *Lee Kun Hee v State of UP*, (2012) 3 SCC 132 [LNIND 2012 SC 89] : AIR 2012 SC 1007 [LNINDORD 2012 SC 443] : 2012 Cr LJ 1551 ; *Mobarik Ali v State of Bombay*, AIR 1957 SC 857 [LNIND 1957 SC 81] : 1957 Cr LJ 1346 (SC) : 1958 SCR 328 [LNIND 1957 SC 81] .

28. *Kubic Dariusz v UOI*, AIR 1990 SC 605 [LNIND 1990 SC 25] : (1990) 1 SCC 568 [LNIND 1990 SC 25] : 1990 Cr LJ 796 .
29. *Republic of Italy through Ambassador v UOI*, (2013) 4 SCC 721 : 2013 (1) Scale 462 [LNINDORD 2013 SC 9114] .
30. *BK Wadeyar v Daulatram Rameshwarlal*, AIR 1961 SC 311 [LNIND 1960 SC 493] : 1961 (1) SCR 924 [LNIND 1960 SC 493] .
31. *Aban Loyd Chiles Offshore Ltd v UOI*, JT 2008 (5) SC 256 [LNIND 2008 SC 897] : 2008 (6) Scale 128 [LNIND 2008 SC 897] : (2008) 11 SCC 439 [LNIND 2008 SC 897] .
32. *UOI Republic of Italy through Ambassador v UOI*, (2013) 4 SCC 721 : 2013 (1) Scale 462 [LNINDORD 2013 SC 9114] .
33. *British India Steam Navigation Co Ltd v Shanmughavilas Cashew Industries*, 1990 (3) SCC 481 [LNIND 1990 SC 150] : JT 1990 (1) SC 528 [LNIND 1990 SC 150] : 1990 (1) SCR 884 .
34. *World Tanker Carrier Corp v SNP Shipping Services Pvt Ltd*, AIR 1998 SC 2330 [LNIND 1998 SC 461] : 1998 (5) SCC 310 [LNIND 1998 SC 461] .
35. *Aban Loyd Chiles Offshore Ltd v UOI*, (2008) 11 SCC 439 [LNIND 2008 SC 897] : JT 2008 (5) SC 256 [LNIND 2008 SC 897] : 2008 (6) Scale 128 [LNIND 2008 SC 897] .

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[s 3] Punishment of offences committed beyond, but which by law may be tried within India.

Any person liable, by any ^{36.}[Indian law], to be tried for an offence committed beyond ^{37.}[India] shall be dealt with according to the provisions of this Code for any act committed beyond India in the same manner as if such act had been committed within ^{38.}[India].

COMMENT—

This section and section 4 relate to the extraterritorial operation of the Code. The words of this section postulate the existence of a law that an act constituting an offence in India shall also be an offence when committed outside India. Thus, taking part in a marriage which is prohibited by the [Child Marriage Restraint Act, 1929](#) by a citizen of India beyond India is not an offence which can be punished in India.^{39.} This section only applies to the case of a person who at the time of committing the offence charged was amenable to an Indian Court.^{40.} Thus, an Indian citizen who committed an offence outside India which was not an offence according to the laws of that country would still be liable to be tried in India if it was an offence under the Indian law.^{41.} An Indian citizen was murdered by another Indian citizen in a foreign country and the police refused to register an FIR on the ground that the offence was committed outside India. The Court held that the refusal was illegal and directed the police to register the crime and proceed with investigation in accordance with the law. The Court observed that [section 3 of the IPC, 1860](#) helps the authorities in India to proceed by treating the offence as one committed within India. No doubt it is by a fiction that such an assumption is made. But such an assumption was necessary for practical purposes.^{42.}

In a series of cases⁴³, it was also held that an offence committed outside India by a citizen of India can be investigated by the local police even without prior sanction of the Central Government. Where both husband and wife are Indians residing at USA, a complaint against the husband alleging cruelty is maintainable.⁴⁴

The operation of the section is restricted to the cases specified in the [Extradition Act, 1962](#) and the [Cr PC, 1973, sections 188 and 189](#).

1. *MC Verghese v Ponnann*, [AIR 1970 SC 1876 \[LNIND 1968 SC 339\]](#) : (1969) 1 SCC 37 [LNIND 1968 SC 339] : [1970 Cr LJ 1651](#) .

2. *Mobarik Ali v State of Bombay*, [AIR 1957 SC 857 \[LNIND 1957 SC 81\]](#) : [1957 Cr LJ 1346](#) (SC).

36. Subs. by the A.O. 1937 for "law passed by the Governor General of India in Council".

37. The original words "the limits of the said territories" have successively been amended by the A.O. 1937, the A.O. 1948, the A.O. 1950 and Act 3 of 1951, section 3 and Sch (w.e.f. 3 April 1951), to read as above.

38. The original words "the said territories" have successively been amended by the A.O. 1937, the A.O. 1948, the A.O. 1950 and Act 3 of 1951, section 3 and Sch, (w.e.f. 3-4-1951) to read as above.

39. *Sheikh Haidar v Syed Issa*, (1939) Ngp 241.

40. *Pirtai*, (1873) 10 BHC (Cr C) 356.

41. *Pheroze v State of Maharashtra*, [1964 \(2\) Cr LJ 533](#) (Bom).

42. *Remia v Sub-Inspector of Police, Tanur*, [1993 Cr LJ 1098](#) (Ker). The court referred to *State of WB v Jugal Kishore*, [AIR 1969 SC 1171 \[LNIND 1969 SC 8\]](#) : [1969 Cr LJ 1559](#) .

43. *Souda Beevi v Sub Inspector of Police*, [2012 Cr LJ 58](#) (NOC) : [2011 \(4\) Ker LT 52](#) ; *Muhammad Rafi v State of Kerala*, [2010 Cr LJ 592](#) : [2009 \(1\) Ker LT 943](#) ; *Vijaya Saradhi Vajja v Devi Sriroopa Madapati*, [2007 Cr LJ 636](#) (AP); *Samarudeen v Asst. Director of Enforcement*, [\(1999 \(2\) Ker LT 794 \[FB\]\)](#); *S Clara v State of TN*, [2008 Cr LJ 2477](#) (Mad).

44. *Harihar Narasimha Iyer v State of TN*, [2013 Cr LJ 378](#) ; *Rajesh Gupta v State of AP*, [2011 Cr LJ 3506](#) : [2011 \(3\) Crimes 236](#) .