

Supreme Court Ruling: Legal Difference Between Preparing for Rape and Attempting It

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Legal Difference between Preparation and Attempt Latest News

- The Supreme Court stayed an Allahabad High Court ruling that downgraded charges against three accused from attempted rape to mere preparation, calling the judgment insensitive.

- The High Court had removed attempted rape charges and directed trial under lesser offences, including **IPC Section 354B** (using criminal force against a woman) and **Sections 9/10** (aggravated sexual assault) of Protection of Children from Sexual Offences Act, 2012 (POCSO Act).
- The case highlights the critical legal distinction between “preparation” (generally not punishable) and “attempt” (criminally punishable), prompting Supreme Court intervention.

Background of the Case

- The High Court was hearing an appeal against a POCSO court order that had summoned the accused for trial under **Section 376 IPC** (rape) and **Section 18 of the POCSO Act** (punishment for attempt).
- On March 17, the HC removed attempted rape charges, terming the act as mere “preparation.”

Key Legal Distinction: Preparation vs. Attempt

- The case highlights the crucial difference between “preparation” (generally not punishable) and “attempt” (which is criminally punishable), leading to Supreme Court intervention.

Distinction Between ‘Preparation’ and ‘Attempt’

- The Supreme Court has clarified that an **attempt** to commit an offence goes beyond **preparation** and involves concrete steps toward committing the crime.
- Preparation is merely a stage that precedes an attempt.

Legal Criteria for ‘Attempt’

- In *Abhaynand Mishra v. State of Bihar (1961)*, the SC outlined key requirements to establish an attempt:
 - The accused had the **intention** to commit the offence.
 - The accused **prepared** to commit the offence.
 - The accused took **actions** towards committing the offence (not necessarily the final act).
 - The **penultimate act** occurred during the course of committing the offence (**proximity requirement**).

Key SC Ruling: Where Attempt Begins

- In *State of Maharashtra v. Mohd. Yakub (1980)*, the SC ruled that “**attempt begins where preparation ends**”—an accused cannot be punished for mere preparation without an overt act leading to the crime.

Allahabad HC Downgrades Attempted Rape Charges

- The Allahabad High Court ruled that the accused could not be charged with attempted rape, stating that the prosecution failed to prove the offence had progressed beyond preparation.

HC’s Reasoning

- The court held that the allegations did not meet the legal threshold for **attempted rape**, as no concrete steps towards the offence were proven.
- It relied on the 1836 English case *Rex v. James Lloyd*, which required evidence that the accused intended to **gratify their passions despite resistance**.
- The HC noted **no claim of penetrative assault**, a key requirement for proving **rape under the IPC**.

Reduced Charges and Punishment

- The HC ruled that the accused could only be charged under **Section 354B IPC (assault with intent to disrobe a woman)**, which carries a punishment of **1-5 years in prison**, rather than attempted rape under the IPC and POCSO Act.

Historical Precedents in Attempted Rape Cases

- The **Lloyd ruling (1836)**, despite being nearly two centuries old, continues to influence Indian courts in determining whether an accused has attempted to commit rape.
- Recent Applications of the Lloyd Ruling
 - **May 2024:** The Rajasthan High Court applied the Lloyd test and altered an attempted rape conviction, reducing the charge to Section 354 IPC (assault on a woman with intent to outrage modesty).
 - **2004:** In **Aman Kumar & Anr v. State of Haryana**, the Supreme Court adopted a similar approach, lowering the conviction from attempted rape to a lesser offence.

SC's Criticism and Potential Legal Reassessment

- On March 25, 2025, the Supreme Court took suo motu cognizance of the Allahabad HC's ruling and issued a stay, strongly criticizing its reasoning.
- The SC remarked that the observations were legally flawed, insensitive, and inhumane.
- This case presents an opportunity for the Supreme Court to reconsider and redefine the legal standard for attempted rape.

Legal Difference between Preparation and Attempt FAQs

Q1. What is the key legal difference between preparation and attempt?

Ans. Preparation involves planning, while an attempt includes concrete steps toward committing the crime, making it legally punishable.

Q2. Why did the Supreme Court stay the Allahabad High Court ruling?

Ans. The SC found the downgrading of charges legally flawed, insensitive, and inconsistent with judicial precedents on attempted crimes.

Q3. What legal precedents define an attempt in criminal law?

Ans. Cases like *Abhayanand Mishra v. State of Bihar* (1961) and *State of Maharashtra v. Mohd. Yakub* (1980) establish attempt criteria.

Q4. How does the Lloyd ruling influence Indian courts?

Ans. The 1836 *Rex v. James Lloyd* ruling still shapes judicial interpretations of attempt, requiring clear evidence beyond preparation.

Q5. What are the potential implications of this Supreme Court review?

Ans. The SC may redefine attempt standards, ensuring stricter legal interpretations to prevent dilution of sexual assault charges.

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