# IPC Section 35: When such an act is criminal by reason of its being done with a criminal knowledge or intention.

## IPC Section 35: "When such an act is criminal by reason of its being done with a criminal knowledge or intention" - A Detailed Explanation  
  
Section 35 of the Indian Penal Code (IPC) clarifies the principle of joint liability when a criminal act is committed with a shared criminal knowledge or intention. It addresses situations where the act itself might not be inherently criminal but becomes so due to the presence of a criminal knowledge or intention shared by multiple individuals. This section, like Section 34, doesn't create a new offense but explains how criminal liability is attributed in cases of joint action driven by a shared culpable mental state. Understanding its nuances is crucial for interpreting cases involving shared knowledge or intention in criminal activities.  
  
  
\*\*The Text of Section 35:\*\*  
  
"Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with such knowledge or intention."  
  
  
  
\*\*Deconstructing the Elements:\*\*  
  
Section 35 requires the fulfillment of several key elements for joint liability to be established:  
  
  
1. \*\*Act Criminal Only by Reason of Criminal Knowledge or Intention:\*\* This element is central to Section 35. It refers to acts that are not inherently criminal but become so because they are performed with a specific criminal knowledge or intention.  
  
 \* \*\*Example:\*\* Selling adulterated food is not a crime if the seller is unaware of the adulteration. However, if the seller knowingly sells adulterated food, the act becomes criminal due to their criminal knowledge.  
  
  
2. \*\*Several Persons:\*\* More than one person must be involved in the act. This involvement doesn't require that each person performs every part of the act. Their participation can vary as long as they share the requisite criminal knowledge or intention.  
  
  
3. \*\*Joining the Act with Such Knowledge or Intention:\*\* Each person held liable under Section 35 must have joined the act with the specific criminal knowledge or intention that makes the act criminal. Mere presence at the scene or passive acquiescence without the requisite knowledge or intention is insufficient for liability.  
  
 \* \*\*Example:\*\* If several people participate in transporting goods, and only one of them knows that the goods are stolen, only that individual would be liable for receiving stolen property. The others, lacking the criminal knowledge, wouldn't be liable under Section 35.  
  
4. \*\*Same Liability as if Done Alone:\*\* Section 35 specifies that each person who joins the act with the requisite criminal knowledge or intention is liable as if they had performed the entire act alone with that knowledge or intention. This means each person bears full responsibility for the criminal act.  
  
  
  
\*\*Illustrative Examples:\*\*  
  
  
\* \*\*Several individuals knowingly participate in selling counterfeit currency:\*\* Each person involved is liable for the offense of counterfeiting, even if they only played a small role in the process, as they all joined the act with the criminal knowledge that the currency was fake.  
  
\* \*\*A group of people knowingly assists in hiding a fugitive from justice:\*\* Each person is liable for harboring a fugitive, even if they only provided a small amount of assistance, as they all joined the act with the criminal knowledge that the person was a fugitive.  
  
\* \*\*Several employees of a company knowingly falsify financial records to defraud investors:\*\* Each employee involved is liable for fraud, even if they only falsified a small portion of the records, as they all joined the act with the criminal intention to defraud.  
  
  
  
\*\*Distinction from Section 34:\*\*  
  
While both sections deal with joint liability, there's a key difference:  
  
\* \*\*Section 34:\*\* Focuses on common intention, requiring a shared intention to commit a specific criminal act.  
\* \*\*Section 35:\*\* Focuses on criminal knowledge or intention, addressing acts that become criminal only due to the presence of such knowledge or intention. The individuals involved need not share a common intention to commit a particular offense; they only need to share the criminal knowledge or intention that makes the act itself criminal.  
  
  
\*\*Overlapping Application:\*\*  
  
Sections 34 and 35 are not mutually exclusive and can sometimes apply simultaneously. If several persons act with a common intention, and the act becomes criminal due to a shared criminal knowledge or intention, both sections can be invoked.  
  
  
\* \*\*Example:\*\* Several individuals conspire to sell adulterated food (common intention). They are all aware that the food is adulterated (criminal knowledge). In this scenario, both Section 34 (common intention) and Section 35 (criminal knowledge) can be applied to establish joint liability.  
  
  
  
\*\*Significance of Section 35:\*\*  
  
  
  
1. \*\*Expanding Criminal Liability:\*\* Section 35 expands the scope of criminal liability by addressing acts that are not inherently criminal but become so due to the presence of criminal knowledge or intention. It ensures that individuals who knowingly or intentionally participate in such acts are held accountable.  
  
2. \*\*Addressing Crimes of Deception and Dishonesty:\*\* This section is particularly relevant for crimes involving deception, dishonesty, or fraudulent conduct where criminal knowledge or intention plays a crucial role.  
  
3. \*\*Prosecutorial Flexibility:\*\* Section 35 provides prosecutors with a flexible tool to address cases involving joint action driven by shared criminal knowledge or intention.  
  
4. \*\*Promoting Accountability:\*\* This provision promotes accountability by ensuring that individuals who contribute to criminal acts with the requisite knowledge or intention are not able to escape liability simply by claiming a limited role in the overall act.  
  
  
  
  
\*\*Conclusion:\*\*  
  
Section 35 of the IPC is a crucial provision clarifying joint liability in cases where an act is criminal only due to the presence of a shared criminal knowledge or intention. By focusing on the culpable mental state of the individuals involved, it expands the scope of criminal liability and ensures that individuals who knowingly or intentionally participate in such acts are held accountable. Understanding the distinctions between Section 35 and Section 34 is essential for applying these provisions correctly and ensuring that justice is served in cases involving joint criminal activity driven by shared knowledge or intention. It reinforces the principle that criminal liability can arise not just from the act itself but also from the mental state accompanying that act, particularly when multiple individuals share that culpable mental state.