Why Motive is important?

• If direct evidence is there then it is not important, but when only circumstantial evidence is there motive plays important role to establish intention.

<u>Mens Rea not required</u> in following cases:

1. When you don't know it is illegal because of ignorance of law;
 - Ignorantia jurist non excusat ignorance of law is no excuse.

State of Maharashtra v. M.H. George (1965)

A pilot was transporting way more than the allowed limit of gold and when caught he gave the defence that he didn't know of the newly made regulation prohibiting such transporting. He was held liable.

2. Cases, which are not criminal in nature, but are prohibited in the interest of public at large, ex. Damaging environment, liability under consumer protection.

3. Strict Liability offences.
4. Absolute Liability offences.

In the following offences Under IPC - Mens Rea is not required:

Waging war	Section 121
Sedition	Section 124A
Public Nuisance	Section 268
Kidnapping	Section 359
Abduction	Section 363
Counterfeiting Coins	Section 232

CHAPTER I – INTRODUCTION

<u>Section 1:</u> Indian Penal Code, 1860 extends to whole of India with J & K Reorganisation Act, 2019 with effect from 31.10.2019 [Section 95 (1) Table 1 of the Fifth Schedule S.no. 48]

<u>Section 2:</u> Punishments for offences committed w/n India: <u>Intra-territorial jurisdiction</u> of the courts

"Every Person"- Includes citizens, non-citizens and foreigners and relates to all persons without limitation and irrespective of his nationality, allegiance, caste, creed, rank, status and colour.

Certain persons though have been exempted from criminal proceedings and punishment under the constitution vide Article 361(2) example: President, Governor, ambassadors, foreign sovereign, diplomatic agents.

Section 2: determines <u>liability and punishment</u> for the (O) committed w/n India.

Section 3 & 4: (O) committed outside India, it deals with the <u>extra-territorial jurisdiction</u> of the IPC.

Section 3: Provides that any person liable, by any Indian law, to be tried for an offence committed beyond India shall be dealt with according to the provisions of this code for any act committed beyond India in the same manner as if such act had been committed within India. "Any person" means citizen or a non-citizen committing the (O) outside India.

It simply provides that an act constituting an offence in India shall also be an offence when committed outside India.

Section 4: Clause (1) deals with (O) committed without (i.e. on any ship, aircraft or vessel whether on territorial waters or otherwise) and (O) committed beyond (i.e. outside India).

Clause (2) deals w/- (O) committed by any person on any ship, aircraft or vessel registered in India.

Clause (3) was added in Sec.4 by the IT (amendment) Act 2008 vide which any person who is targeting the computer resource in India for any (O) will be held liable u/IPC.

Section 4 also provides for a period of limitation which was earlier silent in the crpc1898 the new act of 1973 limitation to the launching of criminal proceedings are applicable acc. to S.468 (2) of CRPC.

Mobarak Ali Ahmed v. state of Bombay [AIR 1957 SC857]

A Pakistani citizen while staying at Karachi made false representation to the complainant at Bombay through telephonic calls, letters, etc and induced him to part payments over 5 lakhs to his agents at India for the delivery of the rice as per agreement. Later he flew to England and the agreement was never honoured.

Thereafter, he was arrested from England under the extradition proceedings.

State of Maharashtra v. Mayer Hans George [AIR 1965 SC 722]
The common law doctrine of mens rea is not applicable to statutory crimes in India.

- **Section 5:** This Section is a saving clause to S.2 IPC and in accordance with the maxim *"generalia specialibus nonderogant" – general words do not repeal or modify special legislation.*

- This Section excludes the operation of this code, wherever some separate law is prevailing u/ special or local laws to deal with such (O).

CHAPTER II GENERAL EXPLANATIONS

It consists of 47 Sections and runs from S.6 to S.52A