

**Affray: fighting must  
be in a public**



**ASSIGN  
BUSTER**

Affray: Public peace may also be disturbed by fighting in public place. When (1) two or more persons, (2) by fighting in a public place, (3) disturb the public peace, they commit an affray (Section 159) punishable with simple or rigorous imprisonment upto one month, or fine upto Rs. 100 or both (Section 160). Definition of Affray: Affray has been defined in Section 159, I.

P. C. The various elements are that there must be fighting by two or more persons, the fighting must be in a public place and that fighting must disturb the public peace.

Where the fight was neither in a public place nor did it disturb the public peace, two of the essential elements of the offence of affray are lacking and the accused cannot be convicted under Section 160, I. P. C. Affrays are the fighting of two or more persons in some public place, to the terror of His Majesty's subject, for, if the fighting be in private, it is not affray, but an assault (Blackstone). The offence of affray as defined in Section 159 postulates the commission of a definite assault or a breach of the peace; mere quarrelling or abusing in a street without exchange of blows is not sufficient to attract the application of Section 159.

Fighting—What is?: The expression 'fighting' is used in its ordinary sense. It means a combat or quarrel involving exchange of some force or violence if not blows. Mere verbal quarrel or vulgarly abusing without violence cannot be construed as fighting which contemplates bilateral use of violence by two competing parties. Even if there is no exchange of blows, there should be exchange of some violence between the two contending parties before it can be said that they were fighting. If one person uses violence against another

and the other person merely remains passive, it cannot be said that there is a fighting between the two persons.

So also, if neither person uses violence against the other but both the persons merely indulge in verbal abuses it does not amount to fighting. The gist of the offence consists in the terror it causes to the public. There can be no affray in a private place. An affray is an offence against the public peace because it is committed in a public place and is likely to cause general alarm and disturbance.