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AN EFFORT TO UNVEIL THE BEST TEST ON CRIMINAL ATTEMPT - DECODING JUDICIAL INTERPRETATIONS OF INDIA, UK AND USA

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ABSTRACT:
The topic on 'An Effort to Unveil the Best Test on Criminal Attempt - Decoding Judicial Interpretations of India, UK and USA' relates to the intriguing, enigmatic and a grey area of criminal law. Under the Indian Penal Code'1860; attempt has been put forth as a substantive penal provision in more ways than one. This work aims to find out the best possible test (s) which the judiciary can undertake and also, mostly applies in solving cases pertaining to attempted crimes by way of a work based upon a study of 100 cases by way of Mixed (Qualitative and Quantitative) Content Analysis whereby, the researcher have tried to systematically decode the approach involved in the judicial decisions of some of the leading cases and relate the same with the existing rules and tests pertaining to the topic to derive the best possible, logical and most frequently used test(s).

1. INTRODUCTION

"The doctrine of attempt to commit a substantive crime is one of the most important and at the same time most intricate titles of the criminal law. There is no title, indeed, less under-stood by the courts, or more obscure in the text-books than that of attempts."[1] As per Hyman Gross, attempt is generally regarded as a harm which is of the second order which leads to the trepidation of a harm that is imminent and may be caused thereby

[1]Thurman W. Arnold , 'Criminal Attempts: The Rise and Fall of an Abstraction'[Nov,1930] The Yale Law Journal, Vol. 40, No. 1 pp. 54

violating the security interest of the individual[2]. It was not until the decade of 1500 to 1510, in the Star Chamber, that the criminal law was over and over again expanded to criminal efforts, and then it was actually merely expanded to criminal attempt. At present, there is a requirement of consistency in the cases of 'attempt'. In marking out the historical development of the criminal effort, it was derived that in the very old periods of time the law was '*voluntas reputabitur pro facto*' which in a simpler way means shall be made responsible for the action. Thus, the requirement to hold unsuccessful criminal activity culpable under the law was pertinent.

2. CONCEPTUALIZING CRIMINAL ATTEMPT

Attempt means to try or make an endeavour. There is a precise need to distinguish preparation from attempt else it would lead to gross miscarriage of justice. Preparation in general is not punishable, while attempt to commit a crime is punishable under the Code sans certain provisions[3]. Thus, an important question baffles the jurist and judges from time to time is how to draw a dividing line between an act of preparation and that of an attempt towards a successful commission of a crime and to ascertain when an act has crossed the arena of preparation and travelled ahead to the point of an attempt.[4]Also, if *mens rea* is the cardinal principle of substantive penal laws upon which brutality of a crime is judged upon and thereby the punishment for the same; in that case why is there are sudden drop in the severity of sentence where the *mens rea* is same but, it is a case of unsuccessful attempt.

As we know by now that criminal law punishes both successful as well as inchoate form of criminal activities[5].The law of attempt and its intricacies are mysterious and enigmatic even now.[6]The distance between the act committed and the expected wrongful consequence is in a way the deciding factor separating preparation stage from that of an attempt[7]. As per Kenny, an attempt is the ultimate proximate act which can directly be linked with closest reason leading to the commission of the crime. On the other hand, Glanville Williams deviated from the last act concept slightly to focus upon the conduct that was legally necessary to do following which the offence would have been consummated had there been no interruption. Andrew Ashworth was keener towards the understanding of the intention with which the conduct was done instead of resting on just the consequences of the conduct.[8]. Initially, attempt in the common law system was specifically

[2] Hyman Gross, *A Theory of Justice*, Oxford, 1979, p 125, See PSA Pillai's Criminal Law 11th Edition Edited by KI VIbhute

[3] Section 122, 126, 223-235,242,243,257,259, 266, 399 of the Indian Penal Code, 1860.

[4] K.D. Gaur, *Textbook on The Indian Penal Code* (4th ed Universal Law Publishing Co, New Delhi 2003) 843

[5]R.B. Tewari, 'Criminal Attempt' in Prof. K.N. Chandrasekharan Pillai, Shabistan Aquil (eds), *Essays on the Indian Penal Code* (First Reprint, Indian Law Institute, Delhi 2008) 217.

[6] B.B.Pandey, 'An Attempt on Attempt' (1984) 2 SCC (Jour) 42

[7] Syed Shamshul Huda, *The Principles of the Law of Crimes in British India: Tagore Law Lectures 1902* (Eastern Book Company, Lucknow Reprinted 1993) 46

[8] Alan Norrie, *Crime, Reason and History: A Critical Introduction to Criminal Law* (2nd edn Cambridge University Press, New York USA Reprint 2006) 49

associated to the act of duelling which was connected to public tranquillity concerns[9].

Kennytake on 'Attempt' is more or less thelast proximate act that is done by the offender towards the fulfilment of the desired consequencewhile on the other hand, Halsbury's Laws of England defines attempt as an overt act which has an immediate and direct nexus connected with respect to the successful completion of crime. Glanville Williams emphasized upon the fact that, the act of the accused is necessarily proximate if, though it is not last act that he intended to do, it is the last that is legally necessary for him to do if the result desired by him is afterwards brought about without further conduct on his part, the focus is not on the final step for the act to be brought under the proximate ambit of attempt but the legally culpable act which was good enough and necessary to bring about the desired outcome. According to Andrew Ashworth, people's criminal liability should be assessed on what they were trying to do, intending to do, and believed they were doing instead of focussing on the desired outcome all the time. Alan Noorie further observed that when there is an intention to commit crime, it's not wrong as someone cannot be rightly be punished for harbouring an intention but, it is the manifestation of the same moral wrongdoing that leads to culpability. As per Smith and Hogan, motive that pedals intention is more synonymous to emotion in terms of its practical meaning. It is also important to note that J.D. Mayne focussed on the area of specific intention pertaining to criminal conduct which includes attempt too and how it has been codified in India. Sir James Fitzjames Stephens rightly pointed that attempt deserves comparatively lesser punishment than the actual commission since it has not caused any concrete harm which may contradict with those who are of the opinion of equal sentence for complete and incomplete commission of crimes owing to the same degree of criminality of the human mind. Russell on Crimes envisages that an act can be termed as an attempted conduct provided it is a step that leads to the execution of the criminal design and proximately connected**.**

Amidst Indian jurists, Prof. B.B. Pandey observed that the law of attempt continues to be somewhat notorious for its intricacies. Law as per R.C. Nigam, does not take cognizance of intention which is not superseded with an act. H.S. Gour on his take on s 511 of Indian Penal Code (IPC) emphasizes on the framers intent of the need of an overt act since mere intention cannot be punished. As per Mool Singh, in cases of attempt, *actus reus* is ancillary to *mens rea*. Shamshul Huda observes that, the close nexus between the act committed and the evil repercussion desired, that predominantly determines the distinction between preparatory stage and attempted conduct.

In England, the first case from where the case of attempt got originated was *Rex v Scofield*[10].The fact that similar decisions rendered by the courts in not so similar case facts lead to a lot of confusion in cases of attempted criminal conduct[11].If we distinctively look into the case of *State of Maharashtra v*

[9]J.Hall,*General Principles of Criminal Law* (2nd edn Indianapolis: Bobbs-Merrill 1960) 558-574

[10] (1784) Cald. (387)

[11] Arnold T.W., 'Attempt in Criminal Law', 40 Yale L.J. 53

Mohd Yukub[12] where Sarkaria .J observed that what constitutes attempt is a mixed question of law and fact. He further asserted on the four stages of criminal conduct stating that the final stage of criminal indulging in the overt act need not be the penultimate act towards the commission of the act. As per Sarkaria J, the sufficiency of proof of guilt lies in the fact that the acts were deliberately done and thus manifest a clear intention on the part of the accused to commit the offence and therefore was reasonably proximate to the consummation of the said offence.[13] Whereas, Chinappa Reddy J, focussed on the point of proximity being in relation to intention and not with respect to time or place.[14] Thus one can assume the transition or departure from what the interpretation of the law was when L. Diplock gave a very narrow construction of the scope of an attempted crime stating that only acts "immediately connected" with the offence can be termed as attempts.[15]The case of *R v Geddes*[16]focussed on the importance of decoding the *actus reus* element in attempted crimes in its literal sense and set yardsticks to find the same from the core matter of fact of the case.

Even then, the emphasis on the Rule of Proximity which can also be related to the case of *Abhayanand Mishra v State of Bihar*[17]which states thus, "it seems that the act of the accuses is necessarily proximate if, though it is not the last act that he intended to do, it is the last that is legally necessary for him to do if the result desired by him is afterwards brought about without further conduct on his part"[18]the major riddle to be solved is to identify as to how far past the beginning of the conduct the offender must act in oder to bring a criminal activity under the offence of attempt[19] Even in the United Kingdom, in some occasions, the Courts have interpreted too narrowly the notion of proximity in attempt.[20] Commentators are almost unanimous in disapproving attempt tests that offer a single formula applicable to all[21] attempt situation thus negating the one size fits all situation and rightly so for which in depth analysis of other tests like the Locus Poenitentiae, Social Danger Test, Equivocality, Impossibility, Substantial Step, Probable desistance etc.

[12] (1980) 3 SCC 57

[13] Prof. KNC Pillai & Shabistan Aquil (eds), *Essays on the Indian Penal Code*(The Indian Law Institute, New Delhi 2008 First Reprint)220

[14] BB Pandey, An attempt on attempt (1984) 2 SCC (Jour) 42

[15]David Ormerod (ed), *Smith and Hogan's Criminal Law*, (13th ed Oxford University Press, England 2011) 292

[16] (1996) 160 JP 697

[17] 1962 SCR (2) 241

[18] Dennis Baker (ed), *Glanville Williams Textbook on Criminal Law*(3rd ed Sweet & Maxwell, 2012) 481

[19]Edwin R. Keedy,'Criminal Attempts at Common Law' [Feb,1954] University of Pennsylvania Law Review, Vol. 102, No. 4 at pp. 469

[20]Glanville Williams, 'Criminal Law: A Fresh Start with the Law of Attempt'[Nov, 1980] The Cambridge Law Journal, Vol. 39, No. 2, pp. 225

[21] The New Attempt Laws: Unsuspected Threat to the Fourth Amendment : Robert L. Misner: Stanford Law Review, Vol. 33, No. 2 (Jan., 1981), pp. 209 - See, e.g., United States v. Noreikis, 481 F.2d 1177, 1181 (7th Cir. 1973), cert. denied, 415 U.S. 904 (1974) ("semantical distinction between preparation and attempt is one incapable of being formulated in a hard and fast rule"); Stuart, supra note 41, at 510 (no test is jurisprudentially indefensible; courts choose test which yields answer consonant with their intuitive belief.

In the case of *State v Gillette*[22], the implications of executing transferred purpose to the attempt of murder, which is certainly a crime for its purpose and significance. An intended crime may fail of accomplishment, (1) because voluntarily abandoned; (2) because the means used are inadequate; (3) because an unforeseen obstacle intervenes; or (4) because the object upon which it is intended to be committed is not present. In the first three cases, since there is no doubt as to the criminal intent, the only point to be considered is whether the act done is of sufficient importance for the law to notice it whether it is such as to cause alarm to society. In determining this, both the magnitude of the crime intended and the nearness of the act done to the projected result must be taken into account.[23]A criminal attempt cannot be termed as a substantive penal offencesans the referencing with respect to the crime attempted. S 511[24] does not incorporate the fault element which is a loophole of sorts and is incomplete in a way[25].

3. TESTS ON ATTEMPT

Anyhow, below mentioned and briefly analysed are some tests that are applied in countering the challenges pertaining to decision making of the courts in cases of attempted crimes:

(a) **Proximity Test-** The rule of proximity is exemplified as *maxim cogitationis poenam nemo patitus* in the Latin which implies that any type of punishment cannot be ipso facto inflicted on a person for the guilty commission, save to the extent that they have marked themselves for proclaiming their faults. As for example, a person shoots at another with the intention of killing him but fails to spot the target for lack of expertise or some other type of imperfection in the gun or in the hand of the shooter. In this case, the shooter would be responsible for criminal effort in which the accused person aims a gun at the other person and keeps on for pulling the trigger so as for shooting him dead, even if it is revealed that the rifle did not have the required bullets[26]. Classic case under this rule is *State of Maharashtra v Mohd Yukub & Ors*[27]wherein Sarkaria J. and Reddy J. took two different approaches (vis-à-vis proximity with respect to intention and time or place) to affirm conviction by way of the usage of the proximity rule.As per proximity, the shooter will be legally responsible for criminal attempt for the reason that he or she has carried out each and everything in their hands in the direction of the accomplishment of the criminal act. An activity of the defendant is taken into consideration as proximate, if, although it is not the final activity that he had the intension of doing. It is the final act which was lawfully essential for him to conduct, if the considered outcome is brought about devoid of any more behaviour on his part later on[28].

[22]699 P.2d 626 (1985)

[23] Criminal Attempt : Harvard Law Review, Vol. 16, No. 6 (Apr., 1903), pp. 437

[24]Indian Penal Code'1860

[25] Wing-Cheong Chang, 'Abetment, Criminal Conspiracy and Attempt' in Wing-Cheong Chang and others (eds), *Codification, Macaulay and the Indian Penal Code* (Ashgate, England 2011) 146.

[26]Sayre, FB, 'Criminal Attempts' Harvard Law Review 41, no. 7 (1928): 821-859.

[27](1980) 3 SCC 57

[28]Akers, R.L. *Criminological theories: Introduction and Evaluation*. (2013, Routledge)

(b) Equivocality Test- An action calls for culpability, if and only, if it implies ahead out of a logical argument that, it is the end to that it is focussed. As enunciated in *Om Parkash v State of Punjab*[29]. When an act is done, which a step directed at the process for the commission of a criminal activity, it need not be a case of a crime attempted unless it can be confirmed that it would have inevitably led to the commission of the said crime and thereby ,can only be said to be preparatory by nature[30].The *actus reus* of a criminal effort of an actual crime takes place when the offender carries out an activity that is a level in the direction of the assignment of that particular criminal act and the carrying out of this type of act cannot logically be taken into regard as having some other cause other than the task of that particular illegal action[31].

(c)Test of Social Danger- In order to make a necessary demarcation between preparatory act and that of criminal attempt, the aspects that contribute are the significance of the criminal attempt and the uneasiness of the social harm that is entailed. As for instance, if an individual gives some tablets to a pregnant lady so as for the procurement of abortion, but as the tablets are not harmful they do not generate the desired consequence[32]. Despite this, this person would be taken into account as legally responsible for a criminal effort from the standpoint of the test of social danger, as the action of this person will result into an alarm to the human society leading to social importance as laid down in *Aman Kumar v State of Haryana*[33].

(d)Impossibility Rule-The determination of liability is based on not just the belief of the actor regarding the circumstances but also, on the objective realism of the state of affairs. It has obvious inferences for the questions of impracticality. If the course of objectivism is taken, and the actions are judged since they connect with the world in reality, the question in this case will be whether the activities come to an assail on any concern which is safeguarded by the criminal law in reality from an old precedent like *R v Ring*[34] to a recent one like *USA v Johnson*[35].There are two kinds of impossibility case that are determined in a different way from the probable consequence under the current subjectivist law if an approach of objectivism were undertaken. The other type of impossibility in which an approach of objectivism would bring up an outcome, which is completely dissimilar from an approach that is purely subjective, is in which, the attempt is fundamentally not possible in some respect. This might be either for the reason that the insufficiency of the ways taken up is objectively taken into consideration as beyond simple mistake for example attempting to harm other people by magic or since the fundamental impossibility get on the non-continuation of the criminal objective, for example where the

[29] 1961 AIR 1782

[30] State v. Narayan Singh, AIR 1989 SC 1789

[31]Anderson, Elizabeth S, and Richard H Pildes,'Expressive theories of law: A general restatement' (2000) University *of Pennsylvania Law Review* 148, no. 5 1503-1575.

[32]Moore, MS, 'Placing blame: A theory of the criminal law' (2010) Oxford University Press, USA

[33](2004) 4 SCC 379

[34]17 Cox CC. 491,66 L.T. (NS) 306 (1892)

[35]270 P. 3d2012

stump of a tree is shot at owing to the miscalculation of it being a human being[36].

(e)Locus Poenitentiae -The expression has come from a Latin language. It explains about time for atonement. In this case, the term 'Locus' implies a place or a location which is a word that is in general used for the denotation of the place at or in which there is a certain material act of various nature[37]. Locus Poenitentiae implies the prospect of withdrawing from a negotiation prior to its turning into entirely binding and fully constituted[38] which may be related to the case of *Malkiat Singh & Anr v State Of Punjab*[39]. Thus, the action may end up being just a mere preparation if the perpetrator surrenders his evil intention subsequently followed by the impending activity.

Table1: Judicial Pronouncements from India, UK and USA and Test Applied

Herein below is the table od cases decided and the test applied which includes first 50 cases from India followed by 25 cases each from U.K and U.S.A respectively in the said order.

SL No.	CASE Details	TEST APPLIED
	INDIAN JURISDICTION	
1	*Emperor v Vasudeo Balwant Gogte*	Social Danger
2	*Asgarali Pradhania v Emperor*	Social Danger
3	*Maragatham alias Lakshmi v Unknown*	Social Danger
4	*Abhayanand Mishra v State of Bihar*	Proximity
5	*Om Parkash v State of Punjab*	Equivocality
6	*Milkait Singh and Anr v State of Punjab*	Locus Poenitentiae
7	*Sudhir Mukherjee and Sham Lal Shaw v State of West Bengal*	Proximity
8	*Mohd. Yakub v State of Maharashtra*	Proximity
9	*Harischandra Narayan Khadape v State Of Maharashtra*	Social Danger
10	*Sadha Singh And Anr. v State Of Punjab*	Social Danger
11	*Ramabai Wife Of Nivrutti Chavan v Nivrutti Nimbhaji Chavan And Ors*	Proximity
12	*Hari Mohapatra and Anr. v State of Orissa and Ors.*	Proximity
13	*Dilip Laxman Bobade v The State Of Maharashtra And Anr*	Equivocality
14	*Satvir Singh And Others v The State Of Punjab & Another*	Proximity
15	*State Of Rajasthan vs Bhagwana Ram*	Social Danger
16	*State of Assam v Kailash Chandra Pareek*	Proximity
17	*Koppula Venkat Rao v State of AP*	Proximity
18	*Deo Narain Mandal v State of UP*	Proximity
19	*Sagayam v State of Karnataka*	Proximity
20	*Aman Kumar and others v State of Haryana*	Proximity

[36] K. J. M. Smith, 'An Objectivist's Account of Criminal Attempts' (1998) *The Modern Law Review* 61, no. 3: 438-450.

[37]Arnold N Enker, 'Impossibility in Criminal Attempts--Legality and the Legal Process' (1968) *Minn. L. Rev* 53: 665

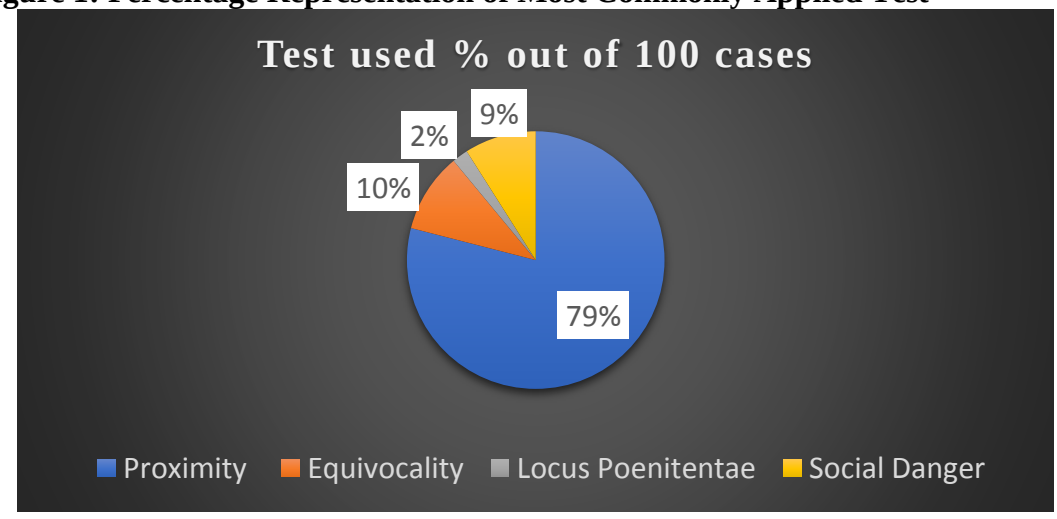
[38]Ibid 665

[39] 1959 SCR (2) 663

21	*Manoj Kumar v State*	Proximity
22	*Abdus Sabur Molla, Jamal Sk. and Others v Commissioner of Customs*	Proximity
23	*Lachman Singh v State Of Haryana*	Proximity
24	*Bishan Singh and Another v State*	Proximity
25	*Bachcha Son Of Maheshwari Deen v State Of UP*	Equivocality
26	*Jakir Hossain v State Of Tripura*	Proximity
27	*Bhurji And Ors v State Of Madhya Pradesh*	Proximity
28	*Shankar @ Shakabhai Maganbhai v State Of Gujarat*	Proximity
29	*Ram Kripal v State of Madhya Pradesh*	Equivocality
30	*Guddu v State of Madhya Pradesh*	Proximity
31	*Rashid Alam alias Gabbar v State of West Bengal*	Proximity
32	*Sannaia Subba Rao & Ors v State Of AP*	Proximity
33	*Sheetala Prasad & Ors v Sri Kant & Anr*	Equivocality
34	*State v Ramdev*	Proximity
35	*Anand Parkash v State of Haryana*	Proximity
36	*State v Ghanshyam*	Proximity
37	*Hazara Singh v Raj Kumar & Ors*	Proximity
38	*Narendra v State of Rajasthan*	Proximity
39	*Pasupuleti Siva Ramakrishna Rao v State of Andhra Pradesh*	Proximity
40	*Khan Sadab @ Sadab Khan v State Of Karnataka*	Proximity
41	*Fireman Ghulam Mustafa v State of Uttaranchal*	Proximity
42	*Raj Singh @ Raja v State of Haryana through Secretary Ministry of Home Affairs, Chandigarh*	Proximity
43	*Maqsood and Others v State of UP*	Proximity
44	*State of M.P v Madanlal*	Social Danger
45	*Mohar Singh v State of Rajasthan*	Proximity
46	*Girish Chandra Sharma v The State Of Bihar*	Proximity
47	*Tattu Lodhi v State of MP*	Equivocality
48	*AR Satish v State of Maharashtra*	Proximity
49	*Sitaram Sambhaji Mane v State of Maharashtra*	Proximity
50	*Shri. Denis Mukhim v State Of Meghalaya*	Proximity
	U.K. JURISDICTION	
51	*Rex v Scofield*	Proximity
52	*R v Eagleton*	Proximity
53	*R v Collins*	Equivocality
54	*R v White*	Proximity
55	*R v Whybrow*	Proximity
56	*Davey v Lee*	Equivocality
57	*R v Easom*	Proximity
58	*Haughton v Smith*	Proximity
59	*DPP v Stonehouse*	Proximity
60	*R v Ghosh*	Proximity
61	*Anderton v Ryan*	Proximity
62	*R v Shivpuri*	Proximity
63	*R v Gullefer*	Proximity
64	*R v Boyle and Boyle*	Proximity
65	*R v Khan and Others*	Proximity
66	*R v Jones*	Proximity
67	*R v Campbell*	Locus Poenitentiae
68	*A-G Reference No. 1 of 1992*	Proximity
69	*A-G Reference No. 3 of 1992*	Social Danger

70	*R v Geddes*	Proximity
71	*R v Tosti and White*	Proximity
72	*R v Nash*	Proximity
73	*R v Jones*	Proximity
74	*DPP v Moore*	Proximity
75	*R v Pace and Rogers*	Proximity
	U.S.A. JURISDICTION	
76	*People v Lee Kong*	Proximity
77	*Commonwealth v Peaslee*	Proximity
78	*State v Mitchell*	Proximity
79	*People v Sullivan*	Proximity
80	*William Stokes v State of Mississippi*	Proximity
81	*Thacker v Commonwealth*	Proximity
82	*People v Sobieskoda*	Proximity
83	*People v Werblow*	Proximity
84	*People v Miller*	Proximity
85	*State v Harvey Wilson*	Proximity
86	*United States v Thomas*	Proximity
87	*State of Missouri v Michael Thomas*	Proximity
88	*State v Gosselin*	Proximity
89	*United States of America v Roy Mandujano*	Proximity
90	*United States v Oviedo*	Social Danger
91	*United States of America v Stallworth*	Proximity
92	*United State v Joyce*	Equivocality
93	*State v Gillette*	Proximity
94	*People v Jones*	Proximity
95	*People v Thousand*	Proximity
96	*United States of America v David K. Haynes*	Proximity
97	*United States v Resendiz-Ponce*	Proximity
98	*Unites States v Johnson*	Equivocality
99	*Michael J. Bien v The State of Texas*	Proximity
100	*United States v Studhorse*	Proximity

Figure 1: Percentage Representation of Most Commonly Applied Test



The table and pie chart testifies that the test of Proximity is a clear winner across all the three jurisdictions be it India, U.K or in the U.S.A. It is

important to note and reemphasize upon something which has been dealt with before too with respect to the Proximity test. It is interestinghow the courts have applied the tests under the circumstances subjective to each particular case. It may be observed that in many cases, where there is no express mention of the tests applied, the researcher has taken the liberty to use his understanding of the approach taken to decipher as to which test best fits that particular situation looking into the process of the judgment as it stands.

4. CONCLUSION

In the USA, after the enactment of the Model Penal Code by the American Law Institute, the 'substantial steps test' has come into the vogue. The researcher here while drafting this work and looking in depth, found that the proximity approach which has been taken by many courts across jurisdictions and most definitely in India is very similar and if not same as the MPC's enunciated test. J Chinappa Reddy, a learned Judge who decided the matter of Mohd Yukub, differed from his fellow co-judge, J. Sarkaria in stating that the test of proximity should be in connection to intention unlike the latter's understanding of physical proximity in consonance with Glanville William's Cinematograph test. Thus, the 'substantial step test' is more of a difference in terms of nomenclature than actual application. Hence, the scholar took such tests under the umbrella of proximity based on reasoning for a clear, unambiguous, easy and simple understanding.Also, during the course of this study, it is clear that the test of Locus Poenitentiae is not the most favoured or sought after test. But, in partial indifferent understanding, the Equivocality or the Res Ipsa Loquitor test can still be a good supplementary test in addition to the Proximity test for the purposes of unequivocal understanding of the factual matrix of the cases.In conclusion, it is only fair and apt to say that, in the cases of attempted crimes, like other crimes the proof confirming specific intent of the accused to commit the illicit act becomes very vital. Looking from the more important causational viewpoint, a direct step establishing a proximate nexus between the act and the desired consequence is the core of culpability is these kinds of matters. Thus, it is reiterated that usage of the much validated Proximity test seems to be the best option. In conjunction however, Equivocality test may be used at times to decipher complicated cases.

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