# IPC Section 35

## Section 35 of the Indian Penal Code: When such an act is criminal by reason of its being done with a criminal knowledge or intention  
  
Section 35 of the Indian Penal Code (IPC) addresses the complexities of criminal liability when an act is deemed criminal due to the presence of criminal knowledge or intention. It clarifies the attribution of criminality to each individual involved when several persons share a common criminal knowledge or intention. This section often comes into play alongside Section 34, which deals with common intention leading to a criminal act. However, Section 35 specifically tackles scenarios where the criminality of the act stems from the accompanying knowledge or intention, even if the act itself wouldn't be criminal in the absence of such knowledge or intention. Understanding Section 35 requires a meticulous analysis of its wording, its interplay with Section 34, its implications for individual liability, its evidentiary challenges, and its crucial role in ensuring accountability and upholding justice.  
  
  
\*\*The Text of Section 35:\*\*  
  
"When such an act is criminal by reason of its being done with a criminal knowledge or intention.—When a criminal act is done by several persons with the common intention to do that act, and each of such persons is liable for that act in the same manner as if it were done by him alone by reason of its being done with a criminal knowledge or intention, each of such persons will be liable for the act in the same manner as if the act were done by him alone with that criminal knowledge or intention."  
  
  
  
\*\*Dissecting the Definition:\*\*  
  
Section 35 elucidates the principle of shared liability where the criminality of an act depends on the presence of criminal knowledge or intention:  
  
1. \*\*"When a criminal act is done":\*\* This establishes the requirement for an underlying act, which becomes criminal due to the accompanying knowledge or intention. This distinguishes Section 35 from offenses that are inherently criminal, regardless of the actor's knowledge or intention.  
  
2. \*\*"By several persons":\*\* The involvement of multiple individuals is a prerequisite for Section 35's application, setting it apart from scenarios of individual criminal liability.  
  
3. \*\*"With the common intention to do that act":\*\* This signifies that the individuals involved must share a common intention to perform the specific act. This element links Section 35 to Section 34, emphasizing the importance of shared intention.  
  
4. \*\*"And each of such persons is liable for that act... by reason of its being done with a criminal knowledge or intention":\*\* This is the crux of Section 35. It states that the criminality of the act stems from the presence of criminal knowledge or intention. This means that without this shared criminal knowledge or intention, the act itself wouldn't be considered a crime.  
  
5. \*\*"Each of such persons will be liable for the act in the same manner as if the act were done by him alone with that criminal knowledge or intention":\*\* This establishes the principle of joint criminal liability. Each participant is held accountable as if they had performed the act individually with the same criminal knowledge or intention, regardless of their specific role. This vicarious liability arises from the shared criminal knowledge or intention that permeated their actions.  
  
  
\*\*Key Elements of Section 35:\*\*  
  
\* \*\*Criminal Act with Criminal Knowledge or Intention:\*\* The act itself may not be inherently criminal, but it becomes so because of the shared criminal knowledge or intention accompanying it.  
  
\* \*\*Common Intention to Do the Act:\*\* The participants must share a common intention to perform the specific act.  
  
\* \*\*Shared Criminal Knowledge or Intention:\*\* The shared element that renders the act criminal is the common criminal knowledge or intention.  
  
  
\*\*Distinguishing Section 35 from Section 34:\*\*  
  
While both sections address joint liability, they focus on different aspects:  
  
\* \*\*Section 34:\*\* Deals with criminal acts done in furtherance of a common intention, regardless of whether the act's criminality depends on knowledge or intention.  
  
\* \*\*Section 35:\*\* Specifically addresses situations where the act's criminality stems from the shared criminal knowledge or intention. It clarifies how joint liability applies when the act itself wouldn't be criminal without this shared element.  
  
Section 35 complements Section 34 by providing a specific rule for situations where the criminality of the act depends on the presence of criminal knowledge or intention.  
  
  
\*\*Illustrative Examples:\*\*  
  
\* \*\*Receiving Stolen Property:\*\* Several individuals jointly receive stolen property, knowing that it is stolen. The act of receiving property may not be inherently criminal, but the shared knowledge that it's stolen makes it a crime. Each person is liable as if they had received the property individually with the same criminal knowledge.  
  
\* \*\*Counterfeiting Currency:\*\* Several individuals participate in counterfeiting currency with the shared intention to defraud. The act of printing itself might not be criminal, but the shared intention to defraud, coupled with the knowledge that the currency is counterfeit, makes it a crime. Each person is liable as if they had counterfeited the currency individually with the same criminal knowledge and intention.  
  
  
\*\*Evidentiary Challenges:\*\*  
  
Proving shared criminal knowledge or intention poses significant evidentiary challenges:  
  
\* \*\*Direct Evidence:\*\* Direct evidence is often unavailable, requiring reliance on circumstantial evidence.  
  
\* \*\*Circumstantial Evidence:\*\* Factors like the participants' conduct, the surrounding circumstances, and the nature of the act can provide inferential evidence of shared criminal knowledge or intention.  
  
  
\*\*Judicial Interpretations:\*\*  
  
Judicial interpretations have shaped the understanding and application of Section 35, clarifying its scope and relationship with Section 34. These interpretations are crucial for ensuring a fair and consistent application of the principle of joint liability in cases where criminal knowledge or intention is the determining factor.  
  
  
\*\*Importance of Section 35:\*\*  
  
Section 35 plays a vital role in the IPC for several reasons:  
  
\* \*\*Addressing Specific Scenarios:\*\* It clarifies the application of joint liability in specific cases where the act's criminality depends on shared criminal knowledge or intention.  
  
\* \*\*Complementary Role:\*\* It complements Section 34 by providing a specific rule for cases where the criminal act's nature is determined by shared knowledge or intention.  
  
\* \*\*Ensuring Accountability:\*\* It prevents individuals from escaping liability by claiming they lacked the necessary criminal knowledge or intention when acting jointly.  
  
  
\*\*Conclusion:\*\*  
  
Section 35 of the IPC is a crucial provision that addresses the complexities of joint liability in situations where the criminality of an act hinges on the presence of shared criminal knowledge or intention. It complements Section 34 and clarifies how the principle of joint liability applies in these specific scenarios. Understanding the nuances of Section 35, its relationship with Section 34, and the evidentiary challenges involved is crucial for its effective application and the just administration of criminal law. This detailed explanation provides a comprehensive understanding of Section 35, its components, its significance within the framework of the Indian Penal Code, and its role in upholding justice and maintaining public order.