

CONSTRUCTION OF PENAL STATUTE : JUDICIAL TRENDS IN PAST AND PRESENT

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Abstract:

The manner in which the courts have been interpreting penal statutes, has been changing over time. There was a point where it was believed that a penal statute had to be construed strictly in favour of the accused. With the flux of time tow contradictory developments have influenced the interpretation of penal statutes. The scaling down of punishments is one development which has lessened the pressure on courts to strictly interpret a statute in favour of the accused. The other development is the crime control compulsions of modern penal statute. Since the intention of the legislature is acknowledged as the driving force of statutory interpretation, with legislatures seeking rigorous implementation, courts have expressed opinions whereby they have stressed on the strict interpretation of the statute whether or not the interpretation is in favour of the accused.

FULL PAPER

The word penal connotes some form of punishment imposed against the individual by mandate of the State. In Halsbury's laws of England a penal statute has been described as one whose primary object is expressly enforceable by fine, imprisonment or other punishment¹. Crais² has expressed the view that the term 'penal statute', if employed without qualification, is ambiguous. The cause of the ambiguity is that statutes fall, from the point of view of penalty or sanction, into three classes, viz

- (a) acts enforceable by criminal remedies
- (b) acts enforceable by civil remedies by way of damages,
- (c) acts enforceable by civil remedies in the form of penalty, forfeiture or disability.

A statute is to be regarded as penal if it imposes a fine, penalty or forfeiture other than a penalty in the nature of liquidated damages, or other penalties that are of the nature of civil remedies.

GENERAL RULE OF CONSTRUCTION OF PENAL STATUTE

According to Halsbury's Laws of England, it is a general rule that penal enactments are to be construed strictly and not extended beyond their meaning.

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Crawford states that criminal and penal statutes must be strictly construed, that is they cannot be enlarged or extended by intendment, implication, or by any equitable consideration. In other words, the language cannot be enlarged beyond the ordinary meaning of its term in order to carry into effect the general purpose for which the statute was enacted³.

The rule of strict construction of penal statutes is said to be founded on the tenderness of the law for the rights of individuals and on the plain principle that the power to define a crime and ordain its punishment is vested in the legislature and not in the judicial department. It is a reasonable expectation that legislature will manifest its intention with reasonable clarity in penal statutes. It is not competent for a court to create an offence by interpretation as this may operate to entrap the unwary and ignorant and threaten the rights of the people generally.

The rule that penal statutes must receive strict construction was originally evolved in England at a time when English law prescribed exceedingly harsh penalties and monstrous sentences for trivial offences. For instance penalty by public hanging was given for pick pocketing. The cutting down of a cherry tree in an orchard was punishable with death. A person who flicked a handkerchief was punishable with deportation to Australia.

The purpose of strict construction was to mitigate the rigour of such harsh sentences and sweeping condemnations. Times have changed since and although the circumstances which necessitated it no longer exist, the difference in approach made in respect of a penal statute as against any other statute still persists and survives to this day. But this rule is now only of limited application and its role is confined to cases where a selection of one construction is to be made out of the two or more constructions which are reasonably open.

According to Maxwell the rule of strict construction of penal statutes manifests itself in four ways—

- (1) Express language is necessary for creation of criminal offences, therefore, no act is to be deemed criminal unless it is clearly made so by words of the statute concerned. But it is not necessary that a particular penalty be specified in order that an act or omission may constitute an offence.
- (2) The words setting out the elements of an offence are to be strictly construed. And if there is any reasonable doubt or ambiguity it will be resolved in favour of the person charged. A reasonable interpretation which will avoid the penalty must be adopted. If there are two reasonable constructions the court must give the more lenient one. The court must always see that the person to be penalized comes fairly and squarely within the plain words of the enactment.
- (3) Punishments can be imposed only if the circumstances of the case fall clearly within the words of the enactment.
- (4) Similarly, statutes dealing with jurisdiction and procedure are, if they relate to the infliction of penalties, strictly construed.

The rule that all penal statutes must be strictly construed has been explained by Lord Justice James in a case speaking for the Privy Council thus⁴—

“ The Court must see that the thing charged as an offence is within the plain meaning of the words used, and must not strain the words on any notion that there has been a slip, that there has been a casus omissus; that the thing is so clearly within the mischief that it must have been included if thought of. On the other hand, the person charged has the right to say that the thing charged, although within the words, is not within the spirit, of the enactment. But where the thing is brought within the words, and within the spirit , there a penal enactment is to be construed, like any other instrument , according to fair common sense of the language used, and the court is not to find or make any doubt or ambiguity which would clearly is not to find or make any doubt or ambiguity which would clearly not be found or made in the same language in any other enactment”

Strict construction of a penal statute means that it is to be construed narrowly in favour of the person proceeded against. This rule implies a preference for the liberty of the subject in case of ambiguity in the language of the provision. It is well founded principle that if the words used in a criminal statute are reasonably capable of two constructions, the construction which is favourable to the accused should be preferred but in constructing the relevant words it is obviously necessary to have due regard to the context in which they have been used.

Unless the words of a statute clearly an act criminal, it shall not be construed as criminal. If there is any ambiguity in the word which set out the elements of an act or omission declared to be an offence so that it is doubtful whether the act or omission in question in the case falls within the statutory words, the ambiguity will be resolved in favour of the person charged. The court will inflict punishment on a person only when the circumstances of a case unambiguously fall under the letter of the law.

In *Seksaria Cotton Mill Limited Company v State of Bombay* ⁵, as per a notification issued under the Essential Supplies Act 1946, every manufacturer was required to submit true and accurate information about his dealings; and delivery was defined to mean actual physical delivery. The appellant, who had sold some bales to purchaser who did not take delivery because of some dispute with the appellant, asked his agent to keep the bales in godown pending settlement. The appellant entered those bales as delivered in his return book. The appellant was convicted by the High Court for not giving actual physical delivery. Allowing the appeal, the Supreme Court said that when two reasonable interpretations are possible of a penal statute, that which favours the accused should be accepted. It was held that since the goods were actually delivered to the agent, the requirements under the Act were fulfilled without straining the language.

In *Seksaria Cotton Mills Ltd v State of Bombay* ⁶, it was held by the Supreme Court as follows—

“But we need not go into all this. Here is an order which is to affect the business of hundreds of persons , many of whom are small petty merchants and traders, the sort of men who would not have lawyers constantly at their elbows; and even if they did , the more learned their advisers were in the law the more puzzled they would be as to what advice to give, for it is not till one is

learned in the law that subtleties of thought and bewilderment arise at the meaning of plain English words which any ordinary man of average intelligence, not versed in the law, would have no difficulty in understanding. In a penal statute this kind, it is the duty of the courts to interpret words of ambiguous meaning in a broad and liberal sense so that they shall not become traps for honest, unlearned and unwary man. It there is honest and substantial compliances with an array of puzzling directions that should be enough even if on some hypercritical view of the law other ingenious meanings can be devised. The agent could in the circumstance be described, without any straining of language, as the person to whom the goods were actually delivered.”

In *Tolaram v State of Bombay*⁷, the Supreme Court observed that—

: “ If possible and reasonable construction can be put upon a penal provision the court must lean towards the construction which exempts the subject from penalty . It is not competent to the Court to stretch the meaning of an expression used by the legislature in order to carry out the intention of the legislature”

In *Alamgir v State of Bihar*⁸, the wife left her husband voluntarily and of her free will came to stay with the appellant. On the question whether the appellant was guilty of an offence under section 498 IPC, it was held—

“One of the ingredients of the section is that the offender must take or entice away or conceal or detain the wife of another person.. The policy underlying the provision may no doubt sound inconsistent with the modern notions of the status of women and of the mutual rights and obligations under marriage. That however is a question of policy with which courts are not concerned. It is no doubt true that if the words used in a criminal statute are reasonably capable of two constructions , the construction which is favourable to the accused should be preferred; but in construing the relevant words, it is obviously necessary to have due regard to the context in which they have been used... Detention in the context must mean keeping back a wife from her husband or any other person having the care of her on behalf of her husband with the requisite intention”.

In *Chinu bhai v State of Bombay*⁹, several workers in a factory died by inhaling poisonous gas when they entered into a pit in the factory premises to stop leakage of poisonous gas from a machine there. The Inspector of Factories on inspection did find beating and revising apparatus, belts and ropes in the factory in violation of section 4 of the Factories Act. The question was whether employer violated section 3 of the Act which says that no person in any factory shall be permitted to enter any confined space in which dangerous fumes are likely to be present.

The Supreme Court, while holding that the nature of the enactment being penal had to be strictly construed, held that section 3 does not impose an absolute duty on the employer to prevent entry of persons in an area where dangerous fumes are likely to exist. The mere fact that some workers went inside the pit does not prove that they were permitted by the employer to enter. The prosecution must prove that first before any defence was called for. Since the prosecution failed in its duty , the employer could not be convicted.

In *Sarjoo Prasad v State of Uttar Pradesh*¹⁰ the appellant who was an employee in a shop was convicted under the Prevention of Food Adulteration Act 1954 for having sold adulterated food. He argued that since he did not know that the food sold by him was adulterated, he could not be convicted under section 16 of the Act because the enactment being a penal statute had to be strictly interpreted. Section 16 which penalizes selling of adulterated food and section 19 which says that absence of a guilty knowledge is not a defence were interpreted by the court.

The Supreme Court maintained the conviction and held that a penal statute has to be interpreted in favour of the subject only if there are two reasonable constructions possible. In the present case both the provisions are unambiguous and the guilty conduct falls under the letter of the law. There being no two interpretations possible, the conviction was good. The two provisions clearly state that knowledge on the part of the seller, whether the employer or the employed, is absolutely immaterial for the purposes of conviction and, therefore the appellant's appeal must fail.

In *M.U Joshi v M. V Shimpi*¹¹, the appellant was convicted under section 16 of the Prevention of Food Adulteration Act 1954 for selling adulterated butter. He contended that it was not butter within the meaning of the rules made under the Act because butter means butter made from milk whereas he had sold butter made from curd. Further, the Act being a penal statute the word butter had to be strictly construed in favour of the accused.

The Supreme Court, while rejecting the contention held that strict construction means that the conduct of the accused for his conviction must fall within the plain words of the penal statute without straining their natural meaning. If it does not so fall and there are two possible reasonable constructions that construction which is lenient must be accepted. In other words, when it is said that all penal statutes are to be construed strictly it only means that the court must see that the thing charged is an offence within the plain meaning of the words used and must not strain the words.

The rule of strict construction requires that the language of a statute should be so construed that no case shall be held to fall within it which does not come within the reasonable interpretation of the statute. It has also been held that in construing a penal statute it is a cardinal principle that in case of doubt, the construction favourable to the subject should be preferred. But these rules do not in any way affect the fundamental principles of interpretation, namely that the primary test is the language employed in the Act and when the words are clear and plain the court is bound to accept the expressed intention of the legislature.

In the present case the word butter is clear and there cannot be two meanings of it. Therefore, the question of interpreting it in favour of the subject does not arise. The contention of the appellant that butter made from curd is not covered under the rules made under the Act does not stand because butter is butter whether made from milk or curd. The intention of the legislature is quite clear from the language it has used and there is no room for doubt.

In *Rattan Lal v State of Punjab*¹², the accused, a sixteen year old boy was convicted for outraging the modesty of a girl aged seven years after having committed house trespass. The

Magistrate awarded him imprisonment for six months and fine. After this sentence was passed, the Probation of Offenders Act 1958 came into existence. The accused appealed to the Additional Sessions Judge and then to the High Court in revision without claiming benefit under the Probation of Offenders Act. After the High Court rejected his revision, he pleaded before the Supreme Court for benefit of probation as he was below twenty-one years in age. The Supreme Court, by a majority, held that the benefit of probation could be given to him.

In *Ranjit v State of Maharashtra*¹³, the appellant was convicted under section 292, Indian Penal Code by the High Court for selling an obscene book titled *Lady Chatterley's Lover* the sale of which was banned by the Government of India. The accused contended before the Supreme Court that mens rea of the accused has always to be proved to maintain conviction under criminal law. It was obligatory for the prosecution to prove, therefore, that the appellant knew that the book contained obscene matter and with this knowledge he sold or kept for selling, the book. Since the prosecution failed to discharge the onus, his conviction should be set aside. He further argued that these days there were such a large number of books in the stalls that it was virtually impossible to know whether any of these contained obscene matter because the law could not expect that all books kept for sale were to be read by the shopkeeper first.

The Supreme Court rejected these arguments and held that on a plain reading of section 292 it is clear that proof of mens rea is not required for conviction under this section, mere selling or keeping for sale an obscene literature has been made punishable. Therefore, when there are no two reasonable interpretations possible, there is no question of giving effect to the principle of strict construction. The appellant is guilty on the basis of a plain reading of the enactment and therefore, his appeal must not succeed.

In *State of Andhra Pradesh v Andhra Pradesh Potteries*¹⁴ the respondent was prosecuted under section 220 of the Companies Act 1956 for not filing the balance sheet and profit and loss account of the company with the Registrar of Companies. The respondent argued that since no general body meeting of the company was held, no balance sheet and profit and loss account could be laid before it and consequently these could not be filed with the Registrar. The High Court held that conviction under section 220 was not possible because the requirement that these should first be placed in the general body meeting was a pre-requisite for filing them with the Registrar. Since no general body meeting was held, there was no question of these being filed with the Registrar. The respondent might, however be liable under the relevant provisions of the Act for not holding the general body meeting and consequently not laying these before it. The Supreme Court dismissed the appeal. It was observed that the language of section 220 was unambiguous and the High Court's conclusions were right. If the balance sheet and profits and loss account would have been sent to the Registrar without first submitting them before the general body meeting, even the requirement under law would remain unfulfilled. Since the language of the statute is clear there was no-question of resorting to the principle of strict interpretation in favour of the subject.

In *Shaikh Abdul Azeez v State of Karnatka*¹⁵, the question before the Court was the interpretation of section 303, Indian Penal Code which states—whoever being under imprisonment for life, commits murder, shall be punished with death. The Supreme Court held that this section applied only in such cases where murder has been committed by a lifer beyond

the pale of judicial controversy. An accused cannot be under a sentence of life imprisonment at the time of commission of the second murder unless he is actually undergoing such a sentence or there is legally existent a judicial final sentence which he is bound to serve without the requirements of a separate order to breathe life into the sentence which was otherwise dead. In other words, an accused while in fact serving life imprisonment commits murder will get death sentence under this provision. There cannot be any legal fiction that an accused is deemed to be undergoing a sentence of life imprisonment and should therefore be punishable with death under this provision. Consequently, an accused whose sentence of life imprisonment had already been remitted at the time of commission of murder is not punishable under section 303. The basis of this decision is that an accused to be punishable under penal law must be proved to be within the express wordings of the penal provision. If he is not covered under the plain meaning of the words and two reasonable constructions of the enactment are possible, that construction should be accepted which favours him.

In *Maharaja Book Depot v State of Gujarat*¹⁶, the question was whether the expression 'paper' used in section 2 (a) (vii) of the Essential Commodities Act, 1955 and in item 13 in Schedule 1 of the Regulation Order made therein includes exercise book. While holding that exercise book is paper within the meaning of the provisions mentioned above, the Supreme Court said that an exercise book is nothing but a collection of a bunch of papers stitched together by a string or pinned together and used for writing. Therefore, exercise book is an essential commodity or essential article within the meaning of section 2 (a) of the Act and clause 2 (v) of the Regulation Order on the basis of the fact that paper has been listed therein as an essential commodity or an essential article. It is all the more satisfying to note that a subsequent notification has clarified the expression paper in the Regulation Order by including in it exercise books. It had to be done by way of a clarification because an attempt was being made to show that an exercise book did not fall under the expression 'paper'. Since there is no ambiguity in the expression and the natural meaning falls under the words used in the statute, the interpretation of the penal statute will not be different from any other under the circumstances.

In *Chief Inspector of Mines v Karam Chand*¹⁷, the Supreme Court said that the Rule of strict interpretation of penal statutes in favour of the accused is not of universal application and must be considered along with other well established rules of construction. It was held that looking at the scheme and object of the Mines Act 1952, it was clear that the expression "one of the Directors" used in section 76 of the Act must be interpreted to mean 'everyone of the Directors'

In *State of Punjab v Ram Singh*¹⁸ a heavily drunk constable gunman was seen roaming in the market with service revolver while he was on duty. When he was sent to the doctor for medical examination he abused the medical officer on duty which shows his depravity or delinquency due to his drinking habit. The Supreme Court held that his conduct would constitute gravest misconduct warranting dismissal from service. The authorities therefore, were justified in imposing the penalty of dismissal.

The word 'misconduct' though not capable of precise definition, its reflection receive its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of the duty. It may involve moral turpitude, it must be improper or wrong behaviour, unlawful behaviour, willful in character, forbidden act, a transgression of established

and definite rule of action or code of conduct but not mere error of judgment, carelessness or negligence in performance of the duty. The subject matter, the context, the scope of the statute and the public purpose, it seeks to serve are important.

In *Lalita Jalan v Bombay Gas Company Ltd*¹⁹ the Supreme Court remarked that under section 630 of the Companies Act 1956 wrongful withholding of company's property is made punishable with fine only and becomes an offence only when court directs a defaulter to deliver or refund property and such order of court is not complied with. Therefore, this is not a penal provision as the normal attributes of crime and punishment are not present. As such it will not be strictly construed.

In *Appasaheb v State of Maharashtra*²⁰, the Supreme court held that a demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. As for the definition of 'dowry' in the Dowry Prohibition Act 1961, the giving or taking of property or valuable security must have some connection with the marriage of the parties which is absent in the present case. In view of the above, the conviction of the appellant under section 304-B, Indian Penal code for dowry death, was set aside.

In *Ashok Kumar v State of Haryana*²¹ there was an allegation that the accused husband and in-laws of the deceased used to harass and beat her and on the fateful day they burnt her for not bringing enough dowry. The Supreme Court held that the expression 'in connection with any demand for dowry' in Section 304-B of the Indian Penal code cannot be given a restricted or narrower meaning. The object being that everything which is offending at any time, that is to say, at , before or after marriage , would be covered under this definition , but the demand of dowry has to be 'in connection with the marriage' and no so customary that it would not attract the provisions of this section. The expression 'soon before her death' must be understood in common parlance. The concept of reasonable time is the best criterion to be applied. There must be existence of proximate link between the acts of cruelty along with demand for dowry and death of the victim. In view of the accused persons were convicted under section 304-B, Indian Penal Code.

In *Kishan Chand v State of Haryana*²² the Supreme Court ruled with respect to Sections 42, 50 and 57 of the Narcotic Drugs and Psychotropic Substances Act, 1985 that pre-search requirement of recording information received and sending it to superior officer demands exact and definite compliance as opposed to substantial compliance. The principle of substantial compliance would be applicable in the case where the language of the provision strictly or by necessary implication admits of such compliance. Penal provisions providing harsher punishments and with clear intendment of definite compliance need to be strictly construed. Protections provided under sections 42, 50 and 57 are distinct and are neither inter-linked nor interdependent and compliance with one does not dispense compliance with other.

In *Sukhdev Singh v State of Haryana*²³ a search was conducted under Narcotic Drugs and Psychotropic substances Act 1985 hours after receipt of the information and no effort was made by the investigating officer to reduce the information into writing and inform his higher authorities instantly or even after a reasonable delay. No evidence was produced to show as to

what prevented him from recording the information and sending the same to his superior. There was thus a total non-compliance of Section 42 of the Act. The Supreme Court held that such defect is incurable and the accused was liable to be acquitted. It is settled principle of interpretation of Criminal Jurisprudence that the provisions have to be strictly construed and cannot be given a retrospective effect unless legislative intent and expression is clear beyond ambiguity. The amendments to criminal law would not intend that there should be undue delay in disposal of criminal trials or there should be retrial just because the law has changed. Such an approach would be contrary to the doctrine of finality as well as avoidance of delay in conclusion of criminal trial.

INTERPRETATION OF SPECIAL PENAL STATUTES

In *Niranjan Singh Karam Singh Punjabi v Jitendra Bhimraj*²⁴, the Court was considering the application of the Terrorists and Disruptive Activities (Prevention) Act 1987, to a quarrel between two warring factions in a village in which one of the parties alluded to gaining supremacy in the underworld by eliminating the rival faction. The Court rejected the application of the TADA in this situation and observed—

“ .. The position of the Act need not be resorted to if the nature of the activities of the accused can be checked and controlled under the ordinary law of the land. It is only in those cases where the law enforcing machinery finds the ordinary law to be inadequate or not sufficiently effective for tackling the menace of terrorist and disruptive activities that resort should be had to the drastic provisions of the Act. While invoking a criminal statute, such as the Act the prosecution is duty bound to show from the record of the case and the documents collected in the course of investigation that facts emerging there from prima facie constitute an offence within the letter of law. When a statute provides special or enhanced punishments as compared to the punishments prescribed for similar offences under the ordinary penal laws of the country, a higher responsibility and duty is cast on the judge to make sure there exists prima facie evidence for supporting the charge leveled by the prosecution. Therefore, when a law visits a person with serious penal consequences extra care must be taken to ensure that those whom the legislature did not intend to be covered by the express language of the statute are not roped in by stretching the language of the law. But that does not mean that the judicial officer called upon to decide whether or not a case for framing a charge under the Act is made out should adopt a negative attitude. He should frame a charge if the prosecution shows that the material placed on record and the documents relied on give rise to a strong suspicion of the accused having committed the crime alleged against him.”

The escalating concerns for physical safety and personal security came to the fore in *Balaram Kumavat v Union of India*²⁵, where the Apex Court elaborated upon the criminal jurisprudence of special offences and held that the rule of strict construction would not always prevent the court from interpreting a statute according to its current meaning and applying the language to cover developments in science and technology not known at the time of passing of the statute. Further, the rule of strict construction may not be adhered to, if it would lead to the plain intention of the Parliament to combat crimes of special nature being defeated.

Thus, even in relation to a penal statute, narrow and pedantic, literal and lexical construction may not always be preferred. The law would have to be interpreted having regard to the subject matter of the offence and the object of the law it seeks to achieve. The purpose of law is not to allow the offender to sneak out of the meshes of law. So, a penal statute may also be construed to avoid a lacuna and to suppress mischief and advance the remedy in the light of the rule in Heydon's case. Further, a commonsense approach for solving a question of applicability of a penal enactment is not ruled out by the rule of strict construction. The court cannot restrain the comprehensive language used by the legislature, the wide meaning of which is in accord with the object of the statute.

It was also observed that it is the court's duty to make what it can of the statute, knowing that the statutes are meant to be operative and not inept and that nothing short of impossibility should allow a court to declare a statute unworkable.

Thus it is clear that, penal provision cannot be extended by implication to a particular cases or circumstances. There can be no presumption that a crime has been constructively committed. Penal statutes generally have a prospective operation. If there is a reasonable interpretation by which a penalty can be avoided, that interpretation has got to be accepted. Where a particular provision could be reasonably interpreted in various ways that particular interpretation must be avoided which causes hardship or injustice. While interpreting a penal statute it must always be kept in mind that punishment could be imposed only when the conduct of the accused falls clearly within the letter of law. An enactment entailing penal consequences does in no case permit violence with language used so as to bring it within the express words of the Act. But at the same time, a penal statute must never be so construed as to narrow down its words to exclude such cases as would ordinarily be within its ambit. An accused could always argue that even though his conduct falls within the express language of the statute the same is against its spirit. But where a conduct is both within the letter of the law as well as its spirit, the court is bound to construe it like any other statute according to the fair common sense meaning.

Thus the rule regarding the interpretation of penal statutes can be summarized as follows—

1. The general rule is that a penal statute should be strictly interpreted, that is if two possible and reasonable constructions can be put upon a penal provision , the court must lean towards that construction which exempts the subject from penalty rather than the one which imposes a penalty. It is not competent for the court to stretch the meaning of an expression used by legislature in order to carry out the intention of the legislature. It is for the legislature and not for the court to define a crime and provide for its punishment.
2. Where a later penal statute provides for a new form of punishment, for example, when a punishment of fine is altered to one of imprisonment, the two statutes are regarded as cumulative.
3. But by laying down a different punishment, for example when a penalty of fine is altered to a penalty of fine for a larger amount, there is an implied repeal of the earlier enactment.
4. Where a later statute gives a new form of procedure, for example when procedure for trial of a non-cognizable offence is altered to procedure for trial of a cognizable one, the two Acts are considered as cumulative.

5. If however there is a variation in the procedure as when a right of appeal is given when none existed before, there is an implied repeal of the earlier statute.
6. Where there is an alteration of the importance or circumstances of an existing offence, a repeal of the earlier statute is implied.
7. Section 26 of the General Clauses Act deals with the provision as to offences punishable under two or more enactments. It provides that where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments but shall not be liable to be punished twice for the same offence.
8. In a modern welfare State there are many statutes prohibiting certain acts. If the legislature merely provided that the act is invalid and provides for compensation as redress to the aggrieved person it will be classed as a remedial statute. If the statute also provides for penalties for disobedience of the law, such as imprisonment or fine, it will be classed as a penal statute.
9. A remedial statute should be construed liberally, that is, when there is a doubt about the meaning, it is resolved in favour of the class of persons who were intended to be benefited by that statute. But a penal statute is construed strictly that is, in case of doubt, the doubt is resolved in favour of the accused.
10. A statute may be penal in certain aspects and remedial in others. Further, the penal and remedial aspects may be contained in the same enactment. In such a case, the rule of interpretation is as follows, It must be borne in mind that while the statute and rules have a beneficent purpose, of providing protection for a certain class of persons, their contravention involves penal consequences; and where penalties are imposed, it is not legitimate to stretch the language of the rule, however beneficent its intention, beyond the fair and ordinary meaning of its language.

The above discussion shows the manner in which the construction of penal statutes has been changing over time. There was a point where it was believed that a penal statute had to be construed strictly in favour of the accused. With the flux of time tow contradictory developments have influenced the interpretation of penal statutes. The scaling down of punishments is one development which has lessened the pressure on courts to strictly interpret a statute in favour of the accused. The other development is the crime control compulsions of modern penal statute. Since the intention of the legislature is acknowledged as the driving force of statutory interpretation, with legislatures seeking rigorous implementation, courts have expressed opinions whereby they have stressed on the strict interpretation of the statute whether or not the interpretation is in favour of the accused.

REFERENCES

1. Fourth edition vol 44 p. 560 para89.
2. Crais, statute Law Fifth edition, p.497
3. Crawford, Statutory Construction, Art. 240
4. London Railway Co. v Be& N. Eastern Berriman, 1946 , I ALL ER 255, p 270 HL
5. 1954 SCA 299
6. 1954 SCA 299
7. AIR1954 SC 49
8. AIR 1959 SC 436
9. AIR 1960 SC 37
10. AIR 1961 SC 631
11. AIR 1961 SC 1494
12. AIR 1965 SC 444
13. AIR 1965 SC 881
14. AIR 1973 SC 2429
15. AIR 1977 SC 1485
16. AIR 1979 SC 180
17. AIR 1961 SC 838
18. AIR 1992 SC 2188
19. AIR 2003 SC 3157
20. AIR 2007 SC 763
21. AIR 2010 SC 2839
22. AIR 2013 SC 357
23. AIR 2013 SC 953)
24. 1990) 4 SCC 76; referring to Usmanbhai Dawoodbhai Menon v State Of Gujrat 1988 2 SCC 271, (1988) SCC 318 (Cr): if the scales were to tilt in favour of curbing terrorism and disruptive activities, it is submitted , it is but just and expedient to resort to this drastic measure.
25. 2003 7 SCC 628