

ABETMENT

Under the Penal Code a person becomes liable as an abettor if he instigates another to commit a crime, or engages in a conspiracy with another to commit a crime and some act is done in furtherance of such conspiracy or if he intentionally aids another in order to facilitate the commission of a crime. It is not necessary to make the abettor liable that the crime abetted should be committed or the effect desired should be produced. However, as the Supreme Court recently pointed out in *Fagunanath v. The State*,¹ in the case of abetment by intentional aid, unless the person who is abetted is found guilty of the offence charged the abettor cannot be punished. Explanation 2 to S. 107 of the Penal Code provides: 'whoever either prior to or at the time of the Commission of an act, does anything in order to facilitate the commission of that act *and thereby facilitates the commission thereof* is said to aid the doing of that act.' The liability of the abettor extends to all acts which are probable consequences of the act abetted and even to consequences which though not intended were nevertheless known to be likely to ensue. An interesting provision in relation to abetment is the provision for the punishment of a special kind of abetment—abetment by concealment of a design to commit a crime. If a person knowing of a design to commit a crime and intending to facilitate the commission thereof voluntarily conceals such a design, he is liable to punishment.³ This provision lays down the law clearly in a matter where considerable doubt was expressed in England in a recent judgment of the House of Lords.⁴

1. 1959 (2) M.L.J. (S.C.), 18.

2. See Ss. 118-120 of the Penal Code.

3. *Sykes v. Director of Public Prosecutions* 1961, 3 All. Eng. Rep. 33.