

# CRIME AND PUNISHMENT

## YOU NEED TO KNOW THIS

### Did you know?

Although two crimes might appear to be similar, the application of law by the police, and interpretation of law by the Court might differ, thereby resulting in significantly different punishments.

### Case in Point

The cases mentioned below are two instances, 15 years apart, involving a similar crime of *Bobbiting*<sup>1</sup>, but resulting in different punishments given by the Court.

## 1994

Barmer, Rajasthan

Four policemen detain a suspect and take him to the Police Station.



After a heated argument, the policemen hold the arms and legs of the suspect, and use an *Ustra* (razor) to cut off his penis.



Fearing that the suspect may die of excessive bleeding, they take him to a hospital.



The suspect survived the injury.



Convicted for *Grievous Hurt* (u/s. 326 IPC) and sentenced to Rigorous Imprisonment for **5 years.\***



## 2009

Bengaluru, Karnataka

A dentist, after being jilted by her ex-boyfriend, invites him to her private clinic.

Being upset by the broken relationship, the dentist sedates her ex-boyfriend, and uses a scalpel (surgical instrument) to cut off his penis.

She gives first aid to him at her clinic, and then takes him to a hospital.

The ex-boyfriend survived the injury.

Convicted for *Attempt to Murder* (u/s. 307 IPC) and sentenced to Rigorous Imprisonment for **10 years.\*\***

### Same crime but different punishment; here's why:

#### Police powers

Police have the power to invoke relevant Sections of a statute in the First Information Report (FIR), when an offence is reported.

After completing the investigation, Police can alter the Sections when filing the Charge Sheet.

Police can also file a Closure Report, stating that no offence has taken place as alleged in the FIR.

#### Trial Proceedings

Courts examine the evidence for two aspects: *Mens Rea* (guilty mind) and *Actus Reus* (action that follows) of the Accused.

During trial, Courts interpret the actions of the Accused, and determine the nature and the degree of guilt involved. Courts can also alter the charges u/s. 216 CrPC.

Courts have the discretionary power to decide the quantum of punishment depending on the provision of the statute.

#### Sentencing

If an Accused is found guilty of an offence, the Court may consider 'mitigating circumstances' to decide the Sentence. This refers to facts that vouch for a lesser punishment to the Accused.

For example, in the dentist's case, the fact that she is currently a single mother looking after an infant daughter, could be a mitigating circumstance for granting lesser years of imprisonment.

### References

1. The term 'Bobbiting' acquired the meaning 'cutting off a penis' after an incident in Virginia (USA), where Lorena Bobbit cut off her husband's penis with a kitchen knife.

\* *Central Bureau of Investigation v. Kishore Singh*, reported in (2011) 6 SCC 369

\*\* Appeal pending before the High Court of Karnataka in CrI. A. No. 60/2020