

# **UNIT – IV: LAW OF CRIMES**

## **Offences against public tranquillity**

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## **LIST OF AUTHORITIES**

- 1) **Ram Bilas Singh v. State of Bihar**
- 2) **State of U.P V Sughar Singh**
- 3) **Amrika Bai vs State of Chhattisgarh**
- 4) **Maiku v. State of Uttar Pradesh**
- 5) **Allauddin Mian Sharif Mian v. State of Bihar**
- 6) **Sunil Kumar Mohamed Alias Mahakhuda Vs. State of Orissa**
- 7) **Sheikh Wajid Waddin v. State of Uttar Pradesh**

## **INTRODUCTION**

Peace and tranquillity are the prerequisites for development in society. If there is disorderliness in society or any other hindrance of like nature, the society cannot provide to the individual, the opportunity to grow and develop to their full potential, hence the maintenance of peace and tranquillity is a must for every society and nation as a whole.

Offences against the public tranquillity are the offences against not only a single person or property but against the society at large. These kinds of offences are committed by the group of people sharing a common intention to disturb the peace and tranquillity of an area thus affecting the whole society. It is important to study these offences so that they could be curbed.

The chapter 8 of the Indian penal code contains the provisions that are relating to the offences against the public tranquility or public order and it is not the offence against the person and property of an individual, it is the offence against the state.

## **MAINTENANCE OF PUBLIC PEACE**

Peace and morality are the basis on which the base of a society is held, hence their protection is of prime importance, otherwise, and the very foundation of the society would be endangered, which will, in turn, hinder the progress of the individuals.

It is the duty of the state to maintain public peace and order. It is even present in Section 23 of the Police Act, 1861 to maintain order in the public roads and public places. In fact, it is an offence to cause inconvenience, obstruction, annoyance, risk danger or damage to the public order or peace and further Section 34 of the Police Act, 1861 makes the police responsible for maintaining public tranquillity and punish anyone committing an offence. Hence public order means that the actions of the individual should not impinge the public peace or cause any kind of inconvenience to any other person.

## **PUBLIC OFFENCES**

Under IPC chapter eight deals with public offences. These offences could be categorized into four:

- Unlawful assembly;
- Rioting;
- Enmity amongst different classes;
- Affray.

Furthermore, Chapter X of the Criminal Procedure Code 1973 gives legal guidelines for the maintenance of public peace and order and also delineates duties, responsibilities, functions, and power of the Executive and the Police in this matter.

### **Section 141: unlawful assembly**

An assembly which consists of five or more person is defined as unlawful assembly. If a person commits a criminal trespass or compel any person to do what he is not legally bound to do, or to omit what he is legally entitled to do.

- To use or to show criminal force against the public servant, state or central government
- To resist the execution of law or legal process.
- To commit any mischief or criminal trespass on any person.
- To use the criminal force and deprive the enjoyment of right of any person or obtain the possession of other person.
- To use the criminal force and and compel a person to do what he is not legally bound to do.

### **Section 142: Being a member of unlawful assembly**

Section 142 deals with being a member of unlawful assembly. Whoever render of the fact that it is an unlawful assembly and intentionally joins in that, or continues in it is said to be a member of unlawful assembly. The mere presence of a person in that assembly does not constitute such

person as a member of unlawful assembly. Every member of unlawful assembly must have a common object and should intentionally join that assembly is said to be a member of unlawful assembly.

## **Punishment**

Section 143 imposes punishment on the person who is the member of the unlawful assembly. This section gives punishment which may extend up to six years or fine or both.

## **Other sections which deal with unlawful assembly**

- Unlawful Assembly – Definition – Section 141
- Being a member of an unlawful assembly – section 142
- Punishment –section 143
- Joining or continuing in an unlawful assembly armed with dead weapons – section 144
- Joining or continuing in an unlawful assembly, knowing it has been commanded to disperse – section 145
- Liability for constructive criminality – section 149
- Rendering aid in various ways – section 150, 152, 154, 157, 158

## **Case laws**

In the case of *Ram Bilas Singh v. State of Bihar*, the Apex court has enumerated certain situations wherein, even when the number of the person composing the unlawful assembly is reduced to less than five, still conviction can be constituted and they are:

1. The charge must mention that other than the persons identified and named, there are other persons who were involved however have not been identified and as a connection to prove this evidence must be accepted by the court
2. Even if there is no such mention in the charge, the first information report must reflect such to be the case
3. Other evidence to show the existence of other unidentified persons

### ***State of U.P V Sughar Singh***

Five accused were lying in a bush on either side of a lane, with armed guns. When the deceased came near, the accused 4 and 5 exhorted him, and accused nos 1, 2 and 3 shot the deceased with their guns respectively. Accused 1, 2 and 3 threatened the witnesses. The trial court held that all of these were sufficient to come to the conclusion that these five accused had constituted an unlawful assembly and has members had common object to kill the deceased. They had a prearranged plan. The trial court convicted the accused. On appeal, the high court quashed the conviction. The state appealed to the Supreme Court. The Supreme Court upheld the conviction against the accused.

***Amrika Bai vs State of Chhattisgarh (2019 (2) SCC (Cri) 331)***, Supreme Court has recently held that mere presence in an unlawful assembly cannot render a person liable unless there was a common object, being one of those set out in Section 141 I.P.C.

### **Section 146: Rioting**

Section 146 – rioting – whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of each assembly is guilty of the offence of rioting.

Section 147 – punishment for rioting – whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 148 – punishment for rioting when committed with deadly weapons – The punishment for an offence under 148 is prescribed as Imprisonment for 3years, or fine or both. It is a cognizable offence and it is Triable by any Magistrate of the first class.

Section 153B - Imputations, Assertions, Pre-judicial to National Integration - is punishable with Imprisonment for 3years or fine or both.

The provision requires the unlawful assembly to exercise actual force and not mere show of force. Also, the provisions of this section will apply to those members of the assembly who did not carry out the use of force or violence. However, it is important to note that the actions of unlawful assembly will not amount to rioting if their common object is not illegal even when there is an exercise of force. Persons breaking into a sudden quarrel do not amount to committing the offence of rioting.

### **Section 152, Sections 154- 156 Provoking of Riot**

Section 154 makes the owner or occupier of a land criminally liable who fails to give information to the public authorities or take necessary legal steps to the unlawful assembly or riot being carried out on such land.

Section 155 deals with the action of an owner or occupier of the land who claims any interest in the dispute which gave rise to the riot or derives any benefit due to such a riot, if fails to use any lawful means to prevent or suppress such riot must be punished.

Section 156 deals contemplate the sanctions on an agent or manager or owner of the land on which riot has taken place if they had reasons to believe that such a riot may take place and have thereby have failed to suppress or prevent it and have derived some benefit therefrom.

Section 152 holds a person liable if he assaults or obstructs the suppression of a riot or affray by exercising force or threat to a public servant who is trying to disperse an unlawful assembly by punishing such a person with imprisonment for three years.

### **Case laws**

#### ***Maiku v. State of Uttar Pradesh***

The sub inspector was investigation when he was in duty, he cannot be claimed that he was pursuing a unlawful act and therefore he cannot be convicted under section 147 of IPC

*Allauddin Mian Sharif Mian v. State of Bihar*

There is a relation between a common object and offence created, when the offence is committed with common object then every person is liable for that. Unlawful assembly is equal to five or more Persons plus Common object. Rioting is equal to Unlawful assembly plus Violence.

**Section 159: Affray**

When two or more persons disturb the public peace by indulging in a fight, they are said to have committed the offence of affray. However, this section cannot be attracted for acts involving merely a quarrel without an exchange of blows. Further, a fight where one party is aggressive and the other passive will not constitute an affray. There must be a struggle between both the parties implying an effort from both the parties to obtain mastery by violence. Persons convicted for committing affray are to be punished under section 160 with a description for a term which may extend up to one month or a penalty of Rs.100.

*Sunil Kumar Mohamed Alias Mahakhuda Vs. State of Orissa*

When one person beats on another person in a public place, no offence of affray is committed, when there is fighting in the public disturbing the public peace.

**Ingredients for Affray to be committed:**

1. There must be two or more persons.
2. A fighting in a public place.
3. By that fighting they should disturb the public peace

**Sections 153A, 153B, 153AA: Promoting Enmity between Classes**

Section 153A was inserted in the Code in the year 1898 with a view to subside the breach of public peace and tranquillity due to conflicts and mutual abuse amongst various classes.

The section holds a person guilty who promotes or attempt to promote discord and animosity between different regional, caste, religion or racial communities and such act must disturb or must be likely to disturb the public tranquillity. Further, any sort of movement, exercise, activity or drill perpetuating the use of force or violence against any of the groups aforementioned shall also fall in the ambit of Section 153A.

In the case of *Sheikh Wajid Waddin v. State of Uttar Pradesh*, the constitutionality of Section 153A was challenged on the grounds it infringes Article 19(2). The Apex court has upheld the provision and held that:

*“Section 153A on the ground that it violates the guarantee of free speech and expression must be rejected because the section seeks to punish only (a) such acts which have a tendency to promote enmity or hatred between different classes, or (b) such acts which are prejudicial to the maintenance of harmony between classes and which have the tendency to disturb the public tranquillity. Article 19(2) would, therefore, save Section 153A as being within the scope of permissible legislative restrictions on the fundamental right being guaranteed by Article 19(1) (a).”*

Section 153AA prohibits any mass drill or mass training with carrying of arms in a public place by a person who does this while knowing the fact that such an act is in contravention of a public notice issued under Section 144A of Code of Criminal Procedure. Such a person shall be punished with imprisonment for six months and a penalty of two thousand rupees.

Section 153B was inserted in the year of 1972, to contain the rise in the communal and caste tensions emerging in the country which did not just create disharmony amongst the different communities but also affected the national integrity of the nation. The section holds any person who:

- Publishes an imputation that a particular community by reasons of the following or being a member of a particular religion, racial, regional or language group cannot bear true and complete allegiance to the integrity of the nation;
- Asserts and propagates that a certain group for the reasons aforementioned be bereaved of their rights as a citizen of India;

- If any of the aforementioned actions if perpetuates the creation of discontent and disharmony amongst the community or class of persons and causes to give rise to ill will and animosity;

Shall be punished with three years' imprisonment or fine or with both. Further, if any of the aforementioned actions be committed in any place of worship or in any assembly engaged in the performance of religious worship then such person shall be punished with five years' imprisonment and fine.

## **CONCLUSION**

The India penal code punishes the offences against the public tranquility. The public tranquility is the criminal offences and it is injurious to the public peace for the development of the society. The study has the statistical data about the offences against the public order is different years and discussed systematically.

These offences are injurious to public peace. Disturbing peace in the society creates inconvenience in the society. Tranquility are the group offences committed by the group of people in the society. As per the provision when a large number of people are affected then destroys the public peace which may turn into the offence against the public tranquility. These offences are punished by the IPC strictly and imprisonment is given with fine. Thus the offences relating to public tranquility are strictly punished by IPC. These offences affect the public peace and leads to disorder in the society. Thus by the alternative hypothesis the Indian penal code strictly punishes the offences against public tranquility.

## **PRACTICE QUESTIONS**

**Q. What are considered as relevant sections as far as offenses against public tranquility is concerned?**

- (a) Section 141 to 150
- (b) Sections 141 to 160
- (c) Section 145 to 155

(d) Section 130 to 150

**Ans: B.**

**Q. Which of the following shall not be an unlawful assembly within the meaning of section 141 of IPC:**

- (a) An assembly of five or more persons with the common object of only maintaining possession
- (b) An assembly of five or more persons to vindicate a supposed right of one or all, by show of force
- (c) An assembly of five or more persons to prevent arrest of a person, by the court under the orders of the court
- (d) An assembly of five or more persons with common object of taking possession of property.

**Ans. A**

**Q. Rioting means use of force or violence by an unlawful assembly, or by a member thereof, in prosecution of the common object of such assembly, as per:**

- (a). section 144 of IPC
- (b) Section 145 of IPC
- (c) Section 146 of IPC
- (d) Section 148 of IPC.

**Ans. C**

**Q. For rioting, which of the following is correct**

- (a) Actual force or violence must be used
- (b) Mere show of force is sufficient
- (c) Mere possession of deadly weapon is sufficient
- (d) All the above.

**Ans. A**

**Q. For application of section 149 of IPC:**

- (a) A person should be a member of the unlawful assembly and should actively participate in the commission of offence
- (b) A person should be a member of unlawful assembly but need not necessarily participate himself in the commission of the offence
- (c) Need not be a member of unlawful assembly but must share a common intention to commit the offence
- (d) Need not be a member of unlawful assembly but must participate in the commission of offence.

**Ans. B**

**Q. Under section 149 of IPC if an offence is committed by a member of the unlawful assembly in furtherance of their common object:**

- (a) Every person who at that time was a member of that assembly shall be guilty of that offence
- (b) Only the person committing the offence shall be guilty of that offence and all shall be guilty of unlawful assembly only
- (c) Only that person committing the offence shall be guilty and others shall not be guilty of any offence
- (d) Either (b) or (c).

**Ans. A**

**Q. 10 persons were charged for offence under section 302/149 IPC, out of which six persons were acquitted, the remaining four:**

- (a) Cannot be convicted for offence under section 302/149 of IPC
- (b) Cannot be convicted for offence under section 302 of IPC
- (c) Cannot be convicted for offence under section 149 of IPC

(d) All the above.

**Ans. (a)**

**Q. For an affray under section 159 of IPC the minimum number of persons required is:**

- (a) five
- (b) Two
- (c) four
- (d) seven.

**Ans. (b)**

**Q. Section 159 of IPC is attracted:**

- (a) When there is exchange of abuses without exchange of blows
- (b) When there is exchange of abuses with exchange of blows
- (c) When there is exchange of abuses only
- (d) When there is mere quarrel.

**Ans. (b)**

**Q. Promoting hatred among classes is an offence:**

- (a) Under section 121A of IPC
- (b) Under section 124A of IPC
- (c) Under section 153A of IPC
- (d) Under section 153B of IPC.

**Ans. (c)**

**Q. Making imputations or assertions prejudicial to national integration is an offence:**

- (a) Under section 153B of IPC
- (b) Under section 153A of IPC
- (c) Under section 124A of IPC
- (d) Under section 121A of IPC.

**Ans. (a)**

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