# IPC Section 116

## Section 116 of the Indian Penal Code: Abetment of Offences Punishable with Imprisonment – Offence Not Committed  
  
Section 116 of the Indian Penal Code (IPC) addresses a specific scenario within the framework of abetment: when an individual abets an offence punishable with imprisonment, but the offence isn't ultimately committed. This section, similar to Section 115 (which deals with abetment of offences punishable with death or life imprisonment where the offence isn't committed), recognizes the potential danger of abetment even when the intended crime isn't successfully carried out. It prescribes a specific punishment for such abetment, emphasizing the importance of deterring the incitement or facilitation of criminal activities, regardless of whether they ultimately succeed. This detailed explanation explores the nuances of Section 116, analyzing its wording, judicial interpretation, relationship with other sections of the IPC, and its significance in the broader context of criminal law.  
  
\*\*The Text of Section 116:\*\*  
  
Section 116 states:  
  
"Whoever abets an offence punishable with imprisonment, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, shall be punished with imprisonment of either description for a term which may extend to one-fourth part of the longest term provided for the offence, or with such fine as is provided for the offence, or with both."  
  
\*\*Deconstructing the Elements of Section 116:\*\*  
  
The application of Section 116 requires the fulfillment of the following conditions:  
  
1. \*\*Abetment of an offence:\*\* The individual must have engaged in actions that constitute abetment as defined under Section 107 of the IPC. This includes instigating, conspiring, or intentionally aiding the commission of an offence.  
  
2. \*\*Offence punishable with imprisonment:\*\* The offence that was abetted must be punishable with imprisonment, either simple or rigorous. The duration of the potential imprisonment is relevant for determining the punishment under Section 116.  
  
3. \*\*Offence not committed:\*\* The intended offence, despite the abetment, must not have been committed. This is the crucial distinguishing feature of Section 116. It deals with situations where the abetment doesn't lead to the successful commission of the intended crime.  
  
4. \*\*No express provision for punishment:\*\* This section applies only if the IPC doesn't contain a specific provision for punishing the abetment of that particular offence. If a specific provision exists, that provision will take precedence.  
  
  
\*\*Punishment under Section 116:\*\*  
  
If all the conditions mentioned above are met, the abettor faces imprisonment of either description (simple or rigorous) for a term which may extend to one-fourth of the longest term provided for the principal offence. Alternatively, or in addition to imprisonment, the abettor may be liable to the same fine as prescribed for the principal offence. The punishment is linked to the potential punishment for the principal offence, reflecting the gravity of the abetment, even if the offence itself wasn't committed.  
  
\*\*Illustrative Examples:\*\*  
  
\* \*\*Example 1:\*\* A instigates B to commit theft, an offence punishable with imprisonment for up to three years. B, due to some intervening circumstance, doesn't commit the theft. A can be charged under Section 116 and could face imprisonment for up to nine months (one-fourth of three years) or the fine prescribed for theft, or both.  
  
\* \*\*Example 2:\*\* A provides B with tools to commit housebreaking, an offence punishable with imprisonment for up to ten years. B is apprehended before he can commit the housebreaking. A can be charged under Section 116 and could face imprisonment for up to two and a half years (one-fourth of ten years) or the fine prescribed for housebreaking, or both.  
  
\* \*\*Example 3:\*\* A conspires with B to cheat C, an offence punishable with imprisonment for up to seven years. Their plan is discovered before they can execute it. A can be charged under Section 116 and could face imprisonment for up to one year and nine months (one-fourth of seven years) or the fine prescribed for cheating, or both.  
  
  
  
\*\*Rationale and Significance:\*\*  
  
The rationale behind Section 116 lies in recognizing that the abetment of an offence, even if unsuccessful, poses a threat to law and order. By punishing such abetment, the law aims to:  
  
\* \*\*Deter potential abettors:\*\* The prospect of punishment discourages individuals from instigating or aiding criminal activities.  
  
\* \*\*Prevent escalation of criminal activity:\*\* Intervening at the stage of abetment can prevent the progression to the actual commission of offences.  
  
\* \*\*Maintain public order:\*\* Abetment creates a climate conducive to crime, and punishing it helps maintain public order and security.  
  
  
\*\*Distinction from Section 115:\*\*  
  
While both Section 115 and Section 116 deal with abetment where the offence isn't committed, the key difference lies in the nature of the offence abetted. Section 115 applies to abetment of offences punishable with death or life imprisonment, while Section 116 applies to abetment of offences punishable with imprisonment other than death or life imprisonment. This distinction is reflected in the differing punishments prescribed under these sections.  
  
  
\*\*Relationship with Other Sections:\*\*  
  
Section 116 is intricately linked to other provisions concerning abetment:  
  
\* \*\*Section 107:\*\* Defines abetment.  
\* \*\*Section 108:\*\* Deals with abetment in India of offences outside India.  
\* \*\*Section 109:\*\* Covers punishment for abetment if the act abetted is committed in consequence of the abetment.  
\* \*\*Section 111:\*\* Addresses abetment when a different act is done than the one abetted.  
\* \*\*Section 112:\*\* Deals with abetment of offences punishable with imprisonment where the offence \*is\* committed.  
\* \*\*Sections 113, 114, 117:\*\* Address specific instances of abetment and their punishments.  
  
  
\*\*Judicial Interpretation and Case Laws:\*\*  
  
Judicial interpretations have clarified various aspects of Section 116, particularly regarding the requirement of proving the intent to abet and the calculation of punishment based on the prescribed punishment for the principal offence. Courts have emphasized that the abetment must be directed towards a specific offence, and the punishment under Section 116 is determined by the maximum punishment prescribed for that offence, even if the offence wasn't committed.  
  
  
\*\*Evidentiary Challenges and Burden of Proof:\*\*  
  
Similar to Section 115, proving abetment under Section 116 can present evidentiary challenges, especially when the principal offence hasn't been committed. The prosecution must establish the accused's intent to abet the specific offence and their actions aimed at facilitating its commission. Circumstantial evidence, including communications, meetings, and preparatory actions, often plays a vital role in establishing abetment. The burden of proof rests with the prosecution to prove all elements of the offence beyond a reasonable doubt.  
  
  
  
\*\*Conclusion:\*\*  
  
Section 116 is a significant provision in the IPC, addressing the challenge of abetting offences punishable with imprisonment, even when those offences aren't ultimately committed. By prescribing a punishment linked to the potential punishment for the principal offence, it serves as a deterrent against inciting or aiding criminal activities. It reinforces the legal framework by addressing the potential harm posed by abetment, even when unsuccessful, and contributes to a safer and more secure society. It highlights the principle that the intention and effort to facilitate crime are themselves punishable acts, regardless of the final outcome. This proactive approach to addressing criminal tendencies strengthens the criminal justice system and promotes a more just society.