

Ipc mens rea essay sample

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Mens rea is a technical term, generally taken to mean some blameworthy mental condition, the absence of which on any particular occasion negatives the condition of crime. It is one of the essential ingredients of criminal liability.' A criminal offence is committed only when an act, which is forbidden by law, is done voluntarily. The term mens rea has been given to the volition, which is the motive force behind the criminal act. 2 An act becomes criminal only when it is done with guilty mind. Ordinarily, a crime is not committed, if, the mind of the person doing the act is innocent. There must be some blameworthy condition of mind (mens rea) before a person is made criminally liable. For instance, causing injury to an assailant in private defence is no crime but the moment injury is caused with intent to take revenge, the act becomes criminal.

However, the requisite guilty state of mind varies from crime to crime. What is an evil intent for one kind of offence may not be so for another kind. For instance, in the case of murder, it is the intent to cause death; in the case of theft, an intention to steal; in the case of rape, an intention to have forcible sexual connection with a woman without her consent; in the case of receiving stolen property, knowledge that the goods were stolen, and in the case of homicide by rash and negligent act, recklessness or negligence. The underlying principle of the doctrine of mens rea is expressed in the familiar Latin maxim *actus non facit reum nisi mens sit rea*—the act does not make one guilty unless the mind is also guilty. The mere commission of a criminal act (or bringing about the state of affairs that the law provides against) is not enough to constitute a crime, at any rate in the case of the more serious

crimes. These generally require, in addition, some element of wrongful intent or other fault. MENS REA

General Principles

PTA

The following illustration is given to enable better understanding of the scope of the principle of mens rea. If A is walking down a crowded street, and if B accidentally steps on his foot, after the momentary anger and irritation, A is likely to graciously accept the word of apology and carry on walking. Even if B were not to offer an apology; as is wont to happen these days, the worst A would do is to mutter under his breath, rub his injured foot if possible, and keep walking. But suppose C who was not exactly in the best of terms with A, or for that matter even if C were a stranger and he walked up to A and stamped his foot deliberately, A is more likely to turn around and abuse him or stamp his foot in return. Why is there this difference in A's reaction? After all, in both the instances, the nature of injury or hurt caused to A is the same— a person stamped his foot.

The difference is in the fact that in the first instance, A felt B stamped his foot by mistake without intending to hurt A and hence is innocent. But in the second instance, C deliberately stamped A's foot clearly, with the intention of hurting A. Hence, the difference in A's reaction and justifiably so. This is exactly the intention of law when it stipulates that mens rea or guilty intention is the sine qua non of a criminal act and is an essential element of a crime. Just as A's reaction was different to the person who stamped his foot by mistake and the person who stamped his foot deliberately, the law also

differentiates between persons who may have acted innocently or by mistake, and those who have acted consciously with intent to cause harm. If A had turned around and slapped or abused B, who stamped his foot by mistake, one can be sure that friends or the general onlookers would have felt that A's reaction and behavior was unjustified and that A lacked grace and decency. On the other hand, if A were to do that with C who walked reaction of slapping back or abuse would have been felt to be justified and A's reaction and retaliation may even be applauded.

Similarly, if law were to punish persons who acted innocently and who had no intention whatsoever to cause harm, then there would be no public acceptance of the same. The fact that mens rea has been made central to criminal liability, also includes that every person has the capacity to choose between right and wrong. Once a person makes a choice, he has to take the responsibility for the same. Every person is born free and has the freedom to live in a free manner. Every individual has the freedom to act freely. This freedom is not without its concomitant expectations and obligations.

Freedom to act freely also means that every person has the capacity and ability to choose between right and wrong, good and evil. From this, it follows that every person who has the capacity to discern and discriminate, has a moral duty to choose right over wrong and good over evil. Once a person exercises his free will to do or not to do an act, then he is also responsible and liable for the consequences. Its Objective

The object of the law is always to punish a person with a guilty mind. It does not want to put behind bars an innocent person who may have had the

misfortune of being involved in an incident and event, which he did not have the intention of participating in. That is why one would notice that many penal statutes, which define or describe what is an offence, very often bring in the mental element to the act by using the words, 'intentionally', 'voluntarily', 'willfully', 'knowingly', 'reason to believe' etc. These words have been used in the different definitions of crime to indicate the state of the mind of the person at the time of commission of the offence. The existence of the guilty mind or mens rea at the time of commission of the actus reus or the act alone will make the act an offence. For instance, the IPC is replete with words which indicate the mental state of the mind. Chapter XVI of the IPC defines offences affecting the human body.

Culpable homicide⁴ is defined as 'whoever, causes death by doing an act with the intention of causing death,...'. Culpable homicide becomes murder,⁵ 'if the act by which the death is caused is done with the intention of causing death'. The importance of mens rea or intention can be understood when we consider its application to factual situations. For instance, A slipped as he walked and fell. As he fell, he lost balance and pulled down B with him. B hit his head against the wall, sustained head injuries and died. Is A guilty of murder? A satisfies one portion of the definition of murder, which is doing an act which causes death. But still it does not constitute the offence of murder because another essential ingredient of the offence of murder, viz, the intention to cause death, is absent. Hence A is not guilty of murder.

Similarly, if a person intends to dishonestly take a movable property out of the possession of a person without his consent, it amounts to theft.⁶ But if a person takes a movable property from a person without his consent, but by

mistake, the act does not constitute the offence of theft. For instance, A puts on B's shoes by mistake, believing it to be his.

Is A guilty of committing theft? A has satisfied one ingredient of the offence viz, taking away the moveable property of B, which is the pair of shoes, without B's consent. However, there is another essential ingredient to constitute the offence of theft. The taking away of the moveable property must be accompanied by the mental element of dishonest intention. Only if dishonest intention is present, A will be guilty of committing theft.

Intentionally joining an unlawful assembly, 7 harbouring rioters knowing fully well that they are rioters, 8 fraudulently, dishonestly or with intent to injure, making a false claim in a court, 9 fraudulent use of weighing instrument knowing it to be false, 1° uttering words with deliberate intention to wound religious feelings, 1' are all offences under the IPC. It can be noticed that every overt or outward act or the actus reus has also to be accompanied by a guilty mind or mens rea, which is also an essential ingredient of a crime.

The element of mens rea as an essential ingredient of a crime is also approved by the growing modern philosophy of penology. Modern day criminal jurisprudence no longer accepts retribution as the main object of criminal law. Today's emphasis is on reforming the criminal and rehabilitating him. The object is that punishment should fit the offender and not merely the offence. Going back to the analogy of B who stamped A's foot by mistake and C who did it on purpose, it may be noticed that A's reaction was not based on the act or the actus reus, which is the injury to A's foot, but on the basis of the intention of the offender, ie, B or C as the case may

be. Such an approach to sentencing of offenders is possible only if, apart from the crime or the actus reus per se, the mental element, the intention or the mens rea of the offender is also taken into consideration. MENS REA IN THE INDIAN PENAL CODE 1860

The Indian Penal Code 1860 sets out the definition of offences, the general conditions of liability, the conditions of exemptions from liability and punishments for the respective offences. Lord Macaulay and his colleagues have not used the common law doctrine of mens rea in defining these crimes. However, they preferred to import it by using different terms indicating the required evil intent or mens rea as an essence of a particular offence. Guilt in respect of almost all the offences created under the IPC is fastened either on the ground of intention, or knowledge or reason to believe.² Almost all the offences under the IPC are qualified by one or the other words such as 'wrongful gain or wrongful 'dishonestly','⁴ 'reason to believe','⁶ 'criminal knowledge or intention'⁷ 'intentional cooperation','⁸ 'voluntarily','⁹ 'malignantly',²⁰ 'wantonly',²¹ maliciously.²² All these words indicate the blameworthy mental condition required at the time of commission of the offence, in order to constitute an offence. Thus, though the word mens rea as such is nowhere found in the IPC, its essence is reflected in almost all the provisions of the Indian Penal Code 1860. Every offence created under the IPC virtually imports the idea of criminal intent or mens rea in some form or other.²³

Further, ch IV of the IPC deals with 'General Exceptions', wherein acts which otherwise would constitute offences, cease to be so under certain

circumstances set out in this chapter. The chapter on General Exceptions, in ultimate analysis, enumerates the circumstances that appear incompatible with the existence of the required guilty mind or mens rea and thereby exempts the doers from criminal liability. For instance, a crime committed by a person under mistake of fact, or by a child above seven and under 12, or a mentally deranged person and so on, does not constitute offence, because in all such cases, the mental element or the mens rea is absent. Thus, the chapter on General Exceptions, though negatively, recognises the common law doctrine of mens rea. In fact, all the General Exceptions are illustrations of the recognition of the concept of mens rea in the IPC. Against this background, a question as to whether the maxim *actus non facit reum nisi mens sit rea*, in general, and of the common law doctrine of mens rea as an independent doctrine, in particular, is relevant in the interpretation of the provisions of the IPC deserves our attention. However, there seems to be no unanimity amongst jurists in their responses to the query.

Referring to *actus non facit reum nisi mens sit rea*, Mayne observed: Under the Penal Code such a maxim is wholly out of place. Every offence is defined and the definition states not only what the accused must have done, but the state of his mind with regard to the act when was doing it. It must have been done 'knowingly', 'voluntarily', 'fraudulently', 'dishonestly', or the like . . . Ratanlal & Dhirajlal, in a tone similar to that of Mayne, observe: The maxim *actus non facit reum nisi mens sit rea* has— no application to the offences under the Penal Code, because the definitions of various offences contain expressly a proposition as to the state of mind of the accused. 26

In *Ravule Hartprasada Rao v State*,²⁷ the Supreme Court ruled that unless a statute either clearly or by necessary implication rules out mens rea as a constituent element of a crime, a person should not be held guilty of an offence unless he had guilty mind at the time of commission of the act. The Apex Court reiterated it in *State of Maharashtra v Mayer Hans George*,²⁸ wherein it, inter alia, held that the common law doctrine of mens rea is not applicable to statutory crimes in India.

However, K Subbarao J, after examining a plethora judicial dicta dealing with the applicability of the doctrine of mens rea to statutory crimes, in his dissenting opinion, observed that though it is a well settled principle of common law that mens rea is an essential ingredient of a criminal offence, a statute can exclude it. But it is a sound rule of construction adopted in England and also accepted in India to construe a statutory provision creating an offence in conformity with the common law rather than against it unless the statute expressly or by necessary implication excluded mens rea. There is, thus, a presumption that mens rea is an essential ingredient of a statutory offence. It, nevertheless, may be rebutted by the express words of a statute creating the offence or by necessary implication.²⁹ Subsequently, Justice K Subbarao, speaking for the Supreme Court reiterated this in *Nathulal v State of Madhya Pradesh*³⁰ and *Kartar Singh v State of Punjab*,³¹ wherein the court held that the element of mens rea must be read into statutory penal provisions unless a statute either expressly or by necessary implication rules it out.

However, this general or traditional rule that mens rea is an essential element in IPC offences is not without its exceptions. Like all other statutes, the deciding factor on whether mens rea is required or not, depends on the language of statute and the intention of the legislature as gathered from the statute. Section 292, IPC makes the selling, hiring, distributing, publicly exhibiting, importing, exporting etc of obscene books, pamphlets, writings, drawings etc an offence. In the case of *Ranjit D Udeshi v State of Maharashtra*, 32 a person was prosecuted for selling a book by the name *Lady Chatterley's Lover*, a popular book written by DH Lawrence. The accused pleaded that he had no knowledge of the contents of the book and hence did not have the necessary mens rea. The court rejected this contention and held that as s 292 of the Code, unlike in several other sections, does not contain the words 'knowingly', knowledge of obscenity is not an essential ingredient of the offence under s 292. It also ruled that the liability under the section is strict and hence no mens rea is required.

INTENTION

Meaning of Intention

Intention is a term, which is very difficult to define. It is a common term known to everybody, but at the same time, it defies a precise definition. It can be variously said to mean the object, purpose, the ultimate aim or design behind doing an act. Intention is the conscious exercise of the mental faculties of a person to do an act, for the purpose of accomplishing or satisfying a purpose. Intention, therefore, is usually used in relation to the consequences of an act, and not in relation to the act itself. A person clearly

intends a consequence if he wants that consequence to follow from his action.

The idea of 'intention' in law is not always expressed by the words 'intention', 'intentionally' or 'with intent to'. It is expressed also by words such as 'voluntarily', 'willfully', 'deliberately', 'deliberate intention', 'with the purpose of', or 'knowingly'. In the IPC, all these varied expressions find place in the various sections of the IPC.

Section 39 of the Indian Penal Code 1860 defines 'voluntarily' thus: 39." Voluntarily". — A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

The definition itself is rather peculiar, as it defines the term in relation to the effect caused by the act rather than the act itself. The word 'voluntarily' is to be understood in relation to causation of effects and not to doing of acts from which those effects result. 34 The illustration to the section is self-explanatory. The provision and the illustration thereof have not really defined the word 'voluntarily' in the commonly understood meaning of the term. has really imported the concept of English law that 'a man is presumed to intend the natural or probable consequences of his own act.' For example, if a man drives in a rash and reckless manner resulting in an accident causing the death of a person, he cannot plead innocence by stating that he never intended to cause the death of the person. It may be true in the strict sense of the term. But a reckless driver should know that

reckless driving is likely to result in harm and can even cause death of the persons on the road. So, by virtue of the definition of the word 'voluntarily' in the IPC, a reckless driver, who causes the death of a person, can be presumed or deemed to have intended to cause the death of the person. However, the sweep of the word 'voluntarily' is bigger than that of the word 'intentionally'.

The act voluntarily done in effect and substance means (a) act done intentionally, (b) act done with the knowledge of end result being a crime, (c) act done when the doer had reason to believe that the actus reus would be an offence. Section 298 of the Indian Penal Code 1860 makes the uttering of words or making gestures or exhibitions with deliberate intent to wound the religious feelings punishable. The words 'deliberate intention' mean premeditated intention to wound the religious feelings. 36 On a plain reading of the section, however, the words 'deliberate' and 'intent' seem synonymous. Explaining the term 'deliberate intent', drafters of the Indian Penal Code 1860 observed: We do not conceive that any person can be justified in wounding with deliberate intention the religious feelings of his neighbors by words, gestures or exhibitions. A warm expression dropped in the heat of controversy, or an argument urged by a person, not for the purpose of insulting and annoying the professors of a different creed, but in good faith for the purpose of vindicating his own, will not fall under the definition contained in this clause.

The speech or gestures etc, which is punishable as an offence by this clause must be advisedly and deliberately intended to wound the religious feelings

of some person. 37 So, while describing the scope of the words ' deliberate intent', authors of the IPC have clarified that there must not only be intent, but it should also be pre-planned, pre-conceived and not a momentarily caused intention. For instance if A, a Hindu, were to enter into a casual conversation with B, a Muslim and the conversation becomes heated and in the course of that heated debate, he is angered by some comments made by B, and passes a derogatory comment about Muslims in general. A has uttered a word with intent to wound the religious feelings of B, a Muslim. However, since his intention was not deliberate, or in other words, he did not start the conversation with B with the pre-meditated intention to hurt his feelings, it can be held that A did not commit an offence under this section, because though there was intent, it was not deliberate. Yet another variation of the mental element of intention is knowingly and negligently doing or omitting to do an act. Sections 285, 286 and 287 make knowingly or negligently omitting to take sufficient care so as not to cause harm to human life in respect of possession of poisonous substance, fire, combustible matter and explosive substances an offence. Intention and Motive

Intention and motive are often confused as being one and the same. The two, however, are distinct and have to be distinguished. The mental element of a crime ordinarily involves no reference to motive. A bad motive cannot be a reason for convicting a person. Similarly, a good motive cannot be an excuse for acquitting him. A person may act from a laudable motive, but if his intention causes wrongful loss, his crime is complete, irrespective of his motive. 38 Intention has been defined as the fixed direction of the mind to a particular object, or determination to act in a particular manner and it is

distinguishable from motive—that which incites or stimulates action. 39 Austin defined motive as the ‘spring of action’. ‘Intention’, according to him, ‘is the aim of the act, of which the motive is the spring.’⁴⁰ A motive is something which prompts a person to form an opinion or intention to do certain illegal acts or even a legal act by illegal means with a view to achieve the intention. Motive is the reason for an action ie what impels a person to act, such as ambition, envy, fear, jealousy, etc. It is a psychological phenomenon which impels a person to do a particular act. 4’ It therefore is also called as ‘ulterior intent’.

Motive does not affect criminal liability. Motive by itself is either sufficient to prove guilt of accused⁴² or relevant for determining his guilt or innocence. However, it, being a compelling force to commit a crime, becomes a relevant factor in determination of guilt of an individual or of the quantum of punishment. 43 It is of importance in aggravation or mitigation of sentence. If motive is clear, it becomes possible to infer the relevant intention. Evidence of motive, though it is often difficult for the prosecution to collect it, 44 reveals the nature of the intention for committing a particular act. In criminal law, motive may be defined as that which leads or tempts the mind to indulge in a criminal act or as the moving power which impels to act for a definite result. 45 But the fact is that the motive for a crime lies locked in the heart of a person, and so, it becomes difficult to know the same.

Failure to bring on record any evidence regarding motive does not, however, weaken a prosecution case, though existence of the same may strengthen the case. 46 It is not prudent to suggest that no criminal act can be

presumed unless motive is proved. ' Where positive evidence against the accused is clear, cogent and reliable, the question of motive becomes insignificant. 47 In *Shamsher Singh v State of Haryana*, 48 wherein evidence of eyewitnesses and the medical evidence disclosed that the death of the deceased was due to the injury caused by the accused, the Supreme Court upheld the conviction of the accused under s 302, IPC, even though there was no direct motive for causing the homicide. Recently, in *Om Prakash v State of Uttaranchal*, 49 rejecting the plea that the prosecution could not indicate the motive for killing of three members of a family, the Supreme Court ruled that failure to prove motive is irrelevant in a case wherein guilt of the accused is proved. 50 Conversely, motive by itself cannot be proof of an offence. 51 The Apex Court in *State of Uttar Pradesh v Arun Kumar* 52 emphasised that proof of motive in the absence of proof of guilt of an accused does not warrant his conviction. Knowledge as Mens Rca

Knowledge is awareness on the part of the person concerned, indicating his mind. A person can be supposed to know when there is a direct appeal to his senses. 53 Knowledge is an awareness of the consequences of the act. It the state of mind entertained by a person with regard to existing facts which he has himself observed or the existence of which has been communicated to him by persons whose veracity he has no reason to doubt. Knowledge is essentially subjective. However, in many cases, intention and knowledge merge into each other and mean the same thing, more or less, and intention can be presumed from knowledge. The demarcating line between knowledge and intention is no doubt thin, but it is not difficult to perceive that they connote different things. 54 Knowledge, as contrast to intention, signifies

a state of mental realisation in which the mind is a passive recipient of certain ideas or impressions arising in it, while intention connotes a conscious state of mind in which mental faculties are summoned into action for the deliberate, prior conceived and perceived consequences. Negligence as Mens Rea

Mens rea is not a unitary concept. Depending on the nature of the crime, mens rea may be presence or existence of intention in some cases, or requirement of knowledge in some, and negligence in some others. Thus, law has developed various levels of mens rea or intent such as negligence, recklessness, knowledge and purpose. Based on the nature of the offence, the requirements of particular statutory provisions and the object of the particular statute, the courts have to decide what is the extent or level of criminal intent that is required to convict a person of an offence. Negligence is a case of inadvertence. A person is negligent if he fails to exercise such care, skill or foresight as a reasonable man in his situation would exercise. It is the failure of a person to act with the standard of care expected of a reasonable or a prudent person. ' Who then is this reasonable or prudent person? There is no real yardstick by which one can arrive at the precise definition of the prudent person. But in law, it generally means the law abiding, cautious, careful person, who is the personification of all virtues. Of course, if a survey of the average person is taken, it may be very hard to come across any person who may fit the description of this reasonable person. But nonetheless, courts blindly go by this fictional and mythical reasonable person standard. Let us go back to the analogy of the person stamping A's foot.

Supposing B was running down the road instead of walking carefully at a moderate speed, which is what is expected of a reasonable person, then B who was running down the road was being negligent. B should have realised that by running down the crowded road, there is a likelihood of stumbling over or falling over somebody and injuring him or her. Taking this analogy further, if, it is presumed that B who was running down the crowded street was also carrying a sharp, long, instrument which was getting in the way of people on the road and hurting them, and B was all the same running along unmindful of the consequences, then B is guilty of being reckless. Strictly speaking, negligence may not be a form of mens rea. Negligence is not appropriate to inflict criminal liability as inadvertence, generally, can not be equated with blameworthy mind. However, the Indian Penal Code 1860 imposes criminal liability on the ground of negligence, particularly when a negligent act poses threat to life or personal safety of others. 55 Negligence is more in the nature of a legal fault. It is made punishable strictly for an utilitarian purpose of hoping to improve people's standards of behavior. 56

Intention and Knowledge as (alternative) Mens Rea

The Indian Penal Code 1860 imposes liability on alternative bases of intention. A classic example is the liability for unlawful homicide. Both the terms 'intention' and 'knowledge' appear in ss 299 and 300 of the IPC, dealing respectively with culpable homicide and murder, and having different penal consequences. Intention and knowledge, though they connote different things, are used as alternate mens rea for the offences. Intention is the desire to achieve a certain purpose. It is the fore knowledge of the act coupled with the desire of it. Knowledge, on the other hand, is awareness of

the consequences of the act. Questions of knowledge and intention are essentially questions of fact. Intention is difficult to legally establish by direct evidence, as it essentially is a manifestation of a person's mind and inner feelings, which requires going into a person's mind to determine what intention the person had. It can be gathered from the attendant circumstances of the case, and more particularly from the actions of the accused. Intention becomes very crucial in the offence of culpable homicide as it is the degree of intention of the accused determines the gravity of his crime. In other words, it is the mental element of the accused alone which is material to decide whether a particular homicide is culpable homicide amounting to murder or culpable homicide not amounting to murder.

As far as the offence of culpable homicide is concerned, there are three species or degrees of mens rea or intention present: (1) an intention to cause death; (2) an intention to cause injury as is likely to cause a death; and (3) knowledge that death is likely to happen. 57 Illustrations (a) and (b) to s 299 give examples of culpable homicide accompanied by the first or third species and Illustration (c) discloses that unless one or other of the three species is present there can be no culpable homicide. Intention, in the context of definition of culpable homicide, does not always necessarily mean premeditation or preplanning to kill a person. The expectation that the act of a person is likely to result in death is sufficient to constitute intention. A man expects the natural consequences of his acts and therefore he is presumed to intend the consequences of his acts. So, if a person in performing some act, either: (1) expects death to be the consequence thereof, or (2) expects a dangerous injury to be the consequence of his act; or (3) knows that death is

a likely consequence of his act, and in each case death ensues, his intention in the first two cases, and his knowledge in the third, render the act homicide.

A guilty intention or knowledge is thus essential to the offence under this section. 58 Further, death must be a likely result of the intended bodily injury in the second case, and also a likely result of the act in the third case. An effect is 'likely' to take place when there is a likelihood, which is distinguishable from mere possibility. A thing is possible when it may happen; likely when the chances are in favor of its happening. The difference between an intention to cause death (in the first case) and an intention to cause such bodily injury as likely to cause death (in the second case) is a difference of degree only. The latter is a degree lower in the scale of criminality than the former. If death is a likely result it is culpable homicide; murder. 59 and if death is most probable result it is.

Intention and Consequence

The intention to commit an act must be differentiated from the consequences of an act. The distinction between intention and consequence had come for consideration before the Supreme Court in cases arising under the Terrorist and Disruptive Activities (Prevention) Act 1987 (TADA). 60 In *Niranjan Singh v Jitendra Bhimraj*, 61 the accused wanted to eliminate two persons by name Raju and Keshav for gaining supremacy in the underworld. They were charged for committing a terrorist offence under TADA. In this context, the Supreme Court held that from the evidence, it was clear that the intention of the accused persons was to eliminate the rivals and gain

supremacy in the underworld, so that they may be known as the bullies of locality and would be dreaded as such. But it cannot be said that their intention was to strike terror in the people or a section of the people. The consequence of such killing is bound to cause panic and fear, but the intention of committing the crime cannot be said to strike terror in the people or any section of the people.

Therefore, in the absence of an intention strike terror, even if the consequence of their act resulted in creating terror, it acquitted the accused. In *Hitendra Vishnu Thakur v State of Maharashtra*,⁶² the court once again emphasised that for an offence under TADA, an act must be committed with the intention and motive to create terror as contemplated under the Act. Where the causing of terror is only consequence of the criminal act, but was not the intention, an accused cannot be convicted for an offence under TADA. To bring a charge under TADA, the terror or panic etc must be actually intended with a view to achieve the result as envisaged under the Act and not by merely an incidental out or a consequence of the criminal act. Every crime, being a revolt against the society, involves some violent activity; which results in some degree of panic or creates some fear or terror in the people or a section thereof, but unless the panic, fear or terror was intended and was sought to achieve the objectives as defined under the TADA, an act would not come within the ambit of TADA. These cases were followed in *State of Thmil Nadu v Nalini*.⁶³ This case in respect of the assassination of Rajiv Gandhi, the former Prime Minister of India.