

"if be liable to
cumulative
punishment for



**ASSIGN
BUSTER**

“ If the act abetted is committed and it constitutes an offence but no express provision is made for the punishment of its abetment, the abetment shall be punished with the punishment provided for the offence” (Section 109). If the person abetted does the act with a different intention or knowledge from that of the abettor, the latter shall be punished as if the offence had been done with the latter’s intention or knowledge. Thus, while the act of the principal offender, who does it under a mistake of fact or while subject to a legal disability, such as infancy, insanity or intoxication, is not an offence.

It shall make no difference in the liability of the abettor who shall be punished as if the act abetted had been done with the same criminal intent or knowledge as that of the abettor himself. The High Court of Gujarat in A. K.

Chaudhari v. State of Gujarat} has held that the ingredients for abetment for suicide would be satisfied only if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. If the act committed is different from the one abetted, the abettor should be liable for it as if it is committed under the influence of abetment and is a probable consequence thereof (Section 111). The liability is the same when the effect produced is different from that intended by the abettor (Section 113). The offender shall be liable to cumulative punishment for the act abetted and for the act done if the latter is a distinct offence (Section 112).

If the abettor is present when the offence abetted is committed he shall be deemed to have committed such act or offence (Section 114). Mere presence

will not render a person liable. He must be sufficiently near to give assistance. Presence during the transaction is not necessary. If an offence punishable with death or imprisonment for life is abetted and no express provision is made for the punishment of such abetment, the abettor shall be punished with imprisonment extending upto 7 years and fine, if the offence is not committed; but if an act causing harm is done in consequence, the imprisonment shall extend to 14 years (Section 115).

If in such case the offence is punishable with imprisonment, the abettor shall be punished with imprisonment which may extend to one-fourth of the longest term provided for that offence and if the abettor is a public servant it may extend to one-half. Abetting the commission of an offence by a public or by more than 10 persons is punishable with imprisonment upto 3 years (Section 117). Voluntary concealment, by any illegal act or omission of the existence or design of an offence punishable with death or imprisonment for life shall, if the offence be committed, be punished with imprisonment upto 7 years, and if the offence be not committed, with imprisonment upto 3 years. Voluntary concealment, as above of the existence or design of an offence punishable with imprisonment shall, if the offence is committed, be punishable with imprisonment upto one-fourth of the maximum imprisonment for the offence and if the offence is not committed, with imprisonment upto 1/8th of such maximum imprisonment or with fine as provided for the offence or with both (Section 120). Ingredients of offence: The essential ingredients of the offence under Section 120 are as follows: (1) There must have been existence of design to commit offence; (2) Such offence should be punishable with imprisonment; (3) The accused concealed

the existence of such design; (a) by an overt act or illegal omission; (b) by knowingly making a false representation. (4) The accused did so voluntarily; (5) He thereby intended to facilitate or knew that he would thereby facilitate the commission of such offence.