

## COMPLICITY IN CRIME

A crime may be committed by a single person, or two or more persons may be involved in its commission. When several persons are associated with the commission of a crime the degree of culpability of each will depend on the mode of his participation in the crime, for the law recognises gradations of guilt based on the variety of ways in which a person may be involved in the commission of a crime. Under the Hindu criminal law when a murder is committed, besides the actual murder, (*e.g.* one who with his own hand has dealt the fatal blow), several others may be liable to punishment as accessories. The *arambhakrt* (he that commences or sets the ball rolling), *doshabhak* (participator), *asraya* (he that harbours), *Sahaya* (he that aids), *margamudaka* (he that points the way) and *anumodaka* (he that supports) are liable to half the punishment prescribed.<sup>1</sup> On the other hand the person who hired the assassin and paid him is to be awarded four times the punishment.<sup>2</sup> In English law with reference to felonies the following fourfold classification of the possible parties to a crime is adopted. (1) *The principal in the first degree* : one who actually commits the crime (including one who gets it accomplished through an innocent agent) (2) *The principal in the second degree* : one who being present aids and assists the commission of the deed. The distinction between the two categories of principals is of little practical consequence since both are liable to be awarded the same punishment. Then there are the accessories who are not present at the time of the commission of the deed but are associated with it either before or after its commission (3) *The accessory before the fact* : One who counsels, procures or commands another to commit a felony. He may be tried as if he had committed the crime. (4) *The accessory after the fact* : one, who knowing the fact that another has committed a felony harbours him or assists him to escape punishment.

Under the Penal Code there is no classification of principals. All those who are present at the scene and participate in the commission of the crime will be liable either as actual offenders under the specific sections, or under the provisions governing joint and constructive

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1. See *Dandaviveka*, Gaekwad's Oriental Series, No. LIII, pp. 74-5 and introduction to the volume p. 12.

2. *Ibid.*

liability. The Code however makes a broad distinction between such persons and abettors, who correspond,<sup>3</sup> roughly to the accessories before the fact. Under the Code there is no separate category of accessories after the fact. But the Code provides for a substantive offence in certain cases<sup>4</sup> where the role played is that of an accessory after the fact.

The liability of an abettor is briefly stated in section A below. While conspiracy is one of the ways in which one could become an abettor certain circumstances led to the enlargement of liability for conspiracy. A new chapter (Ch. V A) has been added dealing with conspiracy as a crime. The law relating to criminal conspiracy is dealt with in Section B. The important provisions relating to joint and constructive liability are discussed in section C.

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3. There is however one important difference. One who induces an innocent agent *e.g.* a child below 7 years of age to commit a crime would be treated as a principal in English law but he would only be an abettor under the Indian Penal Code (see S. 108 Penal Code).

4. See sections 130, 136, 157, 201, 212, 216 and 216-A of the Penal Code.