



**PROSPECTIVE Vs.
RETROSPECTIVE**

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Index

Section A

- **Introduction and meaning**
- **Reason**

Section B

- **Positive views of prospective and negative views of retrospective**
 - **History and meaning**
 - **Nature and effect**
 - **Present situation**
 - **Constitutional validity and criminal jurisprudence**
 - **Sections needed amendments in IPC**
 - **Comparison**

Section C

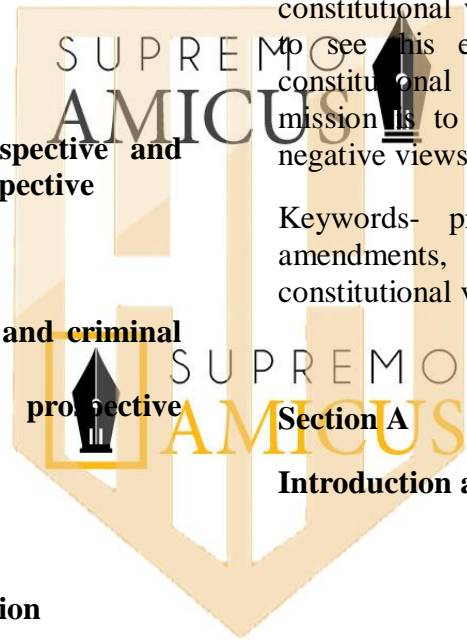
- **Conclusion and suggestion**

Abstract

Criminal law has been governed by Indian penal code (45 of 1860) with state amendments and classification of offences, state amendments index, subject index. There is a need of amendments in every Act according to change and needs of society. Now there is need to determine that what kind of

amendments should be there, whether prospective or retrospective one in respect of criminal law. This paper deals with the meaning of expression prospective amendments in criminal law first of all. It is necessary to dealt with meaning first than to observe analysis of its nature and effect. Than only it should be conclude about prospective amendments in criminal law. This paper mission is to clear the confusion between both the terms and observe the prospective effect. This paper aims to observe both terms in respect of constitutional validity. Why it is needed to see this expression in respect of constitutional validity? This paper mission is to observe its positive and negative views of both the terms.

Keywords- prospective, retrospective, amendments, ex-post facto laws, constitutional validity,



**Section A
Introduction and meaning**



Competent authority's name	Meaning
1 according to black's law dictionary ¹	Looking forward; contemplating the future. A law is said to be prospective (as opposed to retrospective) when it is applicable only to cases which shall arise after its enactment.
2 according to Merriam Webster ²	Relative to or effective in future Likely to come about Likely to be or become
3 according to oxford dictionary ³	Expected or expecting to be specified thing in the future Likely to happen at future date
4 according to medical definition ⁴	Relating to or being a study (as of incidence of disease) that starts with the present condition of a population of individuals and follows them into the future.
5 according to legal definition ⁵	One which provides for, and regulates the future acts of men and does not interfere in any to be expected way which what has past.

retrospective. To be just, a law ought to be prospective.⁶

However after such a wider connotation of word prospective, it is of the opinion that prospective is a future contingency which is solved or overlooked at this very present time. It is

1 Garner A Bryan; Thomson west aspatore books; black's law dictionary; ed. 10

2 Merriam Webster, US; ed.11, Collegiate dictionary

3 Simpson John and Weiner Edmund; Oxford university press; ed. 11

4,5,6 www.legalserviceindia.com

thus ought to be expected in future i.e., what would be the changes that should occur in future or required to consider a present stipulated situation which needs to be overlooked now for the future acts of men.

As law is just like a wheel that has a static point in it and a dynamic wheel that circulates. As same rule applies in law, in law there has been a static point that is, its base and entire law regulates accordingly.

Coke maxim- A new law ought to be prospective and not retrospective in its operation.

Prospective- that which is applicable to the future, it is used in opposition to

For better understanding of expression, it requires to observe the word amendment thoroughly as well. And to observe what is amendment? And is amendment needed or it's just a wastage of time?



What is amendment?

Competent authority	Meaning
1 according to black's law dictionary ¹	In practice. The correction of an error committed in any process, pleading or proceeding at law, or in equity, and which is done either of course, or by the consent of parties, or upon motion to the court in which the proceeding is pending.
2 according to Merriam Webster ²	The process of altering or amending a law or document (such as a constitution) by parliamentary or constitutional procedure. An alteration proposed or effected by the process. The act of amending something.
3 according to legal definition ³	The modification of materials by the addition of supplemental information; the deletion of unnecessary, undesirable, or outdated information, or the correction of errors existing in the text.

According to above definitions, amendment is such modifications or alteration in existing laws that shall be done by competent authority or any such addition or subtraction that needs to be overlooked to time. Many amendments have been done since independence because law runs according to needs and circumstances of society.

Yes, amendment is a need of society because a static law does not provide justice to a society of dynamic nature and therefore amendment is needed in society of dynamic nature.

Thus a prospective amendment means applying the laws in future with some alterations or deals with future contingencies and does not affect existing rights and not being ultra virus. It is of such nature that shall have effect from a future date.

“A law enacted later making any act done earlier as an offence, will not make person liable for convicted under it. This means that if an act is not an offence at the date of its commission it cannot be an offence at the subsequent to its commission.”¹

In prahlad Krishna v state of Bombay², it has been held that immunity is thus provided to a person from being tried for an act under a law enacted subsequently, which makes the law unlawful.

1 Garner A Bryan; Thomson west aspatore books; black's law dictionary; ed. 10

2 Merriam Webster, US; ed.11, Collegiate dictionary



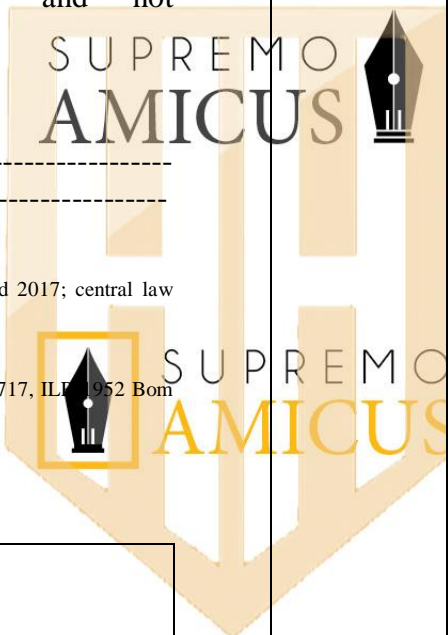
Thus it means any prospective amendment enforced in future doesn't meant to be liable a person for its offence which is not an offence earlier. The constitution also provides for the same, article 20 is divided into two parts, discuss it earlier.

For better understanding, it requires to consider meaning of retrospective as well. For prospective amendments in criminal law, it needed to understand the concept of retrospective. Is there any difference between both? Why law should be prospective and not retrospective?

What is retrospective?

1 Pandey J.N.; Constitution of India; ed 2017; central law agency

2AIR 1952 Bom 1, (1951) 53 BOMLR 717, ILR 1952 Bom 134; www.indiankanoon.com



Whenever a law of this kind impairs the obligation of contracts it is void. But laws which only vary the remedies divest no right, but merely cure a defect in proceeding, otherwise fair are valid.

The words is usually applied to those acts of the legislature which are made to operate upon some subject, contract or crimes which existed before the passage of the acts, and they are therefore called retrospective laws. These laws are generally unjust and are, to a certain extent, forbidden by article of the US, which prohibits the passage of ex-post facto laws or laws impairing contracts.

Laws should never be considered as applying to cases which arose previously to their passage, unless the legislature has clearly declared such to be their intention.

Competent authority	Meaning
1 according to black's law dictionary ¹	Looking back; contemplating what is past.
2 according to legal definition ²	A retrospective law is one that is to take effect, in point of time, before it was passed.

However according to above definitions, art20 of constitution of India provides certain safeguards to the person accused of crime and so ar20(1) of Indian constitution impose a limitation on the law making power of the constitution as



it prohibits the legislature to make retrospective criminal laws and not civil liability. Art 20 of constitution of India guarantees rights against ex post facto laws.

Not only that, such principle has its own basis on the Latin maxim SALUS POPULI EST SUPREMA LEX³ which means the welfare of the people is the supreme for the law and inspired by principle of justice, equity and good conscience.

1 Garner A Bryan; Thomson west aspatore books; black's law dictionary; ed. 10

2 www.legalserviceindia.com

3 Pandey J.N.; Constitution of India; ed 2017; central law agency

Reason, why to law should be prospective and not retrospective

Law looks forward not back- *lex prospicit non respicit*

Law works to provide justice, welfare to people. There are number of reasons to adopt prospective amendments instead of retrospective one. As the Latin maxim suggest law looks forward and not backward. Not only that, many times, Supreme Court provides clarity between both i.e., prospective and retrospective.

- Concerned with or applying the laws in future or at least from the date of commencement of the statute.
- Does not affect existing contract.

- Does not reopened past, closed and complete transactions.
- If it would not apply than number of cases shall get reopened because of later enacted laws or amendments. Thus, law or amendments taken shall be prospective one and not retrospective.
- It deals with future contingencies, and does not annul or affect existing rights and liabilities.
- If any amendment or law or both come into effect from a past date, it is of retrospective nature. Altogether it curtails some of the vested rights which had been acquired from some existing laws.

Retrospective amendments are demands in immediate situations.

- Retrospective amendments are not allowed in criminal law. They are having ultra virus effect. Art 20 of constitution of India specifically bars it. Thus favours prospective one.

Art 20 of Indian constitution states as follows:

- 20(1) no person shall be convicted of any offence except for violation of the laws in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
- 20(2)- no person shall be prosecuted and punished for the same offence more than once.
- 20(3)- no person accused of any offence shall be compelled to be a witness against himself.

Art 20 (1) provides that legislature cannot make laws which provide



punishments for those acts which were committed in past. This is called ex post facto laws. Thus according to

1 Basu Das Durga; Constitution of India; ed. 21st; Lexis Nexis

Constitution of India art 20 ex post facto laws are banned. New law can not punish old act or omission of person. Even American constitution prohibits ex post facto laws. The same doctrine held in many cases and observed by Supreme Court. Some of those cases are:

- Kedar nath v state of west Bengal¹
- Prahlad Krishna v state of Bombay²
- T. baral v henry³
- Calder v bull⁴
- Garikapat veeraya v N. subbiah⁵

In kedarnath case the accused committed an offence under the prevention of corruption act then in force was punishable by imprisonment or fine or both. The act was amended in 1949 which enhanced the punishment for the same offence for an additional fine equivalent to the amount of money procured by the accused through the offence. The Supreme Court held that the enhanced punishment prescribed in 1949 could not be applicable to the act committed by the accused in 1947 and hence set aside the additional fine imposed by the amended act.

In prahlad case, it has been held that immunity is thus provided to a person from being tried for an act under a law

enacted subsequently which makes the law unlawful.

In henry case the Supreme Court held:

Nothing really turns on the language of section 16(1)(a) because the central government act has not created a new offence thereby dealt with the same offence. It is the only retrospective criminal legislation that is prohibited under art20 (1). It is quite clear that in so far as the central amendment act creates new offences of enhanced punishment for a particular type of offence no person shall be convicted by such ex-post facto law nor can the enhanced punishment prescribed by the amendment be applicable. But in so far as the central government act reduces the punishment for an offence should not have the benefit of such reduced punishment.

1 AIR 1954 SC 660; www.indiankanoon.com

2 AIR 1952 Bom 1, (1951) 53 BOMLR 717, ILR 1952 Bom134; www.indiankanoon.com

3 AIR 150, 1983 SCR (1) 905; www.indiankanoon.com

4 3 Dall. (3 U.S.) 386 (1798) www.oxfordreference.com

5 1957 AIR 540, 1957 SCR 488; www.indiankanoon.com

In the American case calder v bull case, chase, j., said “every ex-post facto law must necessarily be retrospective, but every retrospective law is not an ex-post facto law.



In the case Garikapati, Supreme Court held that, the golden rule of construction is that, in the absence of anything in the enactment to show that it is to have retrospective operation; it cannot be so constructed as to have the effect of altering the law applicable to a claim in litigation at the time when the act passed”.

From the above mentioned case laws and art 20 of constitution of India, it clearly stated that retrospective amendments exempted immunity from accused person. And every amendment prima facie shall have a prospective one unless it is expressly or by other necessary implications made to have retrospective operation. Under art 20 legislatures has power to make prospective laws and prohibits making retrospective criminal laws.

But with regards to rape case, retrospective effect gained much more importance while that of levy taxes that come under civil, allows retrospectively not that of penal provision in it. And the reason of that of rape cases is the immediate situation arose for amendment. If prior that situation arose, the amendment would do, then there shall no need for such retrospective criminal amendment. This is another the reason for prospective criminal amendment curtails existing rights and came due to immediate demand. And sometimes due to change such immediate demand amendment or laws affect exiting rights, procedure. Thus there should be prospective amendment so that no such situation arises.

Section B

Positive views of prospective and negative views of retrospective

- History and meaning
- Nature and effect
- Present effect
- Ultra virus and intra virus
- Constitutional validity
- Criminal jurisprudence
- The sections in IPC needed retrospective amendments
- Comparison

➤ **History and meaning**

Retrospective	Prospective
1. Looking back; contemplating past Eg. Government introduce to levy taxes	1. Looking forward; contemplating future Eg. Government meet to discuss prospective changes in law Such as to introduce Income tax Act 1961, sec 234D introduce finance act 2003 with effect from June 1,



	<p>2003. The objective of this levy is to prevent assesses from enjoying free money in their hands without interest. And thus this principle operates prospectively laid down in Govind Das Vs ITO and Sharma Vs ITO.¹</p>		<p>para 21 of its judgment as:</p> <p>“ A retrospective operation is not to be given to a statue so as to impair existing right or obligation, otherwise than as regards matter of procedure unless that effect can not be avoided without doing violence to the language of the enactment. Before applying a statue retrospectively the court has to be satisfied that the statue is in fact retrospective. The presumption against retrospective operation is strong in cases in which the statue, if operated retrospectively, will prejudicially affect vested rights or the illegality of past transaction, or impair contracts, or impose new duty or attach new disability in respect of past transaction or considerations already</p>
<p>2. Historically in many cases it laid down that retrospective legislation can be held invalid on the basis that is unreasonable and beyond the legislation competence</p>	<p>Historically in many cases prospective legislation held reasonable. And even supreme court provides clarity on prospective versus retrospective operation.</p>		
	<p>Not only that in many cases historically it has been proved that retrospective legislation is unjust and oppressive. In the case of mithilesh kumara and anr Vs prem behari khare² the apex court in</p>		



	<p>passed. However, a statute is not properly called a retrospective statute because a part of the requisites for its action is drawn from a time antecedent to its passing. The general scope and purview of the statute and the remedy sought to be applied must look into and what was the state of law and what the legislation contemplated has to be considered. Every law that impairs or takes away rights vested agreeably to existing law is retrospective, and is generally unjust and may be oppressive. But laws made justly and for the benefits of individual and the community as a whole may relate to a time antecedent to their commencement. The presumption against retrospectivity may in such cases be rebutted by necessary implications from the</p>		<p>language employed in the statute. It can not be said to be an invariable rule that a statute could not be retrospective unless so expressed in the very terms of the section which has to be constructed. The question is whether on a proper construction the legislation may be said to have so expressed its intention.</p> <p>By history, I conclude that in criminal laws there shall be prospective amendments instead of retrospective one.</p>
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Nature and effect

Retrospective	Prospective
Nature of retrospective law or amendment in criminal law has been unjust and beyond the constitution	Nature of prospective law or amendment in criminal law shall take effect as it is not being unreasonable and infringe rights. It secures rights of



<p>al validity. It infringes the vested rights or procedure.</p>	<p>citizens. And law just made for welfare or benefits of the people.</p>	<p>e affect till 23.</p>	
<p>It should be made expressly. It is explicit. Eg. Y, competent authority provides that certain law or amendment s shall have retrospectiv e effect. As the law takes effect from 23 January 2018 and will continue its effect thereafter. But the act or omission happened in the past, also dealt with same law or amendment. Thus it is retrospectiv</p>	<p>1. In Indian law, any law ought to be prospective in its operation unless expressly made, retrospectiv e. By default it's prospective. It is implicit. Eg. X, competent authority provides that certain law or amendment shall take effect after stipulated date and will continue its affect thereafter. It is prospective, as there is no ex-post facto affect of same la wor amendment.</p>	<p>Eg. In Francis Bennion’s statutory interpretations¹:</p> <p>“The essential idea of legal system is that current l2w should govern current activities. Elsewhere in this work a particular act is likened to a floodlight switched on or off, and the general body of law to the circumambient air. Clumsy through these images are, they show the inappropriateness of retrospective laws. If we do something today, we feel that the laws applying to it should be the law in force today, not tomorrow’s backward adjustment of it. Such, we believe, is the nature of law. Dislike of ex-post facto law is enshrined in US Constitution and in the Constitution of many American states, which forbid it. The true principle is that lex prospicit non respicit (law looks forward not backward). As Willes, j. said retrospective legislation is contrary to the general principle that legislation by which the conduct of mankind is to be regulated ought, when introduce for the first time to deal with future acts, and ought not to change the character of past transaction carried on upon the faith of the then existing laws.”</p> <p>➤ Present effect and situation</p> <p>To understand the present situation it requires seeing the context by ananalysis or observing the judgment of recent cases;</p>	



Videocon international ltd. Vs securities and exchange board of...on 13th January 2015²:

The securities and exchange board of India (Amendment) Ordinance, 2002(ord. 6 of 2002), is hereby repealed.

Notwithstanding the repeal of the securities and exchange board of India (Amendment) Ordinance, 2002, anything done or any action taken under the principle Act as amended by the said ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

(Emphasis is ours) drawing the Court's attention to section 32, the contention of the learned

1 In Francis Bennion Statutory Interpretation, ed. 2nd

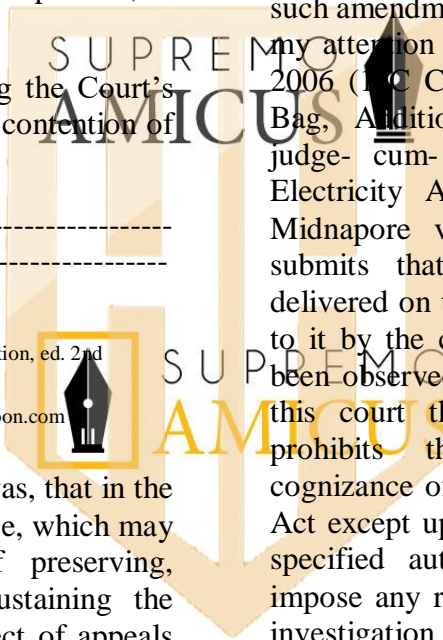
2 On 13th January 2015 www.indiankanoon.com

Counsel for the appellant was, that in the absence of any saving clause, which may have had the effect of preserving, protecting, securing or sustaining the jurisdiction vested in respect of appeals would have to be adjudicated by the substituted forum, after the amendment of provision vesting a substantive right was generally prospective.

Subhash Chatterjee Vs State of west Bengal and Anr on 7th august, 2007¹

Mr. chatterjee drawing my attention also to the notification issued by the ministry of law and justice (legislative deptt.)

submitted that provision to section 151 of the electricity Act, 2003 as amended vide the Electricity (Amendment) Act, 2007 No. 26 of 2007 became effective on and from 15.6.2007 by virtue of notification No. s. 0950(E), new Delhi, dated 12.6.2007 by issued by ministry of power, and, therefore, by such amendment which has no retrospective effect, e cannot take away the right of the accused (petitioner) which was endowed to them under section 151 of the Electricity Act, 2003 in respect of an offence which was committed prior to such amendment. Mr. Chatterjee drawing my attention to the decision reported in 2006 (1) C Cr. LR Cal 334 (Ranjit Kr. Bag, Additional District and session judge- cum- special judge under the Electricity Act, 2003, Tamluk, Purba Midnapore v. State of west Bengal) submits that the said decision was delivered on the basis of reference made to it by the concerned court and it has been observed by the division bench of this court that Electricity Act, 2003 prohibits the court from taking cognizance of an offence under the said Act except upon a complaint made by a specified authorities but is does not impose any restrictions in the matter of investigation by police authority. The division bench further observed that commencement of investigation and power of taking cognizance are separate and distinct act. Mr. Chatterjee further submits that in view of the said decision a special court cannot take cognizance of an offence under section 151 of the act. Section 173 of the Crpc cannot have any retrospective effect in its operation. Amendment of Andhra Pradesh Electricity Act virtually took away the





constitutional right guaranteed under article 20(1) because the said act introduce harsh procedure and enhanced the punishment taking away the right of appeal and therefore the apex court held the said act is violative of constitutional guarantee. And the apex court accepted and introduces amendment by the electricity (Amendment) act, 2007; No. 26 of 2007 which came into force on and from 15th June, 2007 should be held to have no retrospective effect.

From the above mentioned cases, history and present situation and analysis of mine, I conclude that there shall be prospective amendments in criminal law which is better in all perspectives at this very present time. It might be possible that in future situation there shall be a need for retrospective amendments according to the needs of society and for the welfare of the people

1 www.indiankanoon.com

as well. This present situation favors prospective amendments. From the above mentioned cases IPC, Crpc and Constitution does not allowed retrospective or retroactive effect or amendment. In both the cases Supreme Court clearly stated the retrospective effect and its reason not being established. Both the cases clearly stated that procedure had generally retrospective effect but amendment to substantial right has been prospective one.

- **Constitutional validity includes ultra and intra virus**
- **Criminal jurisprudence**

The Constitution is the soul of law, the mother of law, the key to a lock, the ultimate source. Why it is so important? Why each and every subject of law seeing with the view of constitution that whether it is ultra or intra virus? Is it that much necessary? All these questions need to be answered.

- Constitution is important as its provides **territory-part I; citizenship (population)- part II, benefits given to citizens and non citizen- part III, IV,IV; sovereign (government) – part V TO XVII; Emergency situation – part XVIII**. No other document or Act provides these much to a country. It is that document which is flexible as well as rigid in its nature. It is that document which maintains the balance such as it shows the boundary (territory), population (citizen who shall eligible for benefits as well as its detriments, balance between the union and its units. Thus it provides overall framework. These are the reason why it has been given so much importance.

- Now after seeing the importance of constitution, it is important to check constitutional validity of prospective amendments in criminal law.
1. Firstly prospective amendments are intra virus and not ultra virus. The major difference between ultra and intra virus are: - **ultra virus means beyond the powers**. The doctrine in the law of corporations that holds that if a corporations enters into a contract that



is beyond the scope of its corporate powers, the contract is illegal¹. **Intra virus means within the powers²**. This means that the stipulated subject matter does not beyond the constitutional validity and is valid. Intra virus can also be termed as legitimate, reasonable, within the ambit, warranted, sanctioned.

2. Prospective amendments are intra virus as constitution prohibits retrospective amendments in respect of criminal laws. Art 20 of constitution of India makes the retrospective effect unconstitutional or ultra virus. Thus art 20 reads:

1 Basu Das Durga; Constitution of India; ed. 21st; Lexis Nexis

2 Basu Das Durga; Constitution of India; ed. 21st; Lexis Nexis

20- Protection in respect of conviction for offences.¹

- (1) No offence shall be convicted of any offence except for violation of Law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
- (2)- No person shall be prosecuted and punished for the same offence more than once
- (3)- No person accused of any offence shall be compelled to be a witness against himself

From this article 20 of constitution of India it clearly stated that it prohibits retrospective effect or ex-post facto laws. The term ex-post facto laws have different connotations and used in different sense. This term refers to the law signifies that something done in past but due to retrospective effect of law or amendment that past situation now dealt with the same retrospective legislation which is barred by constitution of India. The expression in art 20 of constitution of India specially bars it (for violation of law in force at the time of the commission of the act charged as an offence). This expression briefly described the prohibition of retrospective effect, and the interpretation of the said article also prohibits it. Immunity is thus given to the convicted person that the act done by him earlier will not make him liable under a subsequent enacted act or amendment.

As instance S 304B, IPC was enacted on 19-11-1986 making a dowry death punishable as an offence under the penal code. Because of art 20 of constitution of India the acts which prior committed to 1986, would not governed by the said act.

4. Not only in constitution but in general clause act s.3 (38) defines “offence” as any act or omission made punishable by law for the time being in force¹. The same section also gives immunity from ex post facto laws.
- In the case of **jk Apinning and Wvg. Mills Ltd. Vs UOI²**, the court held that tax could retrospectively charged due to retrospective amendment of central excise rules 9 and 49, but there could not be any retrospective imposition of



penalty or confiscation of goods. It will against all principles of jurisprudence to impose penalty on a person or

1 Basu Das Durga; Constitution of India; ed. 21st; Lexis Nexis

2 AIR 191, 1988 SCR (1) 700 www.indiankanoon.com

to confiscate his goods for an act or omission which was lawful at a time when such an act was performed or omission made but subsequently made unlawful by virtue of provision of law.

Thus in many cases the same interpretation or judgment ruled.

• **IPC Sections that need prospective amendments or required legislation to overlooked**

1. Adultery s 497 needs to be overlooked. As in this section, wife shall not be punished even as an abettor. This section gives unwanted immunity to wives. Now the situation change and there are chances that even wives do misshape and abuse the section. So for that there is need to be overlooked this section and makes this section a little bit rigid.

2. Cruelty s 498A this section needs to be clearer. The term cruelty should be defined and should define its ambits and purview. The difference between cruelty that is ground for divorce in Hindu marriage act 1956 and the expression cruelty meant in IPC should be cleared. As

these has been given in many judicial interpretations but the prospective amendment is needed now.

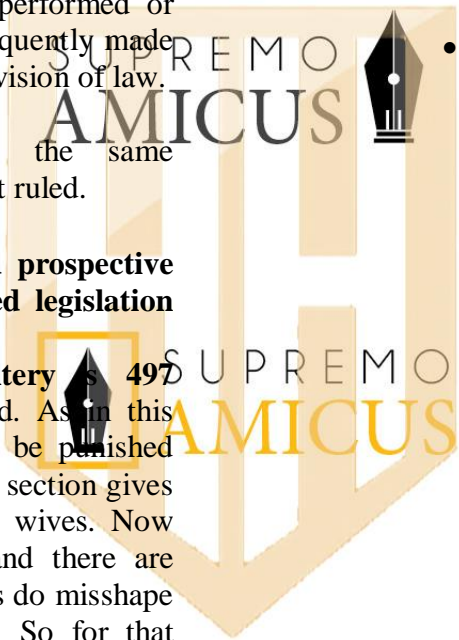
3. There should be amendments to the IPC for racial attacks against citizens as well as non citizens.

4. There should be provision for LGBT community. As they for this time need a special protection.

5. There shall give a protection against ex post facto laws in IPC too.

• **Overall comparisons between both the terms prospective and retrospective**

There is a need to compare both the terms so as to precisely take a view of its difference:-





suggested to have prospective amendments in criminal law.

Retrospective	Prospective
1. Looking backward	1. Looking forward
2. Against the Latin maxim <i>lex prospicit non respicit</i>	2. Favors the Latin maxim <i>lex prospicit non respicit</i>
3. Unambiguous term	3. Clear and precise term
4. Ultra virus	4. Intra virus
5. Favors ex-post facto laws	5. Against ex-post facto laws
6. Against constitutional validity	6. Favors constitutional validity
7. Favors civil laws	7. Favors criminal laws
8. Favors civil laws but not of penal provision such as tax laws	8. Favors penal provision
9. Illegal or void in its inception	9. Valid in its inception
10. Need not to be overlooked	10. Need to be overlooked, may section of criminal law

It is suggested that there are some sections in IPC which need amendments and that should be prospective one as stated above. From all these no penal provision shall take retrospective effect. It might be possible that retrospective amendment is effective in civil laws but even in that no penal provision shall take retrospective effect. Constitution bars retrospective effect in criminal laws. Thus there should some prospective amendments in criminal law in its some sections. Some suggestions for prospective amendments are:-

- Meaning of the term and its importance criminal law should be defined
- Its nature and effect should be defined
- The term needs to be clearly stated in IPC itself
- Sections in IPC need to be amended are 498A, 497, etc.
- Some words that needs to be defined in IPC are racial discrimination, its punishment, etc

Section C

Conclusion and suggestions

From all the above observation and analysis it is concluded that, firstly there shall be prospective amendments instead of retrospective one. As there are many reasons as to why prospective amendments should be in force which is above discussed. From all the aspects it is