

- Such act need not be **penultimate act towards** the commission of offence but must be an act during the course of committing the offence.
- Supreme court affirmed the view in **Sudhir Kumar Mukherjee V. State Of West Bengal**, AIR 1973 SC 2655.
- In **State Of Maharashtra V. Mohammad Yakub**, Supreme Court held that some **act must be done** towards the **commission of offence** and such act must be **'proximate' to the intended result**, proximity need not be in **relation to time** and **action** but in relation to intention.
- The **preparation** to commit offence is punishable only in **serious class of offences**. These are the following –
 - Preparation to **wage war against** the **Government of India**. [**section 122**]
 - Preparation to **commit depredations on the territories of a friendly country**. [**Section 126**]
 - **Making, selling or being in possession** of instruments for **counterfeiting of coins or stamps**. [**section 233,234,235 and 237**]
 - **Possession of counterfeit coins, false weights and forged documents**. [**section 242,243,266**]
 - Preparation to **commit dacoity**. [**section 399**]
 - Mere assembly for the **purpose of committing dacoity**. [section 402]

THEORIES OF ATTEMPT

PROXIMITY RULE: It provides that **an act constitutes** attempt if the offender **has completed** all the important steps necessary to constitute the offence but the consequence which is the **essential element** of offence has not **taken place**.

In the case of **R v. Taylor**, A was found guilty of attempting to **commit arson** because he was detected in the act of lighting a match stick behind the haystack.

In the case of **R v. Robinson**, A jeweller With the intention of fraudulently obtaining insurance money created a fake scene of robbery by trying himself and hiding the jewellery. The investigation revealed that he made false pretensions. he was not convicted for attempt.

In the case of **R. v. Shivpuri** A person was arrested a suitcase which he believed to contain prohibited drugs. In fact the suitcase contained harmless vegetable matter. Nevertheless, he was held liable for the attempt to commit offence of carrying prohibited drugs.

THEORY OF IMPOSSIBILITY: **In Queen v. Collins**

DOCTRINE OF LOCUS POENITENTIAE

OBJECT THEORY: It differentiates the cases where the object is merely mistaken and cases where the object is absent. In former case it would be an attempt while in the latter place it would not be an attempt.

ON THE JOB THEORY: it was laid down in **R. v. Osberon**, in this case A gave **certain pills for causing abortion**. It was found that **pills were innocuous**. It was held that since the person was not on the job he is not liable for attempt. This case has been overruled in **R v. Spicer**.