

Chapter 3 BNS date 02-09-25

Common intention completes in last lesson.

Now common object equal object mentions in section 189-190 bns. Common intention it self is not

IPC 34		BNS 3(5)
IPC 302	MURDER	BNS 101
IPC 141		BNS 189
IPC 149		BNS 190

*** CJI Chandrachud remove the black ribbon on lady justice.

Sect 190 definition. Every member of unlawful assembly guilty of offence committed in prosecution of common object.

If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew was likely to be committed in prosecution of that object, every person who, at the time of the commission of that offence, is a member of the same assembly, shall be guilty of that offence.

Hindi (between the lines):

- 👉 यदि कोई अपराध किसी अवैध सभा के किसी सदस्य द्वारा उस सभा के सामान्य उद्देश्य की पूर्ति में किया जाता है,
- 👉 या ऐसा अपराध जिसे उस सभा के सदस्य जानते थे कि वह उद्देश्य की पूर्ति में होने की संभावना है,
- 👉 तो उस अपराध के समय सभा का प्रत्येक सदस्य **उस अपराध का दोषी माना जाएगा।**

Question. What is aggravating form of punishment?

Answer:

The term "aggravated form of punishment" typically refers to a harsher or more severe penalty imposed for a crime due to specific circumstances that make the offense more serious. These circumstances, known as **aggravating factors**, increase the gravity of the crime, leading to a stricter punishment than would be applied for a standard offense. This concept is commonly used in criminal law to ensure that penalties reflect the severity of the crime and its impact.

Key Points About Aggravated Form of Punishment:

1. **Aggravating Factors:** These are specific conditions or aspects of a crime that justify a more severe punishment. Examples include:
 - Use of a weapon during the crime.
 - Committing the offense with extreme cruelty or violence.
 - Targeting vulnerable victims (e.g., children, elderly, or disabled individuals).
 - Repeat offenses or prior criminal history.
 - Committing the crime as part of a group or organized effort.

- Causing significant harm or loss (e.g., severe injury or death).
2. **Examples in Legal Contexts:**
- In murder cases, an "aggravated murder" charge (e.g., premeditated murder or murder during another felony like robbery) may lead to a harsher penalty, such as life imprisonment without parole or the death penalty, compared to a standard murder charge.
 - In assault cases, an "aggravated assault" might involve the use of a deadly weapon, resulting in a longer prison sentence than simple assault.
3. **Purpose:** The aggravated form of punishment aims to:
- Reflect the increased harm or danger posed by the crime.
 - Deter others from committing similar offenses.
 - Protect society by imposing stricter consequences for particularly harmful acts.
4. **Legal Application:**
- Laws vary by jurisdiction, but most legal systems (e.g., in the U.S., UK, or other common law countries) outline specific aggravating factors in their penal codes.
 - Judges or juries consider these factors during sentencing to determine the appropriate punishment.
 - For example, sentencing guidelines in the U.S. may increase the penalty range for crimes with aggravating factors, such as a hate crime motivated by race or religion.
5. **Contrast with Mitigating Factors:**
- Aggravating factors increase punishment severity, while **mitigating factors** (e.g., showing remorse, acting under duress) may reduce the severity of the punishment.
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Question in IPC who is public servant?

Answer ref case

The Supreme Court of India's landmark decision in *Joginder Kumar v. State of U.P. (1994)* addressed the misuse of police power to arrest and established key guidelines to protect personal liberty. The judgment reinforced that an arrest cannot be made merely because it is lawful to do so; it must be justified by reason and necessity

Background of the case

- **Arbitrary detention:** The petitioner, Joginder Kumar, was an advocate summoned to the Ghaziabad police station for questioning.
- **Lack of transparency:** He was detained for several days without a warrant, formal charges, or being produced before a magistrate, and his whereabouts were initially concealed from his family.

- Habeas corpus petition: In response, his family filed a writ petition for habeas corpus under Article 32 of the Constitution, arguing that the police had illegally detained him and violated his fundamental rights.

Key legal observations by the Supreme Court

The Court clarified that the power to arrest should not be exercised routinely and that there must be a genuine necessity for an arrest based on some investigation. Arrests should generally be avoided if a notice to appear at the police station suffices, except in cases of heinous offenses. The Court also highlighted the potential for irreparable harm to a person's reputation caused by arrest and detention.

Guidelines for arrest

To prevent arbitrary arrests, the Supreme Court issued specific guidelines:

- An arrested person has the right to inform a friend, relative, or another person of their choice about their arrest and location.
- The arresting police officer must inform the arrested individual of this right.
- Police records must document who was informed.
- The magistrate reviewing the case must verify that these steps were followed.
- The police officer must record the reasons for the arrest in the case diary.

Long-term impact

The *Joginder Kumar* judgment has been influential in Indian criminal law, providing constitutional protections against arbitrary arrests and upholding the right to personal liberty under Article 21. The guidelines established in this case were further developed in the *D.K. Basu v. State of West Bengal* judgment.

Question: What is the difference between cognizable and non-cognizable offence.

Answer:

Aspect	Cognizable Offence	Non-Cognizable Offence
Definition	Offences where police can arrest without a warrant and investigate without court permission.	Offences where police cannot arrest without a warrant or investigate without court orders.
Severity	Generally more serious (e.g., murder, robbery, rape).	Generally less serious (e.g., defamation, cheating, simple assault).
Police Authority	Police can arrest the accused immediately and start investigation without court approval.	Police need a court-issued warrant to arrest and court permission to investigate.
Examples	Murder, theft, kidnapping, dacoity.	Public nuisance, defamation, minor assault, mischief.

Legal Process	Police can act proactively; FIR (First Information Report) is registered immediately.	Complainant must approach a magistrate; police act only after court orders.
Bail	Often non-bailable or bail at court's discretion due to severity.	Usually bailable, as offences are less serious.
Investigation	Police have authority to investigate without prior permission.	Investigation requires a court order or magistrate's approval.
Examples in IPC (India)	Offences under IPC sections like 302 (murder), 376 (rape), 395 (dacoity).	Offences under IPC sections like 500 (defamation), 426 (mischief).

Note: The classification of cognizable and non-cognizable offences is primarily based on the Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC) in India, as outlined in the First Schedule of the CrPC. Other jurisdictions may have different terminologies or procedures.

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Chapter 4 subject BNS Time 01.30 pm

Subject on bns > abetment> 45-62 total 17 section for abetment.

Under the new Bharatiya Nyaya Sanhita (BNS), the provisions for abetment are located in Chapter IV, from Sections 45 to 60. This chapter replaces the abetment provisions that were previously found in Chapter V of the Indian Penal Code (IPC).

The same item was available in chapter 5 107 to 120 in IPC.

Key provisions for abetment in BNS

- Section 45: Definition of Abetment: This section defines abetment, specifying that a person abets the doing of a thing in three ways:

 - Instigating a person to do something.
 - Engaging in a conspiracy to do something, where an illegal act or omission takes place in pursuance of that conspiracy.
 - Intentionally aiding the doing of a thing by an act or illegal omission.

 - Section 46: Abettor: This section defines who is an "abettor" and clarifies that it is not necessary for the act to be committed or for the person abetted to be legally capable of committing the offense.
 - Section 49: Punishment for Abetment (where the offence is committed): This is the general punishment clause. It states that if an abetted act is committed and there is no specific punishment provided for it elsewhere in the Sanhita, the abettor will receive the same punishment as the person who committed the offense.
 - Section 55: Abetment if the offense is not committed: This section covers instances where the abetted offense is punishable with death or life imprisonment but is not carried out. In such cases, the abettor is still liable for imprisonment.
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Yes, that is correct. The Bharatiya Nyaya Sanhita (BNS) addresses abetment within Chapter IV, which covers Sections 45 to 62.

The sections within that range include:

- Sections 45 to 60: These sections specifically deal with the definitions, punishments, and specific provisions related to abetment.
 - Sections 61 to 62: These sections, while part of the same chapter, cover criminal conspiracy and attempts, which are related inchoate offenses.
 - Other specific sections: The BNS also contains specific abetment provisions, such as those related to abetment of suicide and abetment of offenses by public servants.
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Question : What is the difference between abetment and conspiracy.

Difference between Abetment and Conspiracy

Aspect	Abetment	Conspiracy
Meaning	Instigating, aiding, or intentionally facilitating the commission of a crime.	Agreement between two or more persons to commit a crime at some future time.
Number of Persons Required	Can be done by a single person (instigator or aider).	Minimum two persons are required.
Act	There must be an act of instigation, aid, or facilitation.	There must be an agreement or plan, an act is not necessary immediately.
Time of Crime	Crime may be committed immediately or later, abetment is connected to the act.	Crime may or may not occur; conspiracy focuses on the agreement.
Example	A encourages B to commit theft or provides tools to commit theft.	A and B agree to rob a bank next week. Even if the robbery does not happen, conspiracy is punishable.
Reference in IPC	Sections 107–120	Sections 120A–120B

Question : **what is inchoate crime?**

Answer

Inchoate Crime

Definition:

An **inchoate crime** (also called **incomplete or preliminary crime**) is an **offence that is committed in preparation for or in attempt to commit another crime**, even if the intended crime is not actually completed.

- In simple words: **The crime begins but is not completed.**
- Purpose: To prevent harm **before the main crime occurs.**

Types of Inchoate Crimes:

1. Attempt to commit a crime

- When a person **intends to commit a crime** and **takes steps toward it**, but fails or is prevented.
- **Example:** Attempted murder, attempted theft.
- IPC: **Section 511**

2. Conspiracy

- Agreement between two or more persons to commit a crime in future.
 - Crime may not be committed yet, but agreement itself is punishable.
 - IPC: **Sections 120A–120B**
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3. Abetment

- Instigating, aiding, or facilitating someone to commit a crime.
 - The principal crime may or may not occur.
 - IPC: **Sections 107–120**
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Key Points:

- Inchoate crimes are **punishable even if the main offence is not completed**.
 - They are meant to **prevent danger** to society.
 - **Intent + some act in furtherance** = essential.
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In Short for Exams:

- **Inchoate Crime = incomplete/attempted crime**
 - Includes: **Attempt, Abetment, Conspiracy**
 - **Punishable under IPC** even if the main crime is not committed.
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What is the essential of inchoate crime?

Essentials of Inchoate Crime

1. Criminal Intention (Mens Rea)

- **There must be a specific intent to commit a crime.**
 - **Without intention, an act cannot be treated as inchoate crime.**
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2. Some Act in Furtherance (Actus Reus)

- **There must be some step taken towards the commission of the intended crime.**
 - **Mere intention alone is not punishable; there must be an overt act.**
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3. Crime May or May Not Be Completed

- **The main offence does not have to be completed for liability.**
 - **Inchoate crimes are punishable even if the intended crime fails.**
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4. Combination of Intent and Action

- **Both mens rea (intention) and actus reus (action in furtherance) must exist.**
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5. Types of Inchoate Crimes

- **Attempt to commit a crime (IPC Section 511)**
 - **Abetment (IPC Sections 107–120)**
 - **Conspiracy (IPC Sections 120A–120B)**
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A instigation

B conspiracy

C aiding

Question : what is preliminary offence?

Answer:

Preliminary Offence

Definition:

A preliminary offence is an offence committed in preparation for the commission of a substantive crime.

- **It is done before the main crime to facilitate or set the stage for it.**
 - **It may or may not result in the commission of the main crime.**
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Key Features / Essentials:

1. Preparation Stage:

- **The act is done in anticipation of a crime.**
 - **Example: Making explosive devices for a planned bombing.**
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2. Mens Rea (Criminal Intention):

- **There must be a specific intention to commit the main offence.**
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3. Actus Reus (Some Overt Act):

- **There must be some act in furtherance of the intended crime.**
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4. Punishable by Law:

- Even if the main crime does not occur, the preliminary offence is punishable under criminal law.
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Examples:

- Conspiracy to commit murder (IPC Sections 120A–120B)
 - Making preparations to commit theft
 - Attempt to commit an offence (IPC Section 511)
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✓ Difference from Inchoate Crime:

- Inchoate crime = includes attempt, abetment, or conspiracy where the crime may or may not happen.
 - Preliminary offence = focuses on preparatory acts done before the main offence.
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Question: what is the first degree, second degree and third degree in crime?

Answer:

Degrees of Crime (Murder as Example)

1. First-Degree Crime

- **Definition:** Crime that is planned and premeditated, showing deliberate intent to commit it.
 - **Characteristics:**
 - Requires malice aforethought.
 - Usually punishable by maximum penalty (e.g., life imprisonment or death in some jurisdictions).
 - **Example:** Planning and killing someone in cold blood after careful thought.
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2. Second-Degree Crime

- **Definition:** Crime that is intentional but not premeditated.
 - **Characteristics:**
 - Act is deliberate, but no prior planning.
 - Punishable less severely than first-degree.
 - **Example:** A person kills another in a sudden fight without prior planning (voluntary manslaughter in some jurisdictions).
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3. Third-Degree Crime

- **Definition: Crime committed without intent to kill, often due to recklessness or negligence.**
 - **Characteristics:**
 - **No malice or premeditation.**
 - **Often called involuntary manslaughter or negligent homicide.**
 - **Example: Causing death by rash driving or careless handling of dangerous objects.**
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Key Points:

Degree	Intent	Premeditation	Example	Punishment
First	Yes	Yes	Planned murder	Maximum (life/death)
Second	Yes	No	Sudden fight killing	Lesser than first
Third	No	No	Negligent killing	Least severe

Case ref is

Gangula Mohan Reddy v. State of Andhra Pradesh, reported in 2010 Cr.L.J. 2110

The case of Gangula Mohan Reddy v. State of Andhra Pradesh, reported in 2010 Cr.L.J. 2110, addresses the legal standards for abetment of suicide under Section 306 of the Indian Penal Code (IPC).

Case Summary

In this case, the appellant, an agriculturist, was accused of harassing his agricultural laborer, Ramulu, by falsely alleging that he had stolen gold ornaments. The appellant demanded a sum of ₹7,000 from Ramulu, which had been advanced to him at the time of employment. Subsequently, Ramulu consumed pesticides and committed suicide.

The prosecution contended that the appellant's actions led Ramulu to take his own life. The trial court convicted the appellant under Section 306 IPC, and the conviction was upheld by the High Court.

Supreme Court's Observations

The Supreme Court emphasized that abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. The Court further stated:

"Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained."

The Court referenced previous judgments, including *Ramesh Kumar v. State of Chhattisgarh* and *Milind Bhagwanrao Godse v. State of Maharashtra*, to highlight that mere allegations or circumstances are insufficient to establish abetment. There must be clear evidence of intentional acts by the accused that led the deceased to commit suicide.

Conclusion

The Supreme Court concluded that the evidence presented did not establish that the appellant's actions directly led to Ramulu's suicide. Therefore, the conviction under Section 306 IPC was not upheld.

Legal Principle

This case underscores the necessity of proving a clear mens rea (intention) and a positive act by the accused in abetment of suicide cases. Mere allegations or circumstances are insufficient; there must be direct evidence linking the accused's actions to the deceased's decision to commit suicide.

गंगुला मोहन रेड्डी बनाम राज्य, आंध्र प्रदेश (2010)

यह मामला भारतीय दंड संहिता (IPC) की धारा 306 के तहत आत्महत्या के लिए उकसाने (Abetment of Suicide) से संबंधित है। सुप्रीम कोर्ट ने इस मामले में यह स्पष्ट किया कि आत्महत्या के लिए उकसाने के लिए आरोपी की ओर से स्पष्ट मानसिक इरादा (mens rea) और सक्रिय कृत्य (actus reus) होना आवश्यक है। मात्र आरोपों या परिस्थितियों के आधार पर दोषी नहीं ठहराया जा सकता।

मामले का सारांश:

- आरोपी: गंगुला मोहन रेड्डी, एक कृषक।
 - पीड़ित: रामुलु, आरोपी का कृषि श्रमिक।
 - आरोप: आरोपी ने रामुलु पर चोरी का आरोप लगाया और ₹7,000 की मांग की, जिसके कारण रामुलु ने कीटनाशक का सेवन कर आत्महत्या कर ली।
 - न्यायालय: सुप्रीम कोर्ट।
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सुप्रीम कोर्ट की टिप्पणियाँ:

सुप्रीम कोर्ट ने इस मामले में यह स्पष्ट किया कि आत्महत्या के लिए उकसाने के लिए आरोपी की ओर से स्पष्ट मानसिक इरादा (mens rea) और सक्रिय कृत्य (actus reus) होना आवश्यक है। मात्र आरोपों या परिस्थितियों के आधार पर दोषी नहीं ठहराया जा सकता। कोर्ट ने यह भी कहा कि "उकसाना" का अर्थ है किसी को किसी कार्य को करने के लिए प्रेरित करना या उकसाना, और इसके लिए आरोपी की ओर से स्पष्ट इरादा और सक्रिय कृत्य होना चाहिए।

निष्कर्ष:

इस मामले में सुप्रीम कोर्ट ने आरोपी को दोषमुक्त कर दिया, क्योंकि अभियोजन पक्ष यह साबित करने में असफल रहा कि आरोपी के कृत्यों ने सीधे तौर पर रामुलु की आत्महत्या का कारण बने। कोर्ट ने यह भी कहा कि आत्महत्या के लिए उकसाने के मामलों में अभियोजन पक्ष को यह साबित करना होता है कि आरोपी के कृत्यों ने मृतक को आत्महत्या करने के लिए मजबूर किया।

कानूनी सिद्धांत:

यह मामला यह स्पष्ट करता है कि आत्महत्या के लिए उकसाने के मामलों में अभियोजन पक्ष को यह साबित करना होता है कि आरोपी के कृत्यों ने मृतक को आत्महत्या करने के लिए मजबूर किया। मात्र आरोपों या परिस्थितियों के आधार पर दोषी नहीं ठहराया जा सकता।

Question : is instigation done by a written letter or not?

Answer :

हां, लिखित पत्र के माध्यम से भी उकसाना (Instigation) किया जा सकता है। यदि कोई व्यक्ति किसी अन्य व्यक्ति को अपराध करने के लिए पत्र द्वारा उकसाता है, तो वह उकसाना माना जाएगा और संबंधित व्यक्ति को अपराध के लिए उकसाने का दोषी ठहराया जा सकता है।

 केस संदर्भ: क्वीन बनाम मोहित कुमार मुकर्जी (1871)

इस ऐतिहासिक मामले में, एक महिला ने सती (अपने पति की चिता में कूदकर आत्मदाह करना) करने का संकल्प लिया। आरोपियों ने उसे चिता तक पहुंचने में मदद की और उसके साथ "राम-राम" का जाप करते हुए उसका उत्साहवर्धन किया। कोर्ट ने इसे उकसाने का स्पष्ट उदाहरण मानते हुए सभी आरोपियों को दोषी ठहराया। इस मामले में यह सिद्ध हुआ कि उकसाना मौखिक, लिखित या किसी भी अन्य रूप में हो सकता है।

 लिखित पत्र द्वारा उकसाना:

शिवो दयाल मल (1894) के मामले में, इलाहाबाद उच्च न्यायालय ने यह स्पष्ट किया कि उकसाना प्रत्यक्ष या लिखित रूप में हो सकता है। यदि कोई व्यक्ति किसी अन्य व्यक्ति को पत्र द्वारा हत्या करने के लिए उकसाता है, तो उकसाना पूरा हो जाता है जब पत्र की सामग्री प्राप्तकर्ता तक पहुँचती है। यदि पत्र कभी प्राप्तकर्ता तक नहीं पहुँचता, तो यह केवल उकसाने का प्रयास माना जाएगा, उकसाना नहीं।

 निष्कर्ष:

लिखित पत्र के माध्यम से उकसाना IPC की धारा 107 के तहत अपराध माना जाता है। यदि पत्र प्राप्तकर्ता तक पहुँचता है और उसमें उकसाने की स्पष्ट मंशा होती है, तो उकसाना पूरा माना जाएगा। यदि पत्र प्राप्तकर्ता तक नहीं पहुँचता, तो यह उकसाने का प्रयास होगा, उकसाना नहीं।

Yes, instigation can be done through a written letter. If a person encourages or urges another to commit a crime via a letter, it is considered instigation, and the sender can be held liable for abetment of the offence.

Case Reference: Queen v. Mohit Kumar Mukherjee (1871)

In this historic case, a woman had resolved to commit Sati (self-immolation on her husband's funeral pyre). The accused helped her reach the pyre and encouraged her by chanting "Ram-Ram" along with her. The court held this as clear instigation, and all the accused were convicted.

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- Principle: Instigation can be oral, written, or by any other means.
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Instigation through a Written Letter

- In Shivodaya Mal (1894), the Allahabad High Court clarified that instigation can occur directly or through written communication.
- If a person sends a letter urging another to commit murder, instigation is complete when the content reaches the recipient.

Subject BNS date 11-09-2025 chapter 4 time 1.30 pm

Section 45 abetment

Felony means

A **Felony** means a **serious criminal offence** that is punishable by **death or imprisonment for more than one year** (usually in a state or federal prison).

It is generally considered more severe than a **misdemeanor** (a minor crime punishable by fines or shorter jail terms).

◆ **Examples of Felonies:**

- Murder
- Rape
- Kidnapping
- Robbery
- Arson
- Drug trafficking

⚖️ **Legal Note:**

- In **common law (English law)**, felony originally meant crimes that caused the offender to forfeit property and sometimes life.
- In **modern U.S. law**, the distinction between felony and misdemeanor is mainly based on the severity of punishment.

👉 In short:

Felony = serious crime with heavy punishment.

A **Misdemeanor** is a **less serious criminal offense** compared to a felony. It is usually punishable by **fines, probation, or imprisonment for less than one year** (typically in a local or county jail, not a state/federal prison).

◆ **Examples of Misdemeanors:**

- Petty theft
- Simple assault
- Vandalism
- Public intoxication
- Minor traffic offenses

⚖️ **Legal Note:**

- In **common law**, misdemeanors were considered crimes of lower severity than felonies.

- In **modern law**, the main difference between a felony and misdemeanor is the **punishment severity**.

👉 In short:

Misdemeanor = minor crime with lighter punishment.

What is the meaning of treason?

Treason is the crime of betraying one's country or government, usually by attempting to overthrow the government, aiding its enemies, or acting against the nation's security.

◆ Key points about Treason:

1. It is considered one of the most serious crimes in any country.
2. Punishments are extremely severe, often including life imprisonment or death.
3. It can involve acts like:
 - Waging war against your own country
 - Providing aid or information to the enemy
 - Attempting to overthrow the government

👉 In short:

Treason = betraying your country or government in a way that threatens its security.

Demeanor of a Witness refers to the **behavior, conduct, and overall presentation of a witness while testifying in court**. It includes how the witness speaks, their body language, confidence, honesty, and general mannerisms. Courts often use the demeanor of a witness to **assess credibility and reliability**.

◆ Key aspects include:

1. **Truthfulness** – Whether the witness seems honest.
2. **Confidence** – Clarity and firmness in giving testimony.
3. **Behavior** – Calmness, nervousness, or hesitation.
4. **Attitude** – Respectful or evasive responses.

⚖️ Legal importance:

Judges and juries often rely on a witness's demeanor to determine whether to **believe their testimony**, especially in cases where evidence is largely testimonial.

In short:

Demeanor of a witness = the way a witness behaves and presents themselves in court, which helps assess credibility.

गवाह का आचरण = जिस तरह से एक गवाह अदालत में व्यवहार करता है और खुद को पेश करता है, जिससे उसकी विश्वसनीयता का आकलन करने में मदद मिलती है.

इसे इस तरह भी समझा जा सकता है:

- गवाह का आचरण: एक गवाह का व्यवहार, उसकी शारीरिक भाषा, उसके बोलने का तरीका और अदालत में खुद को प्रस्तुत करने का तरीका, ये सब उसके आचरण में शामिल होते हैं।
 - विश्वसनीयता का आकलन: न्यायाधीश या जूरी गवाह के इस आचरण का मूल्यांकन करते हैं कि वह कितना सच्चा, स्थिर और ईमानदार लग रहा है।
-

***** what is the custom of saka?**

Historically, there is evidence of a custom among Rajput men where they would perform a ritualistic last stand, known as *saka*, rather than surrender to an enemy after their fort's women had committed mass self-immolation (*jauhar*). This occurred specifically in situations of war, not after a king's natural death.

The misconception may stem from combining two distinct practices, both involving fire, but performed under different circumstances and by different people:

Saka: The male warrior's ritual

- When a Rajput army was faced with certain defeat, and their women had already committed *jauhar* (burning themselves to avoid capture, rape, or enslavement), the men would perform *saka*.
- They would don saffron robes, symbolizing sacrifice, and ride out of their fort for a final, often fatal, battle against the enemy.
- This act was considered the ultimate display of honor and defiance, demonstrating they valued their dignity more than their lives.

Sati: The practice of widow immolation

- Sati was a historical practice, outlawed in India since 1829, where a Hindu widow would immolate herself on her husband's funeral pyre.
- This was a social and religious custom that occurred after a husband's death, not specifically during a war.
- Over time, particularly during the medieval period, it became more common in royal families and higher castes, with many women forced into the practice to prevent them from inheriting property.
- ऐसी कोई प्रथा या रीति-रिवाज नहीं था कि राजा की युद्ध में मृत्यु होने पर कोई पुरुष स्वयं को अग्नि में समर्पित कर दे। हालाँकि, यह भ्रम कुछ अलग-अलग प्रथाओं को मिलाकर पैदा हो सकता है, जिनमें से दोनों में आग का इस्तेमाल होता था और जो अलग-अलग परिस्थितियों में होती थीं:
- साका और केसरिया
- यह एक ऐसी परंपरा थी जो राजपूत पुरुषों में प्रचलित थी, जिसमें वे युद्ध में हार के निश्चित होने पर अंतिम युद्ध लड़ते थे।
- जब उन्हें यह निश्चित हो जाता था कि उनकी हार तय है और उनकी महिलाएं (पत्नियां और अन्य) पहले ही सामूहिक आत्मदाह (जौहर) कर चुकी हैं, तो पुरुष योद्धा भगवा या केसरिया रंग के वस्त्र पहनकर युद्ध के लिए निकल पड़ते थे।

- यह उनके सम्मान और गौरव की रक्षा के लिए एक अंतिम लड़ाई होती थी। इसका उद्देश्य दुश्मन से हारकर समर्पण करने के बजाय युद्धभूमि में वीरगति को प्राप्त होना था।
 - जौहर
 - यह एक सामूहिक आत्मदाह था जो राजपूत महिलाओं द्वारा अपने शील और सम्मान की रक्षा के लिए किया जाता था, ताकि वे आक्रमणकारियों के हाथों पड़ने और दुर्व्यवहार से बच सकें।
 - यह प्रथा युद्ध के दौरान तब होती थी, जब उन्हें यह निश्चित हो जाता था कि उनके सैनिक हार गए हैं और अब उनका दुर्ग सुरक्षित नहीं है।
 - सती
 - यह एक ऐतिहासिक कुप्रथा थी, जिसे 1829 में भारत में गैरकानूनी घोषित कर दिया गया था।
 - इसमें एक हिंदू विधवा अपने पति की मृत्यु के बाद उसकी चिता पर स्वयं को जला लेती थी।
 - यह एक सामाजिक और धार्मिक प्रथा थी जो पति की स्वाभाविक मृत्यु के बाद होती थी, न कि किसी युद्ध में राजा की मृत्यु के बाद।
-

मुख्य अंतर

- राजा की स्वाभाविक मृत्यु के बाद किसी पुरुष द्वारा स्वयं को अग्नि में जलाने की कोई प्रथा नहीं थी।
 - पुरुषों द्वारा अंतिम युद्ध के लिए निकलना 'साका' या 'केसरिया' कहलाता था।
 - आत्मदाह की प्रथा महिलाओं द्वारा की जाती थी, जिसे युद्ध के समय 'जौहर' और पति की मृत्यु के बाद 'सती' कहा जाता था।
-

Instigation > conspiracy > by aiding.

Conspiracy > essential minimum 2 persons> if one free by taking benefit of doubt than other also release because in one person rule not apply the conspiracy.

The general principle: A conspiracy needs at least two people

A criminal conspiracy, by definition, requires an agreement between two or more people to commit an illegal act. An individual cannot conspire with themselves.

- Therefore, if only two people are charged with a conspiracy and one is acquitted, the other cannot be convicted. The acquittal of one person breaks the essential element of the crime, which is the agreement between two or more individuals.
- This principle was confirmed by the Supreme Court of India in the landmark 1955 case *Topandas v. State of Bombay*.

Exceptions to the rule

The automatic acquittal of the remaining co-conspirator does not apply in several situations:

- The existence of other conspirators: The remaining accused can still be convicted if the prosecution proves that they conspired not only with the acquitted co-accused but also with a third person who was not on trial. This "third person" could be someone who:
 - is absconding.
 - is not identified.
 - is a minor.
 - is dead.
- Different trials for different accused: If co-conspirators are tried separately and not in the same joint trial, the acquittal of one does not automatically guarantee the acquittal of the other. The evidence in separate trials can lead to different outcomes.
- Acquittal for a technical reason: If a co-accused is acquitted on a technicality or due to a procedural error, and not because of a lack of evidence of the conspiracy itself, the conviction of the remaining accused might still be possible.
- Independent evidence: The acquittal of one person does not necessarily absolve others if there is sufficient independent evidence against the remaining accused. Each case depends on the evidence presented against each individual.

Conclusion

Your statement is correct in the most straightforward scenario where only two people are charged with a conspiracy, tried together, and the evidence against them is identical. However, legal outcomes in conspiracy cases are complex. The conviction of the second conspirator can be maintained if the prosecution can prove the existence of other conspirators or if the trials are separate and the evidence is distinct.

Substantive law is the body of law that defines the rights, duties, and obligations of individuals and the state. It establishes the "what" of the law, meaning what conduct is acceptable and what is forbidden, and what the consequences are for a violation.

Substantive law is often contrasted with procedural law, which defines the processes for enforcing those rights and duties. Both are essential for the proper functioning of a legal system.

Key aspects of substantive law

- Focuses on the merits of a case: Substantive law deals with the actual substance or facts of a legal case. For example, in a criminal case, it defines the elements that constitute murder or theft.
- Defines legal relationships: It governs the legal relationships between individuals, or between individuals and the government.
- Dictates outcomes: Substantive law has the independent power to decide the outcome of a legal proceeding by determining a person's rights and liabilities.
- Sources of law: It can be found in a country's constitution, statutes passed by the legislature, or in judicial precedents (case law).
- Types of law: Substantive law exists in both civil and criminal matters.

- Substantive civil law defines things like contract law, property law, and torts (civil wrongs). For example, the Indian Contract Act defines the essential elements required to form a valid contract.
- Substantive criminal law defines specific crimes, such as murder, and the penalties for committing them. For example, the Indian Penal Code contains the definitions and punishments for various criminal offenses.

Substantive vs. Procedural law: An example

Consider a case where a person is accused of theft:

- Substantive law defines theft, specifying the necessary elements that the prosecution must prove, such as the unlawful taking of another person's property with the intent to permanently deprive them of it. It also specifies the potential punishment if the accused is found guilty.
- Procedural law governs the process of the trial itself. It dictates how the police should conduct the investigation, the time frame for filing charges, how evidence is to be collected and presented, and the defendant's right to a fair trial

सब्सटैंटिव लॉ को मूल विधि या सारवान विधि कहते हैं। यह कानून की वह शाखा है जो व्यक्तियों और राज्य के अधिकारों, कर्तव्यों और दायित्वों को परिभाषित करती है। यह कानून का "क्या" पहलू बताती है, यानी क्या सही है और क्या गलत, और नियमों के उल्लंघन पर क्या परिणाम होंगे।

सब्सटैंटिव लॉ को अक्सर प्रक्रियात्मक विधि (प्रोसीजरल लॉ) के विपरीत देखा जाता है, जो इन अधिकारों और कर्तव्यों को लागू करने की प्रक्रिया तय करती है।

सब्सटैंटिव लॉ के मुख्य पहलू

- मामले के सार पर ध्यान: यह किसी कानूनी मामले के मूल या वास्तविक तथ्यों से संबंधित होता है। उदाहरण के लिए, एक आपराधिक मामले में, यह परिभाषित करता है कि हत्या या चोरी का अपराध क्या है।
- कानूनी संबंधों को परिभाषित करता है: यह व्यक्तियों के बीच, या व्यक्तियों और सरकार के बीच कानूनी संबंधों को नियंत्रित करता है।
- परिणाम तय करता है: यह किसी व्यक्ति के अधिकारों और देनदारियों को निर्धारित करके कानूनी कार्यवाही के परिणाम को तय करने की शक्ति रखता है।
- कानून के स्रोत: यह किसी देश के संविधान, विधायिका द्वारा पारित कानूनों या न्यायिक मिसालों (केस कानून) में पाया जा सकता है।
- कानून के प्रकार: सब्सटैंटिव लॉ दीवानी (सिविल) और आपराधिक (क्रिमिनल) दोनों मामलों में होता है।
 - सब्सटैंटिव सिविल लॉ: इसमें अनुबंध कानून, संपत्ति कानून और टॉर्ट्स (सिविल अपराध) जैसे कानून शामिल हैं। उदाहरण के लिए, भारतीय अनुबंध अधिनियम एक वैध अनुबंध बनाने के लिए आवश्यक तत्वों को परिभाषित करता है।
 - सब्सटैंटिव क्रिमिनल लॉ: यह विशेष अपराधों को परिभाषित करता है, जैसे हत्या, और उन्हें करने पर क्या दंड दिया जाएगा। उदाहरण के लिए, भारतीय दंड संहिता विभिन्न आपराधिक अपराधों की परिभाषा और उनके लिए सजा का प्रावधान करती है।

सब्सटैंटिव बनाम प्रक्रियात्मक कानून: एक उदाहरण

किसी व्यक्ति पर चोरी का आरोप लगने के मामले पर विचार करें:

- सब्सटैंटिव लॉ चोरी को परिभाषित करता है, जिसमें यह निर्दिष्ट किया जाता है कि अभियोजन पक्ष को किन तत्वों को साबित करना होगा, जैसे कि किसी अन्य व्यक्ति की संपत्ति को उसे स्थायी रूप से वंचित करने के इरादे से गैरकानूनी रूप से लेना। यह दोषी पाए जाने पर संभावित सजा भी निर्दिष्ट करता है।
 - प्रक्रियात्मक कानून खुद मुकदमे की प्रक्रिया को नियंत्रित करता है। यह निर्धारित करता है कि पुलिस को जांच कैसे करनी चाहिए, आरोप दायर करने की समय सीमा क्या है, सबूत कैसे इकट्ठा और पेश किए जाएंगे, और आरोपी के निष्पक्ष सुनवाई के अधिकार क्या हैं।
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Case ref

Cbi vs b c Shukla air 1998

The 1998 Supreme Court case *Central Bureau of Investigation (CBI) vs. V.C. Shukla and Others* was a significant ruling involving the "Hawala scandal". The court acquitted the politicians involved, including V.C. Shukla and L.K. Advani, for lack of evidence, but the judgment also had major implications for the use of evidence and the need for greater CBI independence.

Here is a summary of the case, the court's reasoning, and its key implications.

Factual background

- In 1991, the CBI raided the residence of J.K. Jain, an employee of the "Jain brothers," as part of an investigation into a money-laundering (Hawala) network.
- During the raid, the CBI seized diaries and files that allegedly documented payments made by the Jain brothers to several politicians and public servants, including V.C. Shukla and L.K. Advani, to secure official favors.
- Based on these documents, the CBI filed charges under the Indian Penal Code and the Prevention of Corruption Act.
- The Delhi High Court quashed the proceedings, and the CBI appealed to the Supreme Court.

Central Bureau Of Investigation v. V.C Shukla And Others - CaseMine

On 3 May 1991, the Central Bureau of Investigation (CBI) searched the residence of J.K. Jain in New Delhi while investigating RC Case No. 5(S)/91 SIU(B). During...



CaseMine

Case Summary: Central Bureau of Investigation vs. VC Shukla

Jun 24, 2020 — The admissibility of the documents under Section 10 was resisted by the respondents contending that there was not an iota of material to show even, *prima facie*,

Key legal issues

The Supreme Court considered several issues related to the Indian Evidence Act:

1. Admissibility of diaries under Section 34: Were the seized diaries "books of account regularly kept in the course of business"?
2. Evidentiary value under Section 34: Even if admissible, could the entries alone be used to charge someone with liability without independent corroboration?
3. Admissibility under Section 10: Were the entries admissible as evidence of a conspiracy?
4. Admissibility under Sections 17 and 21: Did the entries constitute an "admission" by the Jain brothers that could be used against the politicians?

Court's reasoning

- On admissibility under Section 34: The court held that the diaries were not "books of account" that were "regularly kept in the course of business." The entries, therefore, did not meet the requirements to be considered admissible evidence under this section.
- On evidentiary value: The court reiterated that entries in books of account, even if admissible, cannot be the sole basis for establishing criminal liability. They require independent corroboration. The prosecution failed to provide independent evidence to link the alleged payments to the politicians.
- On conspiracy under Section 10: The court found that there was no "reasonable ground to believe that two or more persons have conspired together." Therefore, the entries could not be admitted under this section to prove a conspiracy. The court reasoned that since there was no *prima facie* case against the politicians for being part of the conspiracy, the charge could not stand against the Jain brothers either, because a conspiracy requires at least two parties.
- On admissions under Sections 17 and 21: The court ruled that the entries in the diaries could be considered an admission by the person who wrote them (J.K. Jain) but not against anyone else named in the entries, such as V.C. Shukla.

The outcome and legacy

- Result: The Supreme Court dismissed the CBI's appeal and upheld the Delhi High Court's decision to discharge V.C. Shukla and the other accused.
- Impact on conspiracy law: The judgment reinforced the high standard of evidence required to prove a criminal conspiracy. It established that uncorroborated diary entries are insufficient to prosecute on grounds of conspiracy.
- CBI independence: The case highlighted concerns about political interference in the CBI. In response, the Supreme Court issued directions in the Vineet Narain case (1998), which came shortly after the Shukla judgment, mandating that the Central Vigilance Commission (CVC) should supervise the CBI to ensure its independence.

केन्द्रीय जांच ब्यूरो (CBI) बनाम वी. सी. शुक्ला और अन्य, AIR 1998 में सुप्रीम कोर्ट का यह एक महत्वपूर्ण फैसला था, जिसे "हवाला कांड" के नाम से भी जाना जाता है। इस मामले में, सुप्रीम कोर्ट ने सबूतों के अभाव में वी. सी. शुक्ला और लालकृष्ण आडवाणी सहित कई राजनेताओं को बरी कर दिया। इस फैसले ने सबूतों के इस्तेमाल और सीबीआई की स्वतंत्रता की आवश्यकता के संबंध में महत्वपूर्ण निहितार्थ स्थापित किए।

मामले की पृष्ठभूमि

- 1991 में, सीबीआई ने हवाला नेटवर्क की जांच के तहत जैन बंधुओं के एक कर्मचारी जे.के. जैन के घर पर छापा मारा।
- इस छापे में, सीबीआई ने कुछ डायरियां और फाइलें जब्त कीं जिनमें कथित तौर पर जैन बंधुओं द्वारा कई राजनेताओं और सरकारी कर्मचारियों को भुगतान का विवरण था। इसमें वी. सी. शुक्ला और लालकृष्ण आडवाणी के नाम भी शामिल थे।
- इन दस्तावेजों के आधार पर, सीबीआई ने भारतीय दंड संहिता और भ्रष्टाचार निवारण अधिनियम के तहत आरोप दायर किए।
- दिल्ली उच्च न्यायालय ने इन कार्यवाही को रद्द कर दिया, जिसके बाद सीबीआई ने सुप्रीम कोर्ट में अपील की।

मुख्य कानूनी मुद्दे

सुप्रीम कोर्ट ने भारतीय साक्ष्य अधिनियम से संबंधित कई मुद्दों पर विचार किया:

1. धारा 34 के तहत डायरियों की स्वीकार्यता: क्या जब्त की गई डायरियां "नियमित रूप से रखे जाने वाले खाते की किताबें" थीं?
2. धारा 34 के तहत साक्ष्य का मूल्य: क्या केवल डायरी की प्रविष्टियों के आधार पर किसी व्यक्ति पर दायित्व तय किया जा सकता था, अगर कोई स्वतंत्र पुष्टिकरण न हो?
3. धारा 10 के तहत स्वीकार्यता: क्या ये प्रविष्टियाँ षड्यंत्र के सबूत के रूप में स्वीकार्य थीं?
4. धारा 17 और 21 के तहत स्वीकार्यता: क्या ये प्रविष्टियाँ जैन बंधुओं द्वारा "स्वीकारोक्ति" थीं जिनका उपयोग राजनेताओं के खिलाफ किया जा सकता था?

न्यायालय का तर्क

- धारा 34 पर: कोर्ट ने फैसला सुनाया कि डायरियां "नियमित रूप से रखी गई खाते की किताबें" नहीं थीं। इसलिए, वे इस धारा के तहत स्वीकार्य सबूत की आवश्यकताओं को पूरा नहीं करती थीं।
- साक्ष्य के मूल्य पर: कोर्ट ने दोहराया कि खाते की किताबों में की गई प्रविष्टियाँ, भले ही स्वीकार्य हों, अपराधिक दायित्व स्थापित करने का एकमात्र आधार नहीं हो सकतीं। इसके लिए स्वतंत्र पुष्टि की आवश्यकता होती है, और अभियोजन पक्ष कथित भुगतानों को राजनेताओं से जोड़ने के लिए कोई स्वतंत्र सबूत पेश करने में विफल रहा।
- षड्यंत्र पर: कोर्ट ने पाया कि यह मानने के लिए कोई "उचित आधार नहीं था कि दो या दो से अधिक व्यक्तियों ने एक साथ षड्यंत्र रचा"। इसलिए, षड्यंत्र साबित करने के लिए इस धारा के तहत प्रविष्टियों को स्वीकार नहीं किया जा सकता था।

- स्वीकारोक्ति पर: कोर्ट ने फैसला सुनाया कि डायरी में की गई प्रविष्टियाँ उसे लिखने वाले व्यक्ति (जे.के. जैन) की स्वीकारोक्ति हो सकती हैं, लेकिन वी.सी. शुक्ला जैसे अन्य व्यक्तियों के खिलाफ इसका इस्तेमाल नहीं किया जा सकता।

परिणाम और विरासत

- परिणाम: सुप्रीम कोर्ट ने सीबीआई की अपील खारिज कर दी और वी.सी. शुक्ला व अन्य आरोपियों को बरी करने के दिल्ली उच्च न्यायालय के फैसले को बरकरार रखा।
- षड्यंत्र कानून पर प्रभाव: इस फैसले ने आपराधिक षड्यंत्र को साबित करने के लिए आवश्यक सबूत के उच्च मानक को मजबूत किया। इसने स्थापित किया कि बिना पुष्टि वाली डायरी प्रविष्टियाँ षड्यंत्र के आधार पर मुकदमा चलाने के लिए अपर्याप्त हैं।
- सीबीआई की स्वतंत्रता: इस मामले ने सीबीआई में राजनीतिक हस्तक्षेप के बारे में चिंताओं को उजागर किया। इसके जवाब में, सुप्रीम कोर्ट ने *विनीत नारायण मामले* (1998), जो शुक्ला के फैसले के तुरंत बाद आया था, में निर्देश जारी किए। इन निर्देशों में यह अनिवार्य किया गया था कि सीबीआई की स्वतंत्रता सुनिश्चित करने के लिए केंद्रीय सतर्कता आयोग (CVC) उसकी निगरानी करेगा।

What is aid by illegal omission?

The phrase "aid by illegal omission" refers to a form of abetment, which is defined under Section 107 of the Indian Penal Code (IPC). This occurs when a person intentionally facilitates the commission of an offense by deliberately failing to perform a legal duty.

To constitute abetment by illegal omission, two key elements must be present:

- A legal duty to act: The person who omits to act must have a legal, not merely a moral, obligation to prevent the crime. This duty can arise from a contract, a specific law, or one's official position.
- Intentional omission: The failure to act must be intentional, with the knowledge that this omission will aid in the commission of the crime. Mere carelessness or negligence is not enough.

Example under the IPC

The concept is clearly illustrated in the context of a public servant's duty.

Scenario: A police officer, A, knows that B is planning to commit a robbery. As a police officer, A has a legal duty to prevent the commission of such crimes. Instead of reporting the planned robbery, A intentionally does nothing, allowing B to proceed with the crime.

Analysis:

- Illegal Omission: A, by intentionally failing to report the planned robbery, commits an illegal omission of their legal duty.
- Aid: A's omission directly aids B in carrying out the robbery.
- Conclusion: A would be guilty of abetment by illegal omission, in addition to B being guilty of the robbery itself.

The difference between illegal omission and negligence

The key difference lies in the intention.

- An illegal omission is a deliberate and purposeful act of not doing what the law requires, with the intent to facilitate a crime.
 - Negligence, by contrast, is a failure to exercise reasonable care and does not necessarily involve a malicious or criminal intent. While negligence can have serious consequences, it is a different legal offense from abetment by illegal omission.
-

Ref case queen vs Kalicharan

The case you're referring to is Emperor v. Kali Charan, decided on January 10, 1902, by the Allahabad High Court. In this case, the court quashed the commitment of three British subjects—Kali Charan Arakh, Behari Arakh, and Girdhari Arakh—who were accused of committing an offense in Nepal. The commitment was quashed under Section 215 of Act No. V of 1898, as the Magistrate had no jurisdiction to try the case. The court held that the offense was committed outside British India, and thus, the Indian courts had no jurisdiction to try the case. [Indian Kanoon](#)

This case is significant because it highlights the jurisdictional limits of Indian courts over offenses committed outside British India. It also underscores the importance of adhering to procedural requirements and the limits of legal authority in colonial India.

केस का नाम: रानी बनाम कलिचरण (Queen vs Kalicharan / Emperor v. Kali Charan)

न्यायालय: इलाहाबाद उच्च न्यायालय

निर्णय का वर्ष: 1902

मुख्य तथ्य:

- इस मामले में तीन ब्रिटिश नागरिक—कली चरण अरख, बिहारी अरख और गिरधारी अरख—पर नेपाल में अपराध करने का आरोप था।
- मैजिस्ट्रेट ने उन्हें न्यायालय में पेश किया, लेकिन उच्च न्यायालय ने यह देखा कि मैजिस्ट्रेट के पास इस मामले की क्षेत्राधिकार (Jurisdiction) नहीं है, क्योंकि अपराध ब्रिटिश भारत के बाहर हुआ था।
- इसलिए, उच्च न्यायालय ने उनके कमिटमेंट को रद्द कर दिया।

महत्त्व:

1. इस केस ने दिखाया कि भारतीय न्यायालयों का क्षेत्राधिकार केवल भारत में होने वाले अपराधों तक सीमित है।
2. यह कानूनी प्रक्रिया और अधिकार क्षेत्र (jurisdiction) की सीमा के पालन की आवश्यकता को भी रेखांकित करता है।

सार:

अपराध अगर भारत के बाहर हुआ हो, तो भारतीय न्यायालयों में उसके लिए मुकदमा चलाना संभव नहीं है।

Question : if any Indian person does any crime at outside of India than in Indian court does any action in Indian court or can't?

Yes, under **current Indian law**, certain offenses committed **outside India** by an Indian can still be tried in India. This is governed primarily by the **Indian Penal Code (IPC), 1860**, and some other statutes. Here's a clear explanation:

1. Relevant Law

Section 188–Section 190 of the **IPC** are relevant, but specifically:

Section 188–189 (less relevant), but the key one is:

Section 188, 189 IPC → Procedural.

The **main provision** is:

Section 188 (Jurisdiction for Offenses Outside India) IPC:

- **Chapter 2, Section 188–189, 190** → Actually, the most important is **Section 188 of IPC** along with **Section 3 of the Indian Penal Code** on offenses committed outside India (CrPC Sec. 187–188).

More directly:

Section 188 of IPC (in modern codification) is replaced by:

Section 188–189 CrPC & Section 188 IPC are procedural references.

Better reference is: **Section 188 IPC is not directly about offenses outside India.**

The **correct section** is:

Section 188 of IPC → not exactly, better:

Indian Penal Code, Section 188–189 procedural.

Actually, the real provision is:

Section 188 IPC → old law, now the principle comes from **Section 188 IPC read with Section 188–190 CrPC**, but main principle:

- **Section 3 of the Indian Penal Code, 1860:**

“Any person liable under any law for an offense committed outside India shall be dealt with according to the provisions of this Code if the act is punishable under the law of the country where it is committed.”

Key Examples in IPC:

1. **Section 188 IPC (Old Jurisdiction)** → Not primary
 2. **Section 3 IPC (Crimes outside India by Indian citizens)** → Primary
 3. **Section 188–189 CrPC** → Procedural jurisdiction for investigation and trial.
-

2. Current Scenario

- **Indian citizen commits a crime abroad: India can try the citizen if:**
 1. The act is **punishable in the foreign country**.
 2. The act **affects India or Indian interests**, e.g., terrorism, corruption, fraud against Indian banks, trafficking, etc.
 3. Specific laws explicitly provide extraterritorial jurisdiction (e.g., **Prevention of Corruption Act, UAPA, NDPS Act**).
 - **Not all offenses abroad** can be tried in India. Only those with **express extraterritorial provision** or affecting Indian territory/interests.
 - **Examples:**
 - Terrorist acts planned abroad against India → Indian courts can try.
 - Indian citizen commits murder in the USA → Usually tried in the USA, **India cannot try unless extradited or under special law**.
 - Cybercrime affecting Indian citizens → Can be tried under IT Act and IPC.
-

3. Key Legal Principle

- Principle of **“Nationality Jurisdiction”**: Indian citizen can be punished for acts committed outside India if the law expressly provides extraterritorial jurisdiction.
 - Principle of **“Territorial Jurisdiction”**: If the act affects Indian territory, India has jurisdiction.
-

✓ In short:

- **Yes, Indian law can run trial for certain offenses committed abroad by Indians, but only if the offense is recognized under Indian law for extraterritorial jurisdiction, or it affects Indian territory/interests.**
 - **Not every crime abroad automatically brings it under Indian trial.**
-
-

Care ref

Faiyaz Husain. The most prominent case involving "Faiyaz Husain" and a party named "Emperor" (or related colonial-era terms) is Faiyaz Husain Khan v. Munshi Prag Narain. This case was ultimately decided by the Privy Council in 1907 and is a landmark ruling on the doctrine of *lis pendens*.

The search results show that Faiyaz Husain was the appellant, not the opposing party, but the general context of the query suggests this is the case of interest.

Faiyaz Husain Khan vs. Munshi Prag Narain (1907)

Parties:

- Appellant: Faiyaz Husain Khan

- Respondent: Munshi Prag Narain

Facts of the case:

- The legal dispute centered around a property that was involved in multiple mortgages.
- The first mortgagee, Newal Kishore, filed a lawsuit to enforce his mortgage. While this suit was still pending, a second mortgage was created on the same property.
- Faiyaz Husain Khan was the purchaser of the property at an execution sale that arose from the second mortgage.
- When Newal Kishore later pursued a sale of the property to execute his first mortgage, the rights of the two purchasers came into conflict.

Key legal principle:

- The core issue was the doctrine of *lis pendens*, which is codified in Section 52 of the Transfer of Property Act, 1882.
- The doctrine prevents a property that is the subject of litigation from being transferred or otherwise dealt with in a way that would prejudice the outcome of that lawsuit.
- The question before the court was whether the purchase by Faiyaz Husain, which occurred during the pendency of the original mortgage suit, could stand.

Judgment:

- The Privy Council upheld the principle of *lis pendens*.
- It ruled that because the first mortgage suit was ongoing, any subsequent transaction concerning the property, including the second mortgage and the resulting sale to Faiyaz Husain, could not defeat the rights of the first mortgagee, Newal Kishore.
- The court dismissed Faiyaz Husain's appeal and affirmed the decision of the lower court.

Significance:

- The case is a foundational authority on the doctrine of *lis pendens* in Indian law.
 - It established that the rule is an expression of the maxim "ut lite pendente nihil innovetur" (during a lawsuit, nothing new should be introduced), which protects the integrity of judicial proceedings concerning property.
-
-

फैयाज हुसैन खान बनाम मुंशी प्राग नारायण (1907)

पक्ष:

- अपीलकर्ता: फैयाज हुसैन खान
 - प्रतिवादी: मुंशी प्राग नारायण
-
-

मामले के तथ्य:

- कानूनी विवाद एक ऐसी संपत्ति के बारे में था, जो कई बंधकों (mortgages) में शामिल थी।

- पहले बंधककर्ता (mortgagee), नेवाल किशोर ने अपना बंधक लागू करने के लिए एक मुकदमा दायर किया। जब यह मुकदमा चल रहा था, उसी संपत्ति पर एक दूसरा बंधक बना दिया गया।
- फैयाज हुसैन खान उस निष्पादन बिक्री (execution sale) में संपत्ति के खरीदार थे, जो दूसरे बंधक से उत्पन्न हुई थी।
- जब नेवाल किशोर ने बाद में अपने पहले बंधक को निष्पादित करने के लिए संपत्ति की बिक्री पर जोर दिया, तो दोनों खरीदारों के अधिकारों में टकराव पैदा हो गया।

मुख्य कानूनी सिद्धांत:

- मुद्दा डॉक्ट्रिन ऑफ लिस पेंडेस (Lis Pendens) या लंबित वाद का सिद्धांत था, जो संपत्ति अंतरण अधिनियम, 1882 की धारा 52 में संहितांकित है।
- यह सिद्धांत किसी संपत्ति को, जो मुकदमे का विषय है, तब तक हस्तांतरित या उससे संबंधित कोई अन्य कार्य करने से रोकता है, जब तक कि मुकदमे का फैसला न हो जाए।
- अदालत के समक्ष प्रश्न यह था कि क्या फैयाज हुसैन द्वारा की गई खरीद, जो मूल बंधक मुकदमे के लंबित रहने के दौरान हुई थी, वैध थी।

निर्णय:

- प्रिवी काउंसिल ने *लिस पेंडेस* के सिद्धांत को बरकरार रखा।
- उसने फैसला सुनाया कि चूंकि पहला बंधक मुकदमा चल रहा था, इसलिए संपत्ति से संबंधित कोई भी बाद का लेनदेन, जिसमें दूसरा बंधक और फैयाज हुसैन को हुई बिक्री शामिल है, पहले बंधककर्ता नेवाल किशोर के अधिकारों को प्रभावित नहीं कर सकता।
- अदालत ने फैयाज हुसैन की अपील को खारिज कर दिया और निचली अदालत के फैसले को बरकरार रखा।

what is the meaning of w n in the last of any case ref

The abbreviation

W.N. at the end of a case reference in Indian law most likely stands for "Weekly Notes". This is an old but still sometimes used abbreviation for a specific law report series, particularly in the context of older judgments.

Breakdown of a case reference

A case reference or citation typically includes:

- Case Name: E.g., CBI vs. V.C. Shukla
- Year: E.g., 1998
- Volume Number: A number indicating the volume of the law report.
- Journal Abbreviation: E.g., AIR for All India Reporter or SCC for Supreme Court Cases.
- Page Number: Where the report of the case begins.

The W.N. would fit into the journal abbreviation part of the citation, referring to the "Weekly Notes" report where the case was published.

Date 12.9.25 BNS Chapter 2 time 10.30 by mr dinesh

A Correct expressions would be:

- **“Presence at a bigamous marriage”**
- **“Presence of a bigamous spouse”** (if you mean the person who committed bigamy)
- **“Bigamous marriage ceremony”** (most common usage in law)

So, in the *Malan v. State of Bombay (1957)* case, the right phrasing is:

“Mere presence at a bigamous marriage does not amount to abetment.”

(2nd marriage)

A description case ref malan 1957 mumbai case L.R.

मालान बनाम राज्य ऑफ बॉम्बे (1957)

- निर्णय न्यायालय: बॉम्बे हाई कोर्ट [Indian Kanoon+1](#)
- तारीख: **31 अक्टूबर 1957** [SooperKanoon+1](#)
- विषय: *अभद्र विवाह (Bigamy)* और *IPC धारा 494 + धारा 114* के अंतर्गत *अबेमेंट (abetment)* की वैधता [Indian Kanoon+2SooperKanoon+2](#)

तथ्य (Facts)

- आरोपी (accused) ने **अवैध विवाह समारोह** (जिसमें एक व्यक्ति पहले से विवाहित था) करवाया। [Indian Kanoon+1](#)
- अन्य आरोपी (No. 2-9, 11-13 आदि) ने विवाह समारोह में उपस्थित रहते हुए, होली चावल (holy rice) फेंका, “antarpot” आयोजित किया आदि क्रियाएँ कीं। [Indian Kanoon+1](#)
- अभियोजन का तर्क था कि ये क्रियाएँ *IPC की धारा 107 (abetment)* के अंतर्गत आती हैं, क्योंकि उन्होंने उस विवाह को कारगर बनाने में **“Intentional aid”** की भूमिका निभाई। [Indian Kanoon+1](#)

मुद्दा (Issues)

- क्या उपरोक्त कार्रवाइयाँ ऐसे *अबेमेंट* की श्रेणी में आती हैं कि दोषी पाए जाने वाले आरोपी को *अभियोजन* किया जा सकता है? विशेषकर:
 1. क्या “mere presence” (= बस मौजूद होना) abetment बनेगी? [Indian Kanoon+1](#)
 2. क्या क्रियाओं में “intention to aid / facilitate” देखी जा सकती है? [Indian Kanoon+1](#)

न्यायालय का निर्णय (Judgment)

- न्यायालय ने कहा कि **मौजूदगी मात्र (mere presence)** और **ज्ञान कि विवाह अवैध है** (knowledge of void marriage), अपने आप में abetment नहीं बनाते। [Indian Kanoon+1](#)

- उदाहरण के लिए, शादी समारोह में होली चावल फेंकना या उपस्थित होना, जब तक कि यह सिद्ध न हो कि इन क्रियाओं ने विवाह को कराने में *सहायता (facilitation)* की हो, abetment नहीं है। [Indian Kanoon+1](#)
- एक आरोपी (No. 9) को दोषी पाया गया क्योंकि उसने “antarpāt” आयोजित करने जैसी ऐसी गतिविधि की जिसे Court ने *intentional aid* माना। [Indian Kanoon+1](#)

न्यायशास्त्रीय महत्व (Legal Significance)

- यह केस **IPC धारा 107** और **Explanation 2 thereto** का उदाहरण है कि “aid” किस तरह से माना जा सकता है। [Indian Kanoon+2](#)[SooperKanoon+2](#)
- “स्थिति-स्थिति (facts of each accused)” की समीक्षा की जाएगी — यह देखने के लिए कि किसकी भूमिका कितनी सक्रिय या सहायक थी।
- “mere presence” और “knowledge” जैसे तत्वों को alone आधार नहीं माना जाता; **क्रियाएँ + उद्देश्य (intention)** चाहिए।

Malan & Ors. v. State of Bombay (1957)

Court: Bombay High Court

Date: 31 October 1957

Facts:

- The accused arranged and participated in a marriage ceremony where one party was already married, making it an illegal/void marriage (bigamy under **IPC Section 494**).
- Other accused persons were present at the ceremony and performed acts like throwing holy rice, holding the “antarpāt” (a cloth screen used in rituals), etc.
- The prosecution argued that these actions amounted to **abetment** of the offence under **IPC Section 107**, since they intentionally aided the celebration of an unlawful marriage.

Issues:

1. Does *mere presence* at an unlawful marriage amount to abetment?
2. Do ritual acts (like throwing rice or holding the cloth) show **intentional aid** in committing the offence?

Judgment:

- The Court held that **mere presence** at the ceremony or **mere knowledge** that the marriage is void does not amount to abetment.
- Symbolic participation (like throwing rice) by itself does not prove intentional aid.

- However, where a person played an **active role** that directly facilitated the unlawful marriage (e.g., arranging the “antarpat”), it was considered **abetment** under IPC Section 107.
 - Thus, liability depends on the **active, intentional assistance** given by each accused.
-

Legal Significance:

- This case clarified the scope of **abetment under IPC Section 107**.
 - **Mere presence + knowledge ≠ abetment.**
 - There must be **intentional aid or active participation** to constitute abetment.
 - The case is often cited to explain what amounts to “abetment by aiding” under the IPC.
-
-

b “Presence at the exhibition of a blue film”

(if you mean a person was present during the showing of a blue film).

“Exhibition of a blue film”

(if you are describing the act itself — the showing/screening).

“Mere presence at the exhibition of a blue film does not amount to abetment”

(legal phrasing, similar to the Malan case principle — mere presence ≠ abetment).

Articles 292, 293, 294 IPC (Indian Penal Code)

These sections deal with **obscenity** in India.

Section 292 – Sale, etc., of obscene books, etc.

- Makes it an offence to sell, distribute, publicly exhibit, or circulate any **obscene book, pamphlet, paper, drawing, painting, representation, figure, or object**.
 - Punishment:
 - First conviction → up to 2 years imprisonment + fine up to ₹2000.
 - Second conviction → up to 5 years imprisonment + fine up to ₹5000.
-

Section 293 – Sale, etc., of obscene objects to young persons

- Prohibits sale, letting, hiring, distribution, or circulation of obscene objects to persons **under 20 years of age**.
 - Punishment:
 - First conviction → up to 3 years imprisonment + fine up to ₹2000.
 - Subsequent conviction → up to 7 years imprisonment + fine up to ₹5000.
-

Section 294 – Obscene acts and songs

- Whoever, to the annoyance of others,
 - (a) does any obscene act in a public place, or
 - (b) sings, recites, or utters any obscene song, ballad, or words in or near a public place,
 - shall be punished with imprisonment up to 3 months, or fine, or both.
-

Hicklin Test

- The **Hicklin Test** comes from the English case ***Regina v. Hicklin (1868)***.
 - Test: *“Whether the tendency of the matter charged as obscene is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall.”*
 - In simple words → if any part of a material could corrupt the most vulnerable readers (like children or weak-minded adults), the whole material would be considered obscene.
-

Position in India

- Initially, Indian courts followed the **Hicklin Test** (*Ranjit Udeshi v. State of Maharashtra, 1965* — where a bookseller was convicted for selling *Lady Chatterley’s Lover*).
 - Later, the Supreme Court moved away from it.
 - In ***Aveek Sarkar v. State of West Bengal (2014)***, the Court adopted the **Community Standards Test** instead of Hicklin.
 - Obscenity must be judged by **contemporary community standards** and the work as a whole, not by isolated passages.
-

✓ So in short:

- **Sections 292–294 IPC** → deal with obscenity.
 - **Hicklin Test** → old test (focus on vulnerable minds, even if a small part is obscene).
 - **Now replaced in India by Community Standards Test (Aveek Sarkar, 2014).**
-
-

Abetment

Case ref

Ram Kumar v. State of Himachal Pradesh — (custodial rape / abetment) — summary

Facts (short):

A married woman and her husband were taken to the police station by some constables. While the head-constable was alleged to have raped the woman in custody, another constable (co-accused) was said to have kept watch and thereby facilitated the act. The trial court/acquittal and subsequent High Court findings differed, giving rise to appeals.

Issue:

Whether presence or certain conduct by a police constable (e.g., keeping watch / facilitating) amounts to **abetment** of custodial rape (i.e., criminal liability for assisting the principal offender).

[CaseMine](#)

Held / Judgment (essence):

The authorities held that **mere presence** by itself may not always be abetment, but **active assistance, facilitation or deliberate conduct** that helps the principal offender commit the crime can amount to abetment (criminal liability). The judgments examine facts of each accused to see if their conduct constituted intentional aid. (Different courts recorded different findings as to guilt and sentence in the reported proceedings; see the full text for the precise outcome in the particular year you are studying).

Legal significance:

- Reaffirms the principle that **mere presence + knowledge ≠ abetment**, but active facilitation or deliberate assistance can make a person liable for abetment under IPC.
- Important authority when dealing with **custodial sexual offences** and the liability of other officers who “facilitate” or “stand guard.”

Bns section 46

Abettor

▣ धारा 46 – अभियुक्त की परिभाषा

"जो व्यक्ति किसी अपराध के करने के लिए किसी अन्य व्यक्ति को उकसाता है, या उस अपराध के करने के लिए किसी अन्य व्यक्ति के साथ मिलकर साजिश करता है, या उस अपराध के करने में किसी अन्य व्यक्ति की सहायता करता है, वह अभियुक्त कहलाता है।"

▣ व्याख्याएँ (Explanations):

- **व्याख्या 1:** यदि कोई व्यक्ति किसी कृत्य को करने के लिए किसी अन्य व्यक्ति को उकसाता है, तो वह अभियुक्त होगा, भले ही वह स्वयं उस कृत्य को करने के लिए कानूनी रूप से बाध्य न हो।
- **व्याख्या 2:** अभियुक्तता के अपराध की सजा पाने के लिए यह आवश्यक नहीं है कि वह कृत्य किया गया हो या वह प्रभाव उत्पन्न हुआ हो जो अपराध को पूरा करने के लिए आवश्यक था।
- **व्याख्या 3:** यह आवश्यक नहीं है कि जिस व्यक्ति को उकसाया गया है वह कानूनी रूप से अपराध करने के लिए सक्षम हो, या उसके पास वही दोषपूर्ण उद्देश्य या ज्ञान हो जो अभियुक्त के पास है।

👑 उदाहरण:

- **उदाहरण 1:** यदि 'A' 'B' को 'C' की हत्या करने के लिए उकसाता है, और 'B' ऐसा नहीं करता है, तो 'A' हत्या के लिए उकसाने का दोषी होगा।
- **उदाहरण 2:** यदि 'A' 'B' को 'D' की हत्या करने के लिए उकसाता है, और 'B' ऐसा करता है, लेकिन 'D' गंभीर रूप से घायल हो जाता है, तो 'A' हत्या के लिए उकसाने का दोषी होगा।

✦ महत्वपूर्ण बिंदु:

- अभियुक्तता के अपराध में यह आवश्यक नहीं है कि उकसाया गया व्यक्ति अपराध करने के लिए कानूनी रूप से सक्षम हो।
- अभियुक्तता के अपराध में यह आवश्यक नहीं है कि उकसाया गया व्यक्ति के पास वही दोषपूर्ण उद्देश्य या ज्ञान हो जो अभियुक्त के पास है।

Section 46 – Definition of Abettor (BNS / IPC equivalent)

Definition:

"A person is called an abettor who instigates another person to commit an offence, or conspires with another person to commit an offence, or intentionally aids another person in committing the offence."

Explanations:

1. Instigation:

- If a person instigates someone else to commit a particular act, they are an abettor, even if they are not legally required to commit the act themselves.

2. No actual result required:

- It is not necessary for the offence to actually occur or for the abettor's act to produce the intended result for them to be liable.

3. Knowledge or capability of the principal:

- It is not necessary that the person instigated has the same guilty knowledge or intention, or even legal capacity, as the abettor.
-

Examples:

- **Example 1:** If A instigates B to kill C, and B does not act, A is still guilty of abetting the attempt.
- **Example 2:** If A instigates B to kill D, and B succeeds, A is guilty as an abettor of the murder.

Definition:

"A person is called an abettor who instigates another person to commit an offence, or conspires with another person to commit an offence, or intentionally aids another person in committing the offence."

Explanations:

1. Explanation 1 – Instigation

- If a person **instigates another person** to commit an offence, they are an abettor, even if they themselves are not legally bound to commit the offence.
- **Example:** A tells B to steal C's property. Even if A does not participate directly in the theft, A is liable as an abettor.

2. **Explanation 2 – No actual result required**

- The abettor is liable **even if the offence is not actually committed**, or if their act does not succeed in producing the intended result.
 - **Example:** A instructs B to assault C, but B does not go through with it. A is still guilty of abetment.
-

What is the means of doli incapax.

- BNS (Bharatiya Nyaya Sanhita): This is a legal code in India that replaced the Indian Penal Code. Section 20 of the BNS discusses the legal principle of "doli incapax," which means a child under the age of seven is legally presumed incapable of committing a crime. Your initial search for "doly in capex latin" likely triggered results related to *doli incapax* and the legal term *capax* (capable), which is a common confusion.
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