

Section or defilement
of place of worship.
the



**ASSIGN
BUSTER**

Section 295 requires two things to constitute an offence, namely,— 1.

Destruction, damage or defilement of (a) any place of worship, or (b) any object held sacred by a class of persons. 2. Such destruction, etc must have been done: (i) with the intention of insulting the religion of a class of persons, or (ii) with the knowledge that a class of persons is likely to consider such destruction, etc as an insult to their religion.

The object of Section 295 is to punish those persons who intentionally wound the religious feelings of others by injury or defiling a place of worship.

Section 295 is intended to prevent wanton insult to the religious notions of a class of persons. The essence of the offence is mens rea in addition to an act of destruction, damage or defilement of place of worship. The word ' defiles' is not to be restricted in meaning to acts that would make an object of worship unclean as a material object, but extends to acts done in relation to the object of worship which would render such object ritually impure.

Defilement is not confined to the idea of ' making dirty'; but extends to ceremonial pollution. Mere defilement of a place of worship is not an offence under Section 295 without the requisite mens rea. However, the question whether there was intention or mens rea to insult is a question of fact, which can be judged depending on the facts and circumstances of each case.

The intention of the person concerned can be gathered by the act itself or by words uttered or gestures, or any other circumstances that might have accompanied the act. Generally, the words destroy or damage would mean physically or materially affecting the property concerned. It should also be understood in the physical sense of making a particular object or place unclean, dirty or foul. The word ' defilement' would not mean just physical

destruction, but also include situations wherein the place of worship or the object of worship would be rendered ritually or ceremonially impure. Another essential ingredient of religious offences is that the destruction or damage should be to a place of worship or a sacred place. Whether a particular place or object is a sacred one, is a question of fact.

Generally, temples, churches, mosques, synagogues, kyaungs (of Buddhists) are all places of worship and hence sacred places. The word ' object' in Section 295 does not include animate objects. It refers only to inanimate objects such as churches, mosques, temples, etc., and marble or stone figures representing gods.

A cow is treated as sacred by Hindus. The killing of the same, by a Mohammedan, within the sight of a public road frequented by Hindus is not punishable under Section 295. In *Shiv Shankar v. R* [(1940) 15 Luck 696], it was held that damaging or destroying a sacred thread worn by a person, who is not entitled under the Hindu custom to wear it or for whom the wearing of the sacred thread was not part of his custom observed under the Hindu religion, in assertion of a mere claim to higher rank, was not an insult to his religion. In *D.*

P. Titus v. L. W. Lyall [1981 CrLJ 68 (All)], where a pastor of the church who himself was a Christian was running a nursery school and a charitable dispensary in a portion of the church, it could not be said that by using a portion of the church property for such secular and non-religious purposes he was insulting the religion of a class of persons within the meaning of Section 295, IPC. The offence under Section 295 is cognizable but summons should

ordinarily issue in the first instance. It is non-bailable non-compoundable and is triable by any Magistrate.