

CRIMINAL CONSPIRACY

Criminal conspiracy is considered an inchoate offence. In this sense, a criminal conspiracy is said to arise when two or more persons come together to affray or to commit any unlawful act. The definition however serves to widen the focus to not only connect with criminal activities but also to associate with any unlawful acts concerning say civil wrongs or any other legal prohibitions.

This suggests that any non-punishable action according to BNS may also qualify as a criminal conspiracy. Take for instance, suicide, which cannot be classed as a crime within the Indian Penal Code and hence cannot be branded as an offence. Given that suicide violates the law, the notion of criminal conspiracy applies here.

Additionally, in the cases of conspiracy to commit an offence, the parties need only agree to commit the offence. In other situations, however, a simple agreement to commit a crime will not suffice. There must be some action taken to help carry out the offence.

Section 61

(1) In the event of one or more individuals coming together for the purpose of executing or directing the execution of—

(a) a criminal act; or

(b) a lawful act by means which are unlawful; the agreement is termed criminal conspiracy. It is emphasised that an agreement to engage in criminal conduct does not amount to conspiracy unless one or more of the co-conspirators takes an overt act beyond mere agreement towards the completion of the offence.

Justification: There is not any difference whether the illegal purpose of the contract is the main aim of the contract or it is one of the incidental purposes of the contract.

(2) Any person engaged in furtherance of a felony,

If the plot itself is not punishable under the provisions of this Sanhita, a person committing a crime which is punishable with death or imprisonment for life or with imprisonment for a term of two years or more which is rigorous, shall be treated as if he has abetted in the commission of that crime.

(b) other than the conspiracy to commit an offence referred to in the above provisions, shall be punished with fine or imprisonment for a term of not more than six months or with both.

Section 61(2)

Section 61(2) of the BNS, 2023 applies to any person engaging in a criminal conspiracy.

1. In case of the absence of this Sanhita, an individual who makes an attempt to commit an offence that is punishable by death or life sentence or rigorous imprisonment for two years or more shall be dealt with as if he had also helped to commit that offence.
2. Apart from the criminal conspiracy, an offence with a punishment in the above cases has a jail term not exceeding six months or a fine or to both.

Ingredients of Criminal Conspiracy under Section 61(2) of BNS

Below are the components of this offence

(1) There is common intention of the parties to an offence.

(2) Such Common intention should be

- to achieve an unlawful objective or
- by unlawful assistance achieve an object which is not illegal per se.

The meeting of minds of two or more persons for the purpose of committing an unlawful act or for an act which is not lawful is an essential ingredient of any the conspiracy.

Whoever attempts to commit an offence punishable by this Sanhita 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 Sanhita 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.

Illustrations:

1. A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.
2. A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

1)opandas v. State of Bombay - 1955

This case serves as an early precedent, interpreting 'criminal conspiracy under IPC'. Here, the court held that a criminal conspiracy is an independent offence by itself, and the mere agreement between two or more individuals with the intent to commit a crime is punishable, even if no illegal act follows the agreement.

2)Ram Narain Popli v. C.B.I. - 2003

In this landmark case, the [Supreme Court of India](#) elaborated on Section 120A IPC, emphasizing that the essence of a criminal conspiracy is an agreement to commit an offence. In a case where a conspiracy is alleged, the court must look for evidence proving that the conspirators had met and decided upon a plan to commit the crime.

3)Kehar Singh and others v. State - 1988

This case involved the assassination of a [Prime Minister](#), and the Supreme Court elucidated the role of circumstantial evidence in proving criminal conspiracy. It noted that the existence of an agreement, the cornerstone of a conspiracy, could be inferred from circumstantial evidence.

Conclusion

The Bharatiya Nyaya Sanhita, 2023, Section 61(2), is an exhaustive legal provision on criminal conspiracy in India. It explains the jurisprudence on criminal agreements and the requirement of an overt act in furtherance of the agreement to establish conspiracy.

Such advances in articulation of punishment and its procedural requirements are contained in the new law, but the provisions are still similar to the old Section 120-B of the IPC. These complexity must be appreciated by anyone who is a party

to a legal action involving any form of conspiracy as their understanding goes beyond the general layman's knowledge of the law of conspiracy.

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