

THE INDIAN PENAL CODE

CHAPTER VIII OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

The offences in this chapter may be classified in the following four groups:—

I. Unlawful assembly.

- (1) Being a member of an unlawful assembly (sections 141, 142, 143).
- (2) Joining an unlawful assembly armed with deadly weapons (section 144).
- (3) Joining or continuing in an unlawful assembly knowing it has been commanded to disperse (section 145).
- (4) Hiring of persons to join an unlawful assembly (section 150).
- (5) Harboursing persons hired for an unlawful assembly (section 157).
- (6) Being hired to take part in an unlawful assembly (section 158).

II. Rioting (sections 146, 147).

- (1) Rioting with deadly weapon (section 148).
- (2) Assaulting or obstructing a public servant in the suppression of a riot (section 152).
- (3) Wantonly giving provocation with intent to cause riot (section 153).
- (4) Liability of the owner or occupier of land on which an unlawful assembly is held or a riot is committed (section 154).
- (5) Liability of the person for whose benefit a riot is committed (section 155).
- (6) Liability of the agent of owner or occupier for whose benefit a riot is committed (section 156).

III. Promoting enmity between different classes (section 153A).

IV. Affray (sections 159, 160).

[s 147] Punishment for rioting.

Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

COMMENT—

Rioting.—A riot is an unlawful assembly in a particular state of activity, which activity is accompanied by the use of force or violence. It is only the use of force that distinguishes rioting from an unlawful assembly.⁵⁴ Under the Common law when members of an unlawful assembly actually carry out their unlawful common purpose

with violence, so as to cause alarm, they are guilty of riot. For a successful prosecution of a riot case the prosecution must prove:—

- (i) that there were five or more persons;
- (ii) that they had a common purpose;
- (iii) that they had begun to execute such purpose;
- (iv) that they intended to help one another by force, if necessary;
- (v) that they had shown such degree of violence which would alarm at least one person of reasonable courage.

This last mentioned fact need not be proved by calling a person, who has been so alarmed but it may be made out from facts and circumstances of the case in hand.⁵⁵ The ingredients mentioned in item numbers (iv) and (v) above are not to be found at all in [section 146 of IPC, 1860](#). Where some youths exceeding three were found demolishing a wall but disappeared the moment the caretaker of the building appeared at the scene, it was held that they could not be convicted of the offence of riot under the common law as there was no evidence of show of violence sufficient to alarm one person of reasonable firmness and courage.⁵⁶ In the Indian context in this very case the offence of rioting was complete the moment the youths used force to demolish the wall for it was not necessary in the Indian law to use force or violence against a person, far less to cause alarm to a person of reasonable courage and firmness. Force or violence against an inanimate object too comes within the purview of [section 146, IPC, 1860](#).⁵⁷

[s 147.1] Ingredients.—

The following are the essentials of the offence of rioting:—

- (1) That the accused persons, being *five* or more in number, formed an unlawful assembly.
- (2) That they were animated by a common object.
- (3) That force or violence was used by the unlawful assembly or any member of it in prosecution of the common object.

1. 'Force or violence is used by an unlawful assembly'.—The word 'violence' is not restricted to force used against persons only, but extends also to force against inanimate objects.⁵⁸ The words 'force' and 'violence' in this section connote different and distinct concepts. 'Force' is narrowed down by the definition under section 350 to persons while the word 'violence' includes violence to property and other inanimate objects.⁵⁹

The use of any force, even though it be of the slightest possible character, by any one of an assembly once established as unlawful, constitutes rioting.⁶⁰ Where a member of an unlawful assembly in prosecution of the common object of the assembly throws down a man and then causes him bodily hurt, the offence of rioting under this section is complete as soon as the man is thrown down by using force and the hurt subsequently caused would come under section 323 or section 325.⁶¹ The essential question in a case under section 147 is whether there was an unlawful assembly of five or more persons. The identity of the persons comprising the assembly is a matter relating to the determination of the guilt of the individual accused and even when it is possible to convict less than five persons only, section 147 still applies, if upon the

evidence in the case the Court is able to hold that the person or persons who have been found guilty were members of an assembly of five or more persons, known or unknown, identified or unidentified.⁶² It has been held by the Supreme Court that this section is not attracted where the act in question was done in pursuit of a lawful object. In this case the investigating police party was being led by the witness to a spot for recovering the dead-body. The witness tried to run away and was beaten up with a *lathi*. He died shortly thereafter. The Supreme Court did not sustain the conviction of the police personnel under this section.⁶³

2. 'In prosecution of the common object'.—Acts done by some members of an unlawful assembly outside the common object of the assembly or of such a nature as the members of the assembly could not have known to be likely to be committed in prosecution of that object are only chargeable against the actual perpetrators of those acts.⁶⁴ It is obligatory on the part of the court to examine that if the offence committed is not in direct prosecution of the common object, it yet may fall under second part of [section 149, IPC, 1860](#), if the offence was such as the members knew was likely to be committed. Further inference has to be drawn as what was the number of persons; how many of them were merely passive witnesses; what were their arms and weapons. Number and nature of injuries is also relevant to be considered.⁶⁵

[s 147.2] 'Resistance to illegal warrant'.—

Resistance to the execution of an illegal warrant within reasonable bounds does not amount to rioting; but when the right of resistance is exceeded and a severe injury, not called for, is inflicted, the person who inflicts the injury may be convicted of such injury.⁶⁶

[s 147.3] 'Sudden quarrel'.—

If a number of persons assembled for any lawful purpose suddenly quarrel without any previous intention or design, they do not commit 'riot' in the legal sense of the word.⁶⁷

[s 147.4] 'Fundamental principles in cases of mammoth rioting'.—

(1) Notwithstanding the large number of rioters or of the persons put up in Court for rioting, and the consequent difficulty for the prosecution to name the specific acts attributed to each of the accused, the Court must see to it that all the ingredients required for unlawful assembly and rioting are strictly proved by the prosecution before convicting the particular accused persons.⁶⁸ (2) Spectators, wayfarers, etc., attracted to the scene of the rioting by curiosity, should not be, by reason of their mere presence at the scene of rioting and with the rioters, held to be members of the unlawful assembly or rioters. But of course, if they are proved to have marched with the rioters for a long distance, when the rioters were shouting tell-tale slogans and pelting stones, it will be for them to prove their innocence under [section 106 of the Indian Evidence Act, 1872](#). (3) It will be very unsafe, in the case of such a large mob of rioters, to rely on the evidence of a *single witness* speaking to the presence of an accused in that mob for convicting him, especially when no overt act of violence, or shouting of slogan, or organising the mob, or giving orders to it or marching in procession with it, or other similar thing is proved against him. In a big riot by hundreds of persons, it is very easy even to mistake one person for another, and to implicate honestly really innocent

persons, and even, to mistake persons seen elsewhere as having been seen there. An ordinary rule of caution and prudence will require that an accused person identified only by one witness, and not proved to have done any overt act, etc., as described above, should be acquitted, by giving him the benefit of the doubt. (4) Where there are acute factions based on either agrarian disputes and troubles or on political wrangling and rivalry or on caste divisions or on divisions of the "haves" and the "have-nots," the greatest care must be exercised before believing the evidence of a particular witness belonging to one of these factions against an accused of the opposite view. This principle becomes of special importance when there are no overt acts, etc., proved, and when there are only one or two witnesses speaking to the presence of the accused among the rioters, and they belong to the classes or factions opposed to the accused. (5) Mere *followers* in rioting deserve a much more lenient sentence than leaders, who mislead them into such violent acts, by emotional appeals, slogans and cries.^{69.}

[s 147.5] Offence Compoundable:

When an offence is compoundable under [section 320 of Cr PC, 1973](#), and where the accused is liable under [section 34](#) or [149 of IPC \(45 of 1860\)](#) it may be compounded in like manner.^{70.}

[s 147.6] CASES.—

Where several Hindus, acting in concert, forcibly removed an ox and two cows from the possession of a Mohammedan, not for the purpose of causing 'wrongful gain' to themselves or 'wrongful loss' to the owner of the cattle, but for the purpose of preventing the killing of the cows, it was held that they were guilty of rioting.^{71.} There was a dispute about the possession of a certain land between the complainant and the accused. The complainant dug a well with a view to cultivate the said land. The accused forcibly entered on the land and damaged the well. It was held that the accused were guilty under this section as an accused person is not entitled to go upon his own land and by violence destroy the property of the complainant, even though a trespasser.^{72.}

[s 147.7] No unlawful assembly.—

The accused on receiving information that the complainant's party were about to take forcible possession of a plot of their land, collected a number of men, some of whom were armed, and went to the land. While they were engaged in ploughing, the complainant's party came up and interfered with the ploughing. A fight ensued, in the course of which one of the complainant's party was grievously wounded and subsequently died, and two of the accused's party were hurt. It was held that the accused were justified in taking such precautions as they thought were required to prevent the aggression, and that they were not members of an unlawful assembly.^{73.}

[s 147.8] Free fight.—

In a free fight there cannot be said to be any formation of an unlawful assembly and common intention. Each accused will be responsible for his individual act.^{74.}

[s 147.9] Separate trials.—

Where two opposite factions commit a riot, it is illegal to treat both parties as constituting one unlawful assembly and to try them together, as they cannot have one common object within the meaning of section 141; each party should be tried separately.^{75.}

54. *Rasul*, (1888) PR No. 4 of 1889.
55. *Sharp, Johnson*, (1957) 1 QB 522 , per Lord Goddard, CJ.
56. *Field v Metropolitan Police Receiver*, (1907) 2 KB 853 .
57. *Kalidas*, 48 Cr LJ 351 (Cal).
58. *Samaruddi*, (1912) 40 Cal 367 .
59. *Lakshmiammal v Samiappa*, AIR 1968 Mad 310 [LNIND 1967 MAD 171] ; *Kalidas*, 48 Cr LJ 351 (Cal).
60. *Koura Khan v State*, (1868) PR No. 34 of 1868; *Ramadeen Doobay*, (1876) 26 WR (Cr) 6.
61. *Parmeshwar*, (1940) 16 Luck 51 .
62. *Kapildeo Singh*, (1949–1950) FCR 834 : 52 Bom LR 512.
63. *Maiku v State of UP*, AIR 1989 SC 67 : 1989 Cr LJ 360 : 1989 Supp (1) SCC 25 .
64. *Agra*, (1914) PR No. 37 of 1914. *Vishal Singh v State of MP*, AIR 1998 SC 308 [LNIND 1997 SC 1362] : 1998 Cr LJ 505 . See also *Kania v State of Rajasthan*, 1998 Cr LJ 50 (Raj). *Bhanwarlal v State of Rajasthan*, 1998 Cr LJ 3489 (Raj), fight between main accused and deceased over possession of land, other persons who were present at the spot and played no role could not be roped in.
65. *Ramachandran v State*, (2011) 9 SCC 257 [LNIND 2011 SC 854] : AIR 2011 SC 3581 [LNIND 2011 SC 854] : (2011) 3 SCC (Cr) 677.
66. *Uma Charan Singh*, (1901) 29 Cal 244 .
67. *Khajah Noorul Hoossein v C Fabre-Tonnerre*, (1875) 24 WR (Cr) 26; *State of UP v Jodha Singh*, AIR 1989 SC 1822 : 1989 Cr LJ 2113 : (1989) 3 SCC 465 , a verbal quarrel converting itself into armed group conflict, held not punishable under this section or section 108.
68. See *Sherey v State of UP*, 1991 Cr LJ 3289 : AIR 1991 SC 2246 , where the Supreme Court observed that it would be safe to convict only those whose presence was consistently established by the evidence appearing from the stage of the First Information Report and to whom covert acts of violence were attributed. *Kutumbaka Krishna Mohan Rao v Public Prosecutor*, AIR 1991 SC 314 : 1991 Cr LJ 1711 : 1991 Supp (2) SCC 509 , how presence is to be established. *Budhwa v State of MP*, AIR 1991 SC 4 [LNIND 1990 SC 580] : 1990 Cr LJ 2597 , where the conviction of only four out of fifteen accused was upheld because evidence established only their participation in the attack.
69. *Arulanandu*, (1952) Mad 728. See also *Toseswar Chutia v State of Assam*, 2002 Cr LJ 1465 (Gau); *Bhima v State of Maharashtra*, AIR 2002 SC 3086 [LNIND 2002 SC 528] (Bom).
70. Section 320 (3), Cr PC, 1973.
71. *Raghunath Rai v State*, (1892) 15 All 22 .

72. *Abdul Hussain*, (1943) Kar 7 . See *Ajab v State of Maharashtra*, AIR 1989 SC 827 : 1989 Cr LJ 954 : (1989) Supp (1) SCC 601 .

73. *Pachkauri*, (1897) 24 Cal 686 ; *Fateh Singh*, (1913) 41 Cal 43 . *K Ashokan v State of Kerala*, AIR 1998 SC 1974 [LNIND 1998 SC 223] : 1998 Cr LJ 2834 , names of miscreants not mentioned by eye-witnesses in the FIR, miscreants mentioned in the investigation report which included certain names in different ink. False implication could not be ruled out. Benefit of doubt to accused persons. *State of UP v Dan Singh*, 1997 Cr LJ 1159 : AIR 1997 SC 1654 [LNIND 1997 SC 162] , the members of marriage party of a scheduled caste, were assaulted by villagers by sticks and stones. Some of them were burnt alive inside the house of the victims. The accused persons were held liable to be convicted under sections 147, 302/149, 436/149, 323/149 and sections 307/149. *Lakhu Singh v State of Rajasthan*, 1997 Cr LJ 3638 (Raj), *lathi* is not a deadly weapon, *lathi* bearing accused could not be convicted under section 148. Conviction altered to one under section 147.

74. *Mangal Singh v State of MP*, 1996 Cr LJ 1908 (MP).

75. *Hossein Buksh*, (1880) 6 Cal 96 ; *Bachu Mullah v Sia Ram Singh*, (1886) 14 Cal 358 ; *Chandra Bhuiya*, (1892) 20 Cal 537 .

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- (5) Liability of the person for whose benefit a riot is committed (section 155).
- (6) Liability of the agent of owner or occupier for whose benefit a riot is committed (section 156).

III. Promoting enmity between different classes (section 153A).

IV. Affray (sections 159, 160).

[s 148] Rioting armed with deadly weapon.

Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

COMMENT—

Rioting with deadly weapons.—Similar to section 144, this section is an aggravated form of the offence mentioned in the previous section. Enhanced punishment is

provided for the person who is armed with a deadly weapon while committing the offence of rioting. This section cannot be read with section 149.^{76.}

Where out of the 45 accused persons convicted by the High Court 36 had been identified as members of the assembly by a solitary witness, the Supreme Court said that it was not safe to place reliance in reference to the accused about whom no other witness said that they were a part of the assembly. Their conviction was held to be unsustainable. So far as the remaining accused were concerned, the prosecution had proved the charge against them under section 148 and therefore their acquittal by the High Court was not justified.^{77.}

Where several persons assaulted the victim, the court said that it was not necessary that the death of the victim must be attributed to a particular injury or to a particular assailant. All of them are liable for conviction for causing death of the victim with the common object of the unlawful assembly.^{78.}

[s 148.1] Charge under section 147/148; Conviction under section 149.—

The [Constitution](#) Bench in *Mahadev Sharma v State of Bihar*,^{79.} held that if a charge had been framed under section 147 or section 148 and that charge had failed against any of the accused then section 149 could not have been used against him. The area which is common to sections 147 and 149 is the substratum on which different degrees of liability are built and there cannot be a conviction with the aid of section 149 when there is no evidence of such substratum. The accused have been expressly charged for the offence punishable under [section 148, IPC, 1860](#), and have been acquitted thereunder, they cannot be legally convicted for the offence punishable under [section 302](#) read with [section 149, IPC](#). It is so because the offence of rioting must occur when members are charged with murder as the common object of the unlawful assembly. The offences under sections 147 and 148 are distinct offences.^{80.} [Section 148, IPC](#) creates liability on persons armed with deadly weapons and is a distinct offence and there is no requirement in law that members of unlawful assembly have also to be charged under [section 148, IPC](#) for legally recording their conviction under [section 302](#) read with [section 149, IPC](#). However, where an accused is charged under [section 148, IPC](#) and acquitted, conviction of such accused under [section 302](#) read with [section 149, IPC](#) could not be legally recorded.^{81.}

^{76.} *Vasu Pillai v State*, [1956 Cr LJ 1358](#) ; *Nand Kishore v State*, [AIR 1961 Ori. 29](#) [[LNIND 1959 ORI 52](#)] ; *Re VS Reddy*, [\(1963\) 2 Cr LJ 70](#) .

^{77.} *State of AP v Rayaneedi Sitharamaiah*, [\(2008\) 16 SCC 179](#) [[LNIND 2008 SC 2492](#)] . *Mohd Ishaq v S Kazam Pasha*, [\(2009\) 12 SCC 748](#) [[LNIND 2009 SC 1173](#)] : [2009 Cr LJ 3063](#) , a mob 60–70 persons armed with deadly weapons entered a house and forcibly removed household articles and took them away on a lorry, person at whose instance they acted, held liable.

^{78.} *Nand Kishore v State of Bihar*, [2000 Cr LJ 5079](#) (Pat). See also *Raju v State of Rajasthan*, [\(2007\) 10 SCC 289](#) [[LNIND 2007 SC 591](#)] .

^{79.} *Mahadev Sharma v State of Bihar*, [AIR 1966 SC 302](#) [[LNIND 1965 SC 143](#)] : [1965 \(1\) SCR 18](#) : [1966 Cr LJ 1971](#) .

80. *Vinubhai Ranchhodbhai Patel v Rajivbhai Dudabhai Patel*, [AIR 2018 SC 2472](#) [[LNIND 2018 SC 300](#)] .

81. *Ankoos v Public Prosecutor High Court of AP*, (2010) 1 SCC 94 [[LNIND 2010 SC 713](#)] : JT 2009 (14) SC 6 [[LNIND 2009 SC 1959](#)] : [AIR 2010 SC 566](#) [[LNIND 2009 SC 1959](#)] : 2010 Cr LJ 861 : (2010) 1 SCC (Cr) 460.

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III. Promoting enmity between different classes (section 153A).

IV. Affray (sections 159, 160).

[s 149] Every member of unlawful assembly guilty of offence committed in prosecution of common object.

If an offence is committed by any member of an unlawful assembly in prosecution of the common object¹ of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

COMMENT—

Liability of every member.—The Supreme Court has held that this section does not create a separate offence but only declares the vicarious liability of all the members of