

The Indian Penal Code 1860

Section 307 - ATTEMPT TO MURDER Whoever does any act with such intention or knowledge, and under such circumstances that, if he by

a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued. A would be guilty of murder. A is liable to punishment under this section. (b) A, within the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue. (c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence, A fires the gun at Z. He has committed the offence defined in this section, and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of the first paragraph of this section. (d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servant to place it on Z's table. A has committed the offence defined in this section.

COMMENTS Attempt means an endeavour to commit a crime or unlawful act. In every crime there are three stages--intention, preparation, attempt. In the third stage, that is, if attempt is successful, the crime is complete. In case the attempt fails, the crime is not complete but the law punishes the person attempting the criminal act. Intention is the direction of conduct towards the object chosen; but the law does not take notice of an intention without an act. Preparation consists in devising or arranging the means or measures necessary for the commission of the crime. And attempt is the direct movement towards the commission after the preparations are made. The test for determining if the acts constitute attempt or preparation is whether the overt acts already done by the offender are completely harmless or would fructify into commission of an offence. In re, Tustipada Mandal AIR (1960) Cut 75. Attempt to commit offences is punishable under s. 511 of the Indian Penal Code. And an attempt to commit suicide is punishable under s. 309 of the Code, though the actual commission cannot be punished. Though it is not possible to give a precise or exhaustive definition of attempt, it may be broadly stated that an intentional act which a person does towards the commission of an offence but which fails in its object through circumstances independent of the volition of that person is attempt.--State of U.P. v. Ram Chandra AIR 1962 All 359 : 1962 All LJ 13. Depending largely on circumstances it is a mixed question of law and fact and it defies precise and exact definition. A person attempts to commit a particular offence when (i) he intends to commit that particular offence; (ii) he having made preparations and with the intention to commit the offence does an act towards its commission; such an act need not be the penultimate act towards the commission of that offence but must be an act during the course of committing that offence.--State of Maharashtra v. Md. Yakub AIR 1980 SC 1111: 1980 CrLJ 793: 1980 SCC (Cr) 513:(1980)3 SCC 57: (1980) 2 SCJ 163: 1980 Cr LR (SC) 251 The requisite elements of an 'attempt' to commit a crime are--(i) an intent to commit it; (ii) an overt act towards its commission; (iii) failure of consummation; (iv) the apparent possibility of commission. An attempt is an intentional preparatory action which fails in its object--which so fails through circumstances independent of the person who seeks its accomplishment. To convict the accused under this section it is not necessary to show that bodily injury capable of causing death was inflicted. The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in this section. Attempt need not be penultimate act. It is sufficient if there is intent coupled with some overt act in execution thereof--State of Maharashtra v. B B Patil 1983 CrLJ 331(SC) Where two accused armed with firearms fired four shots at their victim at night causing injuries on his person, it was held that attack at night is not ordinarily done unless it is pre-planned and, therefore, it can be reasonably inferred that they attacked the victim with malice aforethought and accordingly their case fell under s. 307 IPC--Sadha Singh, 1985 Cri.LJ 1361 (SC). When the fight between two parties is accidental owing to a sudden quarrel, the case does not fall under s. 307. The court held that since there was no intention or motive to commit murder and the fight was a sudden flare up, it does not attract the provisions of s. 307--Hari Kishan v. Sukhbir Singh AIR 1988 SC 2127. The injuries on the victim were found to be simple in nature. The accused had no intention of causing death of

any person nor any injuries found were sufficient in the ordinary course of nature to cause death, the court held that the accused persons were guilty not under s. 307 IPC r/w s. 34 but guilty under s. 326 r/ws. 34 only.--Pashora Singh v. State of Punjab AIR 1993 SC 1256

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