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Understanding Of Abetment Law

INTRODUCTION

In some cases, assisting another person in committing an offense might turn into a crime in and of itself. The perpetrators of these crimes do not actively participate in the offence. Abetment is defined under Section 107 of Indian Penal Code.

Section 107 Of IPC: “Abetment of a thing: A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing”¹

Case Law: Sanju vs the State of M.P(Landmark Judgment)

In this case husband said wife to go and commit suicide when a little bit fight is happening between them. After 2 days wife committed suicide. So, here court held that husband is not liable as he does not have intention to do so.

¹ https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688&orderno=111

Types Of Abetment

According to IPC Abetment can be done in three form:

1. Instigation
2. Conspiracy
3. Aiding

Abetment By Instigation: It means that when one person encourage, suggest, motivate or incite a person to do or avoid from doing something. It can be done either orally or in written words or by gesture, hints, etc. instigation should be very effective that it can encourage people to commit offence. It should not be a simple suggestion or an advice.

It can generally be happen by :

1. Wilful Misrepresentation
2. Wilful Concealment of facts.

Illustration: C commits an crime, courts directs A an police officer to arrest C. While A was going to arrest C in between this B tells A that C is D. So, A arrest D. In this case B is guilty of abetting A in wrongful Arrest. ²

Abetment By Conspiracy: It Means that there should be an agreement between two or more people to commit an unlawful act. Only having an intention to commit an offence is not enough for this. It occurs only when there is conspiracy between two or more person for committing a criminal act. However when conspirator plan to commit itself it must be punishable or illegal.

Illustration: A married B, when b starts living at A's house his parent constantly start torturing, taunting or incite B about dowry which leads to death of B by suicide known as dowry death case. In this case B's in law are guilty of abetment of conspiracy. ³

² <https://www.toppr.com/guides/legal-aptitude/indian-penal-code/abetment-under-section-107-ipc-instigation-conspiracy-aid/#:~:text=Abetment%20basically%20means%20the%20action,each%20person's%20involvement%20may%20vary.>

³ <https://www.legalserviceindia.com/legal/article-2753-abetment.html>

Abetment By Aid: Intentionally assisting the offender in carrying out the offence is the third way that abetment may occur. This typically occurs when the offender aids in the commission of the crime or enables it. It is crucial to have the intention of helping the offender.

illustration: A instigate B to commit an suicide and C give poison to B in his food. So, here A and C both are abettor. A is liable for instigation and C is liable for intentional Aiding.

If a police constable is a Spector of seeing a crime but not stopping it or not fulling his duty then he liable himself to encourage he commission of an offence it is known as aid by legal omission.⁴

Who Is Abettor?

Abettor is defined under section 108 of Indian Penal Code it refers to assisting, motivating, or urging someone to break the law. According to this section, if the conduct being abetted is carried out as a result of the abetment and the punishment for abetment is not specifically stated, the individual who encouraged or assisted the crime shall be punished as though they had committed it themselves.

Section 108 of IPC : “Abettor: A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

⁴ <https://lawnotes.co/abetment-under-ipc/>

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.”⁵

CONCLUSION:

whether the conduct being assisted is carried out, abetment is considered a substantive offence and is criminal in and of itself. Under the Indian Penal Code, 1860, anyone who commits an act as a result of instigation, conspiracy, or assistance is accountable; however, the person who initiated the act is also accountable for abetment since they were the one who instigated it.

⁵ https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688§ionId=45842§ionno=108&orderno=112