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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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A CRITICAL STUDY OF LAW RELATING TO CRIMINAL CONSPIRACY.

AUTHORED BY: PUNIT KUMAR VAISH,

Student, Amity Law School, Lucknow

CO- AUTHOR: ARADHANA YADAV,

Professor, Amity Law School, Lucknow

Abstract

An agreement between two or more people to commit a crime is called a conspiracy. Conspiracy is defined as the parties' simple agreement to conduct an offence. At first, there were just two sections in the IPC that dealt with conspiracy offences. First, Section 107 made conspiracies that involved aiding and abetting illegal. The remaining are special clauses that deal with offences and include plots to conduct them. For instance, Section 401 (belonging to a gang of thieves), Section 400 (belonging to a gang of dacoits), Section 310 (in the definition of thugs), etc. However, with the passage of the Indian Criminal Law Amendment Act of 1913 (8 of 1913), the law was altered. Chapter V-A of the IPC addresses "Criminal Conspiracy." There are two portions in it: 120A and 120B. The meaning of criminal conspiracy is found in Section 120A. The penalties for committing the crime of criminal conspiracy are outlined in Section 120B.

Keyword: Section 120A, Section 120B, Criminal Conspiracy.

Introduction

Section 120A's Definition of Criminal Conspiracy A criminal conspiracy is when two or more people come to an agreement to either (1) commit illegal conduct or (2) carry out an act that is lawful but not obtained through unlawful means. With the caveat that no agreement—aside from an agreement to commit an offence—shall qualify as a criminal conspiracy unless one or more parties to the agreement carry out an act in furtherance of the agreement.

Justification: It makes no difference if the unlawful activity is the main goal of the agreement or just one of its byproducts. Ingredients: (1) The individuals who are accused of conspiring must have an agreement; and (2) The agreement must be for the purpose of either (i) performing an illegal act or (ii) performing an act through the use of illegal methods, even though the act itself may not be illegal.

EXPLAINING “CONSPIRACY” :

“Two or more person needed” –

A group of two or more people must agree to commit illegal conduct or to use illegal methods in order for it to be considered a conspiracy because an individual cannot plot against themselves. A ruling in ‘Topandas vs. State of Bombay’, which the Supreme Court cited in Haradhan Chakrabarty vs. Union of India², established that “one person alone can never be held guilty of criminal conspiracy for the simple reason that one cannot conspire with oneself.” Two or more people must be parties to such an agreement. In order for there to be a consensus between two or more minds, it also seems acceptable to maintain that these two individuals must be natural persons. Therefore, even if the company is a separate legal entity, “a director who is the “one man” of a “one man” company cannot be found guilty of conspiring with the company”. Under common law, a husband and wife who are the only parties to an agreement cannot conspire to commit an offence because they are one and the same person. If both conspirators' convictions are irreconcilable with the other's acquittal, even one of them could be judged guilty. For instance, one of the conspirators might have been cleared because of an exception or a lack of authorization. Recently, the Bombay High Court took the same position. As a result, if one of the two accused was a public servant and had to be exonerated because his prosecution had been conducted without permission in accordance with Cr.P.C. 197, the other could still be found guilty of conspiracy because the other accused's acquittal was based on technical grounds rather than the facts and notwithstanding evidence that established the facts of the conspiracy.

‘Agreement is gist of the offence’ –

The essence of the crime is the simple act of engaging in and conspiring to breach the law, regardless of whether the conspirators actually carry out any actual actions to do so.⁵ The goal being pursued or the techniques used ought to be unlawful, as that term is defined in Section 43 above. An agreement that is intended to commit an offence and an agreement whose purpose or means of implementation are unlawful but do not constitute an offence are distinguished from one another. One of the two real killers and two conspirators in the assassination of Smt. Indira

Gandhi, the Indian prime minister at the time, went on trial. The two conspirators were not present at the crime scene. The Supreme Court cleared one of them. His actions following the incident were not adequately documented. There was no indication of any agreement between him and the other accused in the documents that were retrieved from his custody. All they revealed was his disturbed mentality, gripped by a need for vengeance. This is insufficient to reach a consensus with anyone. However, it was revealed that Kehar Singh was secretly speaking with one of the real murderers, that they constantly tried to distance themselves from their spouses and kids, that they shied away from the other family members, and that when questioned about their conversations, they remained enigmatic. These details were enough to prove that they were working on a covert project. This was sufficient to establish a prima facie case of conspiracy in accordance with Section 10 of the Evidence Act and to place them all under punishment for the actions of one.

Sections 34 and 120A-

Acting with a common aim as defined by S. 34 and conspiracy as defined by S. 120A have comparable purviews. As opposed to the former, which focuses on mere involvement and affiliation to break the law even while the illegal conduct does not follow, the crime under S. 34 is primarily the commission of a criminal act in furtherance of a single goal shared by all of the offenders. This implies that criminal activity should be coordinated in order to result in an action for which a person would face consequences even if it were carried out by him alone.

Sections 107 and 120A –

If there is an agreement to conduct an offence, such an agreement alone suffices to constitute an offence under this section. However, an act or criminal omission committed in furtherance of the plot is required for an offence under the second clause of S.107; agreement alone is insufficient.

S. 120A I.P.C and S.10 Evidence Act –

When it is reasonable to believe that two or more people have conspired to commit an offence or an actionable wrong, anything said, done, or written by any of these people about their shared intention after the moment any of them first entertained such an idea is relevant evidence against each of the people suspected of conspiring, as well as for the purposes of proving the existence of the conspiracy and proving that any such person was a party to it..

Punishment of Criminal Conspiracy:

S.120B (1) Unless otherwise specified in this Code, a person who is a party to a criminal conspiracy to commit an offence that carries a sentence of life in prison, the death penalty, or rigorous imprisonment for a period of two years or longer will be punished as though he had

participated in the commission of the offence. (2) A maximum penalty of six months in either form of detention, a fine, or possibly both awaits anyone found guilty of taking part in a criminal conspiracy other than the one to commit an offence mentioned above.

CONCLUSION:

A criminal conspiracy is any arrangement between two or more people to commit an offence. S. 120B distinguishes between two groups of criminal conspiracies for the purposes of punishment. In the absence of a specific clause in the I.P.C., a party to a conspiracy to commit a major crime is penalized as though he had assisted in the offence. Conspiracies to conduct any other crimes that carry a maximum six-month jail sentence, a fine, or both. In cases where the accused is charged under both S.109 and 120B of I.P.C. and it is proven that the offence abetted was committed as a result of the abetment, S.120B I.P.C. does not require a separate sentence to be recorded. The abettor should serve the prison term specified for the primary offence under S.109. Even if the charge of conspiracy is dropped, the defendant may still be found guilty of their crimes and punished accordingly. In a case where the principal accused in a conspiracy received no jail time and was just fined, it was decided that the other accused received an unfair substantive penalty of imprisonment and that they should simply be required to pay the fine. Of the seven people charged with criminal conspiracy, six were found not guilty. Simply by virtue of leading the branch division where the fraud was purportedly perpetrated, the remaining suspects could not be found guilty. One accused admitted to taking part in a bank robbery and murder case, claiming that the other accused killed someone outside the bank while fleeing. The penalty was reduced to a life sentence in prison.

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