Part A

Answer any 2 of the following questions in about 600 words. Each question carries 20 marks.

1. Explain the principle that govern the liability for joint or group crime with the help of case law.

Ans: The concept of Joint Liability is present both in civil and criminal law. But here we will discuss only criminal joint liability.

The concept of joint liability comes under Section 34 of IPC which states that “when a criminal act is done by several persons, in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.” The section can be explained as when two or more persons commit any criminal act and with the intention of committing that criminal act, then each of them will be liable for that act as if the act is done by them individually.

The ingredients of Section 34 of IPC are:
1) A criminal act is done by several persons;
2) The criminal act must be to further the common intention of all;
3) There must be participation of all the persons in furthering the common intention.

Let us take a hypothetical situation- There are two persons A and B. Both of them decided to rob a bank to earn some quick money. Both of them decided in advance that they will not hurt anybody and they will only take the money. After reaching the bank A tells B to guard the gate of the bank while he takes the money. When A was taking the money, security guard came running towards A. A out of fear, stabbed the security guard with a knife due to which he died. After that A ran with B along with the knife. In this case, even though B had no intention of killing the security guard but he will also be liable for the murder of security guard and robbery along with A.

According to section 120A of IPC- “When two or more persons agree to do, or cause to be done, (1) an illegal act, or (2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy : Provided that no agreement except an agreement to commit and offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof. The section can be explained as two or more than two persons perform an illegal act and deciding of that act in advance is criminal conspiracy.

The concept of Joint Liability is embodied under Section 34 of Indian Penal Code – “Acts done by several persons in furtherance of common intention- when a criminal act is done by several persons in furtherance of common intention of all, each of such persons is liable for that act in the same manner as if done by him alone.” When IPC was enacted in 1860, section 34 at that time didn’t included words ‘in furtherance of common intention’, then an amendment was made in year 1870 to amend Indian Penal Code and then these words were included in the section 34. The amended section 34 of IPC simply says that all those persons who have committed a crime with a common intention and they have acted while keeping in mind the common intention, then everyone should be liable for the acts of another done in common intention as if the act is done by the person alone. It happens that different persons perform different acts in the commission of the act or non commission of the act, even though when section 34 applies, all the persons in group are jointly liable for the acts of another.

The concept of Joint Liability was evolved in the case of Reg v. Cruise, in this case police had gone to arrest A at his home. B, C and D were also present at that time. When all the three persons saw police coming, they came out of the house and gave a blow on the police and they drove them away. The court held that all the three are liable for the blow even if the blow was given by only one person.

The ingredients of Section 34 are:
· There should be criminal act- Criminal Act means that either committing the act or omitting to commit the act, which is an offence under IPC.
· That criminal act is done by several persons- For the Section to apply, it is necessary that the act is done by more than one person as if the act is done by only one person then this section does not applies.
· That criminal act is done in the furtherance of common intention of all- it means that the persons should have decided in advance about the commission of the act and every one of them have acted keeping in mind that common intention.
· There should be participation in some way or other in the commission of the act- the persons cannot be held liable if they have decided what to do and then they have not done that thing, every person who is a part of the group should do something so as to participate in the commission of the act.

The case of Barendra Kumar Ghosh v. King Emperor was one of the earliest cases where the court convicted another person for the