

Introduction:

There are two kinds of acts performed by the people. The two kinds of acts include rightful acts and wrongful acts. Wrongful acts are also called crimes when they cause bodily, mental, or financial damage to an individual. They are required to be dealt with with the help of law. In this regard, there are legal omissions as well as rules which guide in respect of the measures for the achievement of a healthy and stable society. These are the ways through the help which ends of justice are achieved. There are many issues in society and the resulting circumstances sometimes reveal different legal issues. These issues are resolved with the help of law which also consist of omissions. With the help of law, it is decided on whom the criminal liability lies. Then punishment is imposed. Nothing goes in contradiction with the law. Criminal liability implies whether a person will be held responsible for violating the law or not when he has performed such an act that has caused damage. The intention matters a lot. The action performed shows the intention. The honorable court of law will look into the intention while the individual performed the criminal act and then it will decide whether criminal liability will be imposed on that individual or not. In case of omissions mentioned in the law as well, the court will first look into the intention and then his action. After this court will decide the liability.

Situations in which Criminal Liability will be upheld for not being able to Perform an Act:

Criminal omission can be defined as the inability to carry out a legal obligation when an individual has the capability to do so as a substitute for the commission of the said offense when the damage done is the same. The causation need is important for proving criminal omission. For proving criminal omission in court there is a need to give evidence in court regarding the cause of damage which was the inability to carry out the legal duty. (Mccutcheon,1993/1995). When there is a situation involving a criminal matter an omission will result in liability only when the law places a duty to perform a certain act and the defendant is violating such act as instructed by law. The obligation imposed by law to perform a certain act is the main element that is necessary to be performed so that omissions can be avoided. It is the law that decides what action is reasonable to be performed and what actions are not reasonable to be performed. Sometimes individuals are restricted from performing certain actions as these may cause grave loss. From preventing such loss, the law makes it mandatory for individuals to refrain from performing such acts so that there is no damage. When such acts which are not allowed to be performed by the law are committed by the individuals and result in damage then the law imposes criminal liability. The duty to care and having a concern about the avoidance of loss is necessary and ignoring it may cause damage due to which criminal liability can be imposed by the honorable court of law. (Gross,1979).

In the legal matters of common law, there was no general duty of care toward ordinary individuals living in the country. There was a famous proposition that focused on the fact involving a drowning man in shallow water and the nearby person who did not try to save him. Arthur Clough stated that if an individual is not trying to save himself from drowning then this act of his does not impose legal liability on him. (Alexander and Ferzan, 2009). There should be a strong reason enough because of the honorable court of law and legislature for imposing liability in criminal matters. The accused performed an omission deliberately or not can be ascertained through the help of the resulting situation. If the situation is causing injury to him then he can be held liable in the honorable court of law. The accused will not be held responsible and liable just because of the reason that he did not try to save the victim from drowning by jumping into the water. There should be some reasonable circumstances in which the life of the victim can be saved. As mentioned in Dytham's case a police officer watched the beating of a man outside a club and he didn't try to save him. He was held liable for the intentional behavior of not saving the man while working in public office. There was an element of intentional misconduct. Due to this reason the court imposed liability for committing criminal omission in this case. In another case of Attorney general reference, policemen arrested a person with some injuries for violation of peace as he had abusive conduct toward hospital staff who were treating him. He died in police custody. Police officers were charged with gross negligence. Here the court observed the intention while deciding the case. The police officer didn't even try to rescue the man as he was showing abusive behavior. The man died and police officers who were five in number were charged with manslaughter. The

police officers acted irresponsibly. The way policemen behaved showed their intention. They were not willing to help the dying man. Due to this reason, they were held liable for committing criminal omission. Some individuals are not able to take care of themselves and need care. The general rule is that the duty of care lies on the closest relatives for example parents, spouse or legal guardian, and any person who voluntarily takes the responsibility. This principle is also mentioned in R v instant case. The defendant in this case did not provide food to a deceased person when she was ill. This non availability of food became cause of her death. There was a responsibility upon defendant to provide food to an ill, old woman prisoner who lived with her. Defendant became liable for committing criminal omission by not providing food to the deceased in last days of her life.

Sometimes it happens that the law allows some omissions. When such omissions are committed then there does not amount to criminal offenses. For example, if an individual is not able to report a road traffic accident then he will not be charged with a criminal offense. (Ashworth, 2013).

When an individual himself creates such a situation where he makes others face difficulties and damages he will be under a duty to take reasonable measures to cope with danger. This principle is also mentioned in the R v Miller case. Here, in this case, the defendant was too much drunk, he slept while having a cigarette in his hand which caused the fire in the surrounding. When he woke up he did nothing to save the surrounding. He just went into another room and again started sleeping which caused a lot of fire in the place. The defendant was made liable by the court for his irresponsibility in not saving the place from fire.

If there is a contract between two parties and according to the terms of the contract, there is a duty to perform a certain act then failure to perform such act can make an individual criminally liable depending upon the resulting circumstances as mentioned in R v Pittwood case. In this case, the defendant was doing a job in the railway department. He had a duty to open and close gates at the railway track. He failed to close the railway track gate on time due to which a cart went from that place causing an accident and killing a horse along with a man. The defendant was held liable for committing criminal omission in this case as well.

There is a concept of command responsibility in International law according to which the responsibility for the damage to the individual lies on the military commanders in situations where they were aware of the resulting circumstances. Most competent people in the army reach the highest ranks. They have a very good understanding of the ongoing situation and they better know how to deal with war situations. They have an idea about the resulting circumstances of their actions. But still, if they commit such an act that causes injury and damage to the innocent people of the society then the liability lies on them. They will be answerable in a court of law. (Lanham, et al., 2006)

This concept has created convenience and played a very positive role in controlling such situations where damage is caused. It has made it clear where and when criminal liability will be imposed on individuals when they will breach omissions. The law has made it clear that these omissions should not be violated as there are punishments mentioned in the law as well. It has helped in controlling the situations where criminal acts are performed. (Hughes, Feb. 1958).

Conclusion:

From here it can be seen that there exists a duty to perform an act with responsibility. In case an individual does not perform an act with responsibility and he is aware of the results of this negligent behavior then liability will lie on such an individual. The aim of this is to make an individual responsible so that he can see the outcomes of his actions and he is aware of the legal circumstances. Legal omissions help in controlling law and peace situations.

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