

RMM LAW COLLEGE SAHARSA

Indian Penal Code

Ist Part

Paper -

TOPIC- Abatement

Lecture Notes by- BINOD KUMAR JHA

Date:- 17/01/2021

108-A. Abetment in India of offences outside India: A person abets an offence within the meaning of this Code who, in [India], abets the commission of any act without and beyond [India] which constitute an offence if committed in [India].

Illustration

A, in [India], instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.]

109. Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment:

Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation. - An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in

pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations

(a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in Section 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Form of Charge :

Model Form of charge under Section 109

"I (name and office of Magistrate, etc.) hereby charge you (name of accused) as follows :

That A (name the principal if the person is unknown, say that an unknown person), on the _____ day of _____ at _____ committed the offence of _____ that you, at _____ abetted the said A (or the person unknown) in the commission of the said offence of _____ which

offence was committed in consequence of your abetment, and that you have thereby committed an offence, punishable under S. 109, read with S. _____ of the I.P.C., and within my cognizance (or within the cognizance of the Court of Session).

And I hereby direct that you be tried by this Court (or the said Court) on the said charge."

110. Punishment of abetment if person abetted does act with a different intention from that of abettor:

Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

111. Liability of abettor when one act abetted and different act done:

When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it :

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations

(a) A instigates a child to put poison into the food of Z, and gives him poison for

that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.