



CLAT 2024
RANBHOO MI
THE FINAL SPRINT

— THE CLAT COMBAT —
THE LEGAL EAGLE



LEGAL REASONING

THE CLAT COMBAT

Legal Reasoning 3

A complaint of criminal trespass made by a person not having lawful possession of the property is not maintainable in law, the High Court of Karnataka has said. Observing that Section 447 (criminal trespass) of the Indian Penal Code (IPC) as defined under Section 441 of the IPC is an interplay between a civil right and a crime, the court said that Section 447 hinges upon the complainant being in possession of the property.

Section 441 IPC states that: Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass"

Justice M. Nagaprasanna made these observations while allowing a petition filed by Shivaswamy and four others questioning the criminal proceedings initiated against them based on a complaint lodged by one P.C. Leelavathi. She had alleged that they had trespassed and damaged properties owned by her. The court, from the records, found that the property, which the complainant claimed belonged to her, was acquired by the Bangalore Development Authority (BDA) in favour of NTI Housing Cooperative Society in 1980s. And the petitioners had purchased the sites formed on the properties through the society during 2013. It was also found from the records that the High Court had upheld the acquisition in favour of the society and the possession of the properties, situated in survey number 11 of Kodigehalli village, were handed over to the society in 2003 by the BDA. If possession is not with the complainant, she can hardly contend that the accused have trespassed the property of the complainant, the court said while pointing out that there can be no allegation of criminal trespass into such property, in which accused themselves are in possession. On such a premise, if further proceedings are permitted to continue against the petitioners, even though the charge sheet has been filed by the police, would become an abuse of the process of law and result in miscarriage of justice, the court said while quashing the complaint and the charge sheet.

Source: Extracted (with edits and revisions) An excerpt from article titled "Only persons having lawful possession of property can complain about criminal trespass: HC", published at "TheHindu".

1. Vidhan is owner of a building called 'Tulip Apartments'. Vidhan uses the building as a guest house for his own guests. However, there is a penthouse apartment that he has given on lease to a Company. In January 2023 Vidhan's sister is to get married and they want the groom's family to stay in the penthouse. Since Vidhan is the owner of the apartment, his family enters the penthouse and screams at the employees of the Company to leave and pushes them out. Decide.

- (a) Vidhan is liable for the offence of criminal intimidation.
- (b) Vidhan cannot be held liable for the offence of Criminal Trespass as he is the owner of the building.
- (c) Vidhan is liable for the offence of Criminal Trespass.
- (d) Both (a) and (c).

2. Vidman has an antique store, where he sells beautiful artefacts and antique items after doing detailed research on the same. He one day comes to that Vidwoman has an antique watch worth millions and is ready to share the profits with Vidwoman. Vidwoman however has emotional attachment with the watch and refuses to sell it. Vidman thereby unlawfully and without Vidwoman's permission enters into Vidwoman's house to steal her grandfather's antique watch. In light of the above passage, decide.

- (a) Vidman is liable for theft.
- (b) Vidman is liable for criminal trespass.
- (c) Both (a) and (b)
- (d) Vidman is liable for robbery.

3. Employees of a bank who were on strike; entered the bank and started tearing documents and threw the furniture around with the intention to cause annoyance to the officials working in their cubicles, stormed into the private cubicles or offices of the superior staff. Decide.

- (a) Actions of the bank employees entering private cubicles amounts to Criminal Trespass.
- (b) Actions of the bank employees do not amount to criminal trespass as they also work there and are merely on strike.
- (c) Actions of bank employees are not an offence as it is their right to strike.
- (d) Actions of bank employees are not grave enough to constitute criminal trespass.

4. Vidhan and Vidhi are a divorced couple living in separate residences. Vidhi is in possession of the marital home even though both parties together have ownership of the marital home. Vidhan contacted Vidhi and requested that she should allow him to come over to the marital home. Vidhi denied the request. Vidhan came over to the marital home anyway and knocked on the door to try to gain entry. Vidhi denied him entry. To Vidhi's annoyance, Vidhan got into the home through a window. Decide.

- (a) Vidhan is not liable for criminal trespass as it is his marital home also.
- (b) Vidhan is not liable for criminal trespass as Vidhi and Vidhan have a shared ownership of the house.

THE CLAT COMBAT

(c) Both (a) and (b)

(d) Vidhan is guilty of criminal trespass as Vidhi is in possession of the marital home.

1. Ans. c

Sol. The correct answer is option (c) as the passage explains that the offence of criminal trespass is committed against possession of property which in this case was with the Company. Further the actions of Vidhan fall within the ambit of criminal trespass as they intimidated the company employees by screaming at them, "Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property". Therefore option (b) is incorrect. Option (a) is outside the scope of this passage. Therefore option (d) is incorrect.

2. Ans. b

Sol. In light of the above passage Viman would be liable for Criminal Trespass therefore option (b) is the correct answer. The passage nowhere talks about "theft" or "robbery" therefore options (a) and (d) are outside the scope of the passage. Therefore option (c) is incorrect.

3. Ans. (a)

Sol. The correct answer is option (a) as the passage mentions "Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy..". Since the private cubicles are in possession of superior staff and employees entered upon it to cause annoyance, it squarely falls within the offence of criminal trespass. Therefore option (b) is incorrect. Options (c) and (d) are generalised statements and must be rejected.

4. Ans. (d)

Sol. The correct answer is option (d) as criminal trespass is an offence against possession and the same can be inferred from the lines "Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property". Options (a) (b) and (c) are incorrect as it is possession and not ownership against which offence of criminal trespass is committed and the same can be inferred from the passage.