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Punishment For Attempt Under IPC

INTRODUCTION

Section 511 of Indian Penal Code deals with attempt of crime without defining it. Proper definition of attempt is not given in any criminal law book. Attempt of crime occurs when person makes full mindset of committing a crime by necessary means and method but fails to do so.

“Section 511 of IPC : Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.—

Whoever attempts to commit an offence punishable by this Code with imprisonment for life or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.”

“The Principles of Law in British India” written by “Syed Shamsul Huda” states in book that:-

“an act or a series of acts constitutes an attempt if the following are fulfilled:

- **If all the steps of the offence or all the important steps of the offence have been completed other than the consequences of the offence.**
- **If the offender has not completed all the necessary steps needed to complete the crime but has proceeded far enough to entitle punishment in order to protect society.**

In order for a crime to constitute an attempt, there must be:

1. **Intent to commit the crime.**
2. **Act towards the accomplishment of the crime.**
3. **Failure of that act.**

An act will be considered accomplishment on the basis of two things- the means to make sure the act is seen into completion must be adapted and it must be beyond preparation.”

Section 511 of IPC only defines what punishment to be given when a person tries to attempt an offence. Only one-half punishment of imprisonment and fine will be given or both according to the punishment given in section.

Illustration : A tries to kill B with a gun if B dies the A is liable and if B only gets injured then A will be liable for attempt of an offence.

Essentials of attempt:

1. **Intention of committing an offence**
2. **Steps towards committing an offence**
3. **Fails to do that offence**

Tests for Determining Whether an Act Amounts to a Mere Preparation or an Attempt to Commit an Offence

There are 3 test by which we can determine whether attempt has committed or not:

- The Proximity test: It is an act or a series of act which tells whether crime must be sufficiently proximate to accomplish a offence. Means how much a defendant is close to commit an offence.

Case law: Commonwealth V. Hamel: In this court held proximity rule amount left to be done.

- The Doctrine of Locus Poenitentiae : It talks about when a person has done preparation to commit a crime but changes his mind at last moment.

Case Law: Malkit Singh Vs. State of Punjab: In this case defendant was carrying paddy to Delhi from Punjab. Sub inspector stop the truck 18 miles away from Delhi border and arrest him. In the court held that defendant is not liable as he was about reach Delhi he stopped and change his mind to go back. He made preparation but at last moment he changes his mind.

- The Equivocality Test: to determine whether an act constitutes an offence, or falls under the category of an attempt or preparation, it is observed that whether a person is about to commit an offence, or attempt of an offence.

Case Laws:

- Narayan Das Vs. State of west Bengal:

The accused had hidden notes inside his jeans, which the customs officer found out about. The accused, according to the court, got beyond the initial stages. The court decided that trying to remove cash from circulation is against the Sea Customs Act.

- Bashir Bhai Mohammed Bhai vs. the State of Bombay:

A complaint alleging that the accused was in possession of duplicate or counterfeit cash notes has been filed against him. Authorities were able to get these notes. According to the court, the act had advanced well beyond the planning stage and was therefore an effort to commit a crime that would be prosecuted.

- Abhayanand Mishra vs State of Bihar:

The defendant in the case presented a fake diploma. With a prior authorization letter, he attempted to appear as a private candidate in an MA test; however, he was prosecuted and prevented from appearing in the same. In this instance, the court determined that "the attempt to commit an offence begins when the offender takes a step towards the commission of the offence and all preparations are finished." It is still an endeavor even if this path toward the beginning is unsuccessful because of outside circumstances.

Conclusion:

An attempt at committing a crime is different from other offenses like conspiring to commit a crime since it goes beyond simple planning or preparation. Numerous particular crimes of attempt exist, including attempted murder, and they might differ depending on the jurisdiction. In the legal community, one of the most talked-about topics is criminal conspiracy. Try to do a thorough analysis of

criminal conspiracy in this project, as well as a discussion of various case laws pertaining to attempts at criminal conspiracy.