

"whoever or illegal
omission shall take
place in



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“ Whoever within or without India conspires to commit any of the offences punishable by Section 121, or conspires to overawe, by means of criminal force or the show of criminal force, the Central Government or any State Government, shall be punished with imprisonment for life, or with imprisonment of either description which may extend to ten years, and shall also be liable to fine. Explanation:- To constitute a conspiracy under this Section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.” Section 121-A of the code deals with the two kinds of conspiracies, namely conspiracy to wage war (or to attempt or abet) against the Government of India, and conspiracy to overawe, by means of criminal force or the show of criminal force. An offence under Section 121-A is cognizable but a warrant may be issued in the first instance.

It is non-bailable and non-compoundable and is exclusively triable by the Court of Session. Conspiracy to commit offences to wage war: Section 121A of the code provides for the offence of conspiring to wage war against the Government of India. It was thought right to make the offence of conspiring by criminal force, or by show of criminal force, more severely penal than the offence of actual taking part in an unlawful assembly, having for its object the overawing of the Government.

A conspiracy to commit offences punishable under Section 121 of the code is punishable as a substantive offence. Therefore, Section 121A seeks to punish people for an act which may not even amount to an abetment of an offence. Section 121A obviously deals with conspiracies which have a political object of overthrowing the existing Government.

The words 'conspires to overawe by means of criminal force or the show of criminal force, the Central Government, or any State Government' in this section clearly embrace not merely a conspiracy to raise a general insurrection, but also a conspiracy to overawe the Central Government or any State Government by the organization of a serious riot or a large and tumultuous unlawful assembly. The word 'overawe' connotes the creation of a situation in which the members of a Central or State Government feel themselves compelled to choose between yielding to force or exposing themselves or members of public to a serious danger. It is not necessary that the danger should be of assassination or of bodily injury. The danger might well be a danger to public property or the safety of the members of the general public. A conspiracy is a combination of two or more persons to do an unlawful act, or to do a lawful act by unlawful means. The offence of conspiracy is complete, as soon as two or more persons agree to do or cause to be done, an illegal act or a legal act by illegal means.

The transpiring of this agreement into further concrete action is not required. The agreement itself is enough to constitute an offence under section 121 A. A mere slogan that the Government can be changed by an armed revolution does not prove the existence of a conspiracy of overawing the Government. The explanation to this section says that to constitute a conspiracy under this section, it is not necessary that any act or illegal omission should take place in pursuance thereof. The expression 'waging war' means and can only mean waging war in the manner that is usual in war.

The conspiracy to commit offence of waging war is punishable under Section 121 A of the code [See the topic 'waging war' of Section 121 for details].

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