

An at z, intending or
knowing it



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An assault is (a) an attempt unlawfully to apply any of the least actual force to the person of another directly or indirectly; (b) the act of using a gesture towards another, giving him reasonable grounds to believe that the person using that gesture meant to apply such actual force to his person as aforesaid; (c) the act of depriving another of his liberty, in either case, without the consent of the person assaulted, or with such consent if it is obtained by fraud.

Section 351 of the Indian Penal Code provides that: “ Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault. Explanation:- Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault. Illustrations: a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z. c) A takes up a stick, saying to Z, “ I will give you a beating”. Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.” The essential ingredients of an assault are: 1) That the accused should make a

gesture or preparation to use criminal force; 2) Such gesture or preparation should be made in the presence of the person in respect of whom it is made; 3) There should be intention or knowledge on the part of the accused that such gesture or preparation would cause apprehension in the mind of the victim that criminal force would be used against him; 4) Such gesture or preparation has actually caused apprehension in the mind of the victim, of use of criminal force against him.

Assault is generally understood to mean the use of criminal force against a person, causing some bodily injury or pain. But, legally, 'assault' denotes the preparatory acts which cause apprehension of use of criminal force against the person. Assault falls short of actual use of criminal force.

An assault is then nothing more than a threat of violence exhibiting an intention to use criminal force accompanied with present ability to effect the purpose. According to Section 351 of the Code, the mere gesture or preparation with the intention or knowledge that it is likely to cause apprehension in the mind of the victim, amounts to an offence of assault. The explanation to Section 351 provides that mere words do not amount to assault, unless the words are used in aid of the gesture or preparation which amounts to assault. The apprehension of the use of criminal force must be from the person making the gesture or preparation, but if it arises from some other person it would not be assault on the part of that person, but from somebody else, it does not amount to assault on the part of that person. The following have been held to be instances of assault: i) Lifting one's lota or lathi ii) Throwing brick into another's house iii) Fetching a sword and advancing with it towards the victim iv) Pointing of a gun, whether loaded or

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unloaded, at a person at a short distance v) Advancing with a threatening attitude to strike blows.

Though mere preparation to commit a crime is not punishable, yet preparation with the intention specified in this section amounts to an assault. Another essential requirement of assault is that the person threatened should be present and near enough to apprehend danger. At the same time there must have been present ability in the assailant to give effect to his words or gestures. If a person standing in the compartment of a running train, makes threatening gesture at a person standing on the station platform, the gesture will not amount to assault, for the person has no present ability to effectuate his purpose.

The question whether a particular act amounts to an assault or not depends on whether the act has caused reasonable apprehension in the mind of the person that criminal force was imminent. The words or the action should not be threat of assault at some future point in time. The apprehension of use of criminal force against the person should be in the present and immediate. The gist of the offence of assault is the intention or knowledge that the gesture or preparations made by the accused would caused such effect upon the mind of another that he would apprehend that criminal force was about to be used against him.

Illustration (b) to Section 351 exemplifies that although mere preparation to commit a crime is not punishable yet preparation with intention specified in Section 351 amounts to assault. The offence under Section 351 is non-cognizable, bailable, compoundable, and triable by any Magistrate.