

A person who is present in the unlawful assembly as a curious spectator does not become one of the members of that unlawful assembly [*Muthu Naicker vs. State of Tamil Nadu*]

*Kartar Singh vs. State of Punjab, 1961/ Moti Das case 1951.*

Where on the finding, the identity of only four persons in the Assembly is established while it is proved that five or more persons were present there to constitute it, **Section 149** can be applied without any serious difficulty.

The common object of the assembly should be one of the mentioned in section 141. The members should be aware of the common object and they should concur in it.

**Section 146** defines the offence of Rioting & **Section 147** provides punishment for it. The ingredients of rioting are:

1. An unlawful assembly
2. using of force or violence by -
  - a. the unlawful assembly, or
  - b. any member thereof,
  - c. In prosecution of the common object of that assembly.

**Section 149** incorporates principle of constructive liability on the basis of the common object of an unlawful assembly, regarding the commission of an offence or the knowledge of the member of an unlawful assembly of likelihood of the commission of an offence.

Following are the ingredients of **Section 149**:

1. Offence must be committed by the member of an unlawful assembly.
2. It must be committed in prosecution of the common object of that assembly.
3. It is such as the member of that assembly knew to be likely to be committed.

**Section 159** defines “Affray” while **Section 160** provides punishment for committing affray. Following are the ingredients of affray:

1. Two or more persons fight.
2. They fight in a public place.
3. By fighting they disturb the public peace.

This (O) is cognizable and bailable.

Section 153, 153-A, 153-AA, 160.

## **CHAPTER 9 (O) BY OR RELATING TO PUBLIC SERVANTS**

**Section 166-A** Public servant disobeying direction under law.

**Section 166-B** punishment for non treatment of victim.

**Section 177** wearing Garb or carrying token used by public servant with fraudulent intent.

## **CHAPTER 9-A (O) RELATING TO ELECTIONS**

**Section 171A:** Candidate and electoral right has been defined

- “Candidate” means a person who has been nominated as a candidate at an election.
- “Electoral right” means the right of a person to stand or not to stand as or to withdraw from being a candidate or to vote or refrain from voting at an election.

**Section 171 B:** bribery whoever gives

1. To any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right.
2. Except teaser for himself or for any other person any gratification as a reward for exercising any such right or inducing or attempting to induce any other person to exercise any that's right,  
  
commits the offence of bribery.

**Section 177 C:** undue influence at elections whoever voluntarily interferes or attempts to interfere with the Free exercise of any electoral right commits the offence of undue influence at an election.

**Section 171 D:** Personation at elections.—Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence or personation at an election [Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force in so far as he votes as a proxy for such elector.]

**“treating”** means that form of bribery where the gratification consists in food, drink, entertainment, or provision.