

COURSE NAME - LAW
CLASS- B.A.LL.B-6TH SEM
SUBJECT- LAW OF CRIMES-II
TOPIC- PLEA-BARGAINING

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Plea Bargaining

In India, Plea Bargaining has certainly changed the face of the Indian Criminal Justice System. Sections 265A to 265L are incorporated in the Code of Criminal Procedure (Cr.P.C.) by Amendment Act 2005 with effect from 5th of July, 2006 to give effect to the system of “Plea Bargaining”.

Meaning and Definition

Plea bargaining means the accused's plea of guilty has been bargained for, and some consideration has been received for it. Plea Bargaining is an arrangement between prosecutor and defendant whereby the defendant pleads guilty to a lesser charge in exchange for a more lenient sentence or an arrangement to drop other charges.

State of Uttar Pradesh v. Chandrika (AIR 2000 SC 164), the Supreme Court held that it is settled law that by plea bargaining Court cannot dispose of the criminal cases. The Court has to decide it on merits.

Object of Plea Bargaining

By introducing the concept of Plea Bargaining in the Criminal Procedure the object of the legislature is to-

- 1.reduce the pending litigation.
- 2.decrease the number of undertrial prisoners.
- 3.make provision of compensation to the victim of crimes by the accused.
- 4.cut delay the disposal of criminal cases.

Types of Plea Bargaining

There are three main types of Plea Bargaining
namely,

- 1.Charge Bargain
- 2.Sentence Bargain
- 3.Fact Bargain

Salient Features of Plea Bargaining

Following are the salient features of Plea Bargaining

- 1.It is applicable in respect of those offences for which punishment is up to a period of 7 years.
- 2.It does not apply to cases where offence is committed against a woman or a child below the age of 14 years.
- 3.When court passes an order in the case of plea bargaining no appeal shall lie to any court against that order.
- 4.It reduces the charge.
- 5.It drops multiple counts and presses only one charge.
- 6.It makes a recommendation to the courts about punishment or sentence.

Requirement's

To ensure fair justice, Plea Bargaining must encompass the following minimum requirements namely:-

- 1.The hearing must take place in court.
- 2.The court must satisfy itself that the accused is pleading guilty knowingly and voluntarily.
- 3.Any court order rejecting a Plea Bargaining application must be kept confidential to prevent prejudice to the accused.

PROCEDURE OF PLEA BARGAINING

- The accused is entitled to avail the benefit of “plea bargaining” both in the cases instituted on the police report as well as by way of a private complaint under Section 200 Cr.P.C.
- The benefit of “plea bargaining” is available to the accused that is not guilty of committing an offence punishable by death or life sentence and not exceeding seven years. The benefit also does not apply if the crime affects the socio-economic conditions of the society and also to the crimes committed against woman or child below the age of 14 years. Plea bargaining is not applicable to juvenile offenders.
- The accused should make an application. The court should conduct in camera inquiry to ascertain that the application is voluntary and without duress. The Court should notify the public prosecutor and the victim to arrive at final disposition.
- On the admission of guilt, the Court should impose One-Fourth of the sentence prescribed for the offence. In case the offence is punishable for minimum imprisonment half of such imprisonment is to be imposed. In both the situations, the Court can award compensation to the victim after productive negotiations with the accused and the victim.
- The accused is entitled to the benefit of Probation of Offenders Act, the benefit of let off under section 428 Cr.P.C. and benefit of bail.
- The accused convicted in the system of a plea of bargaining has no right of appeal, but the remedy of writ jurisdiction under Articles 226 and 227[8] and Special Leave Petition under Article 136[9] of the Constitution of India is not barred.

Drawbacks of Plea Bargaining

Some of the major drawbacks of the concept of Plea Bargaining as is recognized in India are as under:-

- A threat to the right to fair trial.
- Involving the Police in Plea Bargaining process would invite coercion.
- By involving the court in Plea Bargaining process the court impartially is impugned.
- Involving the victim in Plea Bargaining process would invite corruption.
- If the plead guilty application of the accused is rejected then the accused would face great hardship to prove himself innocent.

THANK

YOU