

## **The Indian Penal Code 1860**

### **Section 120A - DEFINITION OF CRIMINAL CONSPIRACY When two or more persons agree to do, or cause to be done**

1) an illegal act, or (2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy: PROVIDED that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof. Explanation: It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object. COMMENTS Conspiracy consists of an agreement, or a combination or confederation between two or more persons formed for the purpose of committing, by their joint efforts, some unlawful or a criminal act or to do a lawful act by unlawful means. According to Halsbury's Laws of England, 4th Ed. it is an indictable offence at common law. The essence of the offence of conspiracy is the fact of combination by agreement. The agreement may be express or implied, or in part express and in part implied. Conspiracy is both a crime and a tort. The agreement of two or more persons to do any unlawful act or to do a lawful act by unlawful means is a crime. The unlawful act which the conspirators agree to do may be either crime or civil wrong. The gist of the offence is the fact of such agreement or combination; it is not necessary that some overt act should have been done in furtherance of the agreement. The tort of conspiracy, on the other hand, is constituted only if the agreed combination is carried into effect and damage to the plaintiff is caused--Crotter v. Vetch 1942 AC 435 A person is guilty of conspiracy with another person or persons to commit a crime if with the purpose of promoting or facilitating its commission he: (a) agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or (b) agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime. A conspiracy may be a continuing one; actors may drop out, and others drop in; the details of operation may change from time to time; the members need not know each other or the part played by others; a member need not know all the details of the plan or the operations; he must, however, know the purpose of the conspiracy and agree to become a party to a plan to effectuate that purpose--Craig v. U.S., C.C.A. Cal., 81 F 2d 816, 822 For an offence to fall under this section, bare engagement and association to break the law is the requirement. The methods employed should be illegal. All parties should agree to do a single illegal act. The onus is on the prosecution to prove the charge of conspiracy by cogent evidence, direct or circumstantial.--State v. V.C Shukla, 1980 CrLJ 965 (SC) Conspiracy consists simply in the agreement or confederacy to commit an offence. It is not an ingredient of the offence under s. 120B that all the parties should agree to do a single act. It may comprise the commission of a number of acts. It is also not necessary that each member of the conspiracy must know all the details of conspiracy--P.V. Narasimha Rao v. CBI, 1997(43) DRJ 108; 1997 (68) DLT 553