AILET

Primer on Stages of Crime, Wrongful Confinement and Wrongful Restraint

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STAGES OF CRIME

Intention

The first stage exists when the culprit first entertains the idea or intention to commit an offence. In this stage, the motive and plan to commit the crime are facilitated. However, at this stage no offence is punishable because the intention is a mental concept which is very difficult to prove with certainty.

Preparation

In the second stage, the culprit makes the preparation to commit the crime. Necessary resources required to commit the offence are gathered at this stage. Preparation and intention alone are not punishable under IPC as there is a possibility that the accused can retract from committing the offence.

However, the offences of waging war, dacoity, counterfeiting coins and depredation on territories of Power at peace with Government are punishable at the preparation stage as even preparation of such acts is considered a crime against the society.

Attempt

It means an act towards the commission of the offence which fails due to circumstances independent of the attempter's will. It fails owing to the external factors which are beyond the control of the attempter.

A person commits the offence of 'attempt to commit a particular offence' when

1. He intends to commit a particular offence

2. He makes preparation for it
3. Does any act towards its commission

An attempt to commit an offence begins when the preparation ends, and a step towards the commission of the offence is taken however such step should be indicative of the intention to commit an actual crime there must be a proximate relation between the two, i.e. if the interruption was not caused due to external factor, crime would have been the only result.

A person is said to commit an offence of attempt also in the cases in which he voluntarily desists, i.e. repents before the attempt is completed from the actual commission of the crime.

An attempt is made punishable because every attempt though it fails, must create or cause alarm which of itself is an injury to the society. It is necessary to prove for an offence of attempt is that the accused had gone beyond the stage of preparation.

An act will amount to mere preparation if the person on his accord, gives it up before the criminal act is carried out. In order to determine whether a given set of acts constitute attempt or preparation, the test is that whether the overt acts already done are such that if the person changes his mind and does not proceed further the acts already done would be completely harmless.

If they would be so, it would amount to preparation only but where the thing done is such if not prevented by any extraneous cause would fructify into the commission of the offence, it would amount to an attempt to commit the offence.

An act which is impossible to commit cannot be attempted and therefore is not culpable. However such impossibility must be absolute and not relative.

For example, if a person shoots a shadow, it shall not be attempt because the commission of such act is impossible but if a person tries to steal from an empty pocket it is an attempt because it is an act towards the commission of the offence and failure of accused is not due to his own act.

Whoever attempts to commit suicide and does any act towards the commission of such offence shall be punished in IPC. In the case of **GIAN KAUR *V.* STATE OF PUNJAB,** it was held that right to life under Article 21 of the Constitution does not include right to die or right to be killed.

Accomplishment

This is the last stage of crime. At this stage, the offence is committed or is completed i.e. the accused succeeds his attempt and causes the injury. Finally, at this stage, the accused is held guilty for the commission of an offence and is punished according to the provisions of the Indian Penal Code.

ABETMENT

A person abets the doing of a thing if he:

1. Instigates any person to do that thing; or
2. 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
3. Intentionally aids, by any act or illegal omission, the doing of that thing.

The essence of abetment is active and intentional assistance of a person to the perpetrator of an offence. Such a person is called as an abettor. Abetment of abetment is an offence when the principal abetment was an offence.

The offence of abetment depends upon instigation and not upon its effect. It is complete with the instigation, notwithstanding the fact that the act abetted is not committed or the person abetted refuses to do it or in doing the expected result did not follow.

Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and this code makes no express provision for the punishment of such abetment, be punished with the punishment provided for the offence.

If the person abetted does the act with a different intention or knowledge from that of the abettor, the abettor shall be punished in the same way as if the act has been committed with the knowledge or intention of the abettor.

When an Act is abetted and a different act is done, the abettor is liable for the act done, in the same manner, and to the same extent as if he had directly abetted it.

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT

Wrongful restraint means voluntarily obstructing any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed. The movement is restricted only in one direction but no boundary is drawn. It is a partial curtailment of liberty and is wider in scope.

Wrongful confinement means wrongfully restraining any person so as to prevent that person from moving beyond certain circumscribing limits. The movement in all 4 directions is closed and there is no possibility of escape. A boundary is set beyond which no movement is possible. There is an absolute suspension of liberty and it is narrow in scope.

Every wrongful restraint is not wrongful confinement but every wrongful confinement is wrongful restraint.

Read our previous post on offences against property under IPC here.

Take our test on offences against property under IPC here.

Read our post on the Landmark Judgements of 2019-2020.

Read our post on Elements of Crime.

Read CLATapult's post on offer and acceptance here. Also, try their mocks for more legal reasoning practice questions

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