

Introduction -

Assault is an overt act or making a gesture or a preparation intending, or knowing it to be likely that such gestures or preparations are with reference to the use of criminal force against the person. To constitute an assault there must be some threatening physical act by which the offender intentionally causes another to apprehend that criminal force is about to be used against him.

2) Meaning and Definition of Assault -

Assault is defined in Section 351 of Indian Penal Code, 1860. as consisting of an overt act, or making any gesture or a preparation

intending, or knowing it to be likely that such gesture or preparations are with the reference to the use of the criminal force against the person.

3) Assault (Section 351 of Indian Penal Code) -

According to Section 351 of Indian Penal Code, Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation –

Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has

committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

Ingredients

The Prosecution must establish the following two ingredients to prosecute a person for assault -

1) Making any gesture or preparation by a person in the

presence of another; and

2) Intention or Knowledge of Likelihood that such gesture or preparation will cause the person to apprehend that the person making it is about to use criminal force to him.

4) Punishment for assault or criminal force otherwise than on grave provocation Section 352 -

According to Section 352 of I.P.C whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person shall be punished with imprisonment of either description for a term which may extend to three

months, or with fine which may extend to five hundred rupees, or with both.

Explanation -

Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or if the provocation is given by anything done in the lawful exercise of the right of private defence. Whether the provocation was grave and sudden

enough to mitigate the offense, is a question of fact.

Ingredients -

To Invoke Section 352 of the Indian Penal Code Following Ingredients are to be Satisfied -

- (1) The accused made a gesture or preparation to use Criminal Force;
- (2) The Accused knew that it was likely that such gesture or preparation to use criminal force would cause apprehension that such assault or use of force would be done; and
- (3) That no grave or sudden provocation was received from the

complainant.

The offense under Section 352 of the Indian Penal Code is non-cognizable, bailable, compoundable and triable by Magistrate.

No.	Battery	Assault
1	Every battery includes assault. Battery is an aggravated form of assault.	Every assault does not include battery
2.	For a battery there must be an actual application of physical force.	For an Assault a mere apprehension of danger is sufficient.

3	Battery is aggravated assault.	An Assault is attempt battery.
4	Since there is actual application of physical force in battery it is considered more serious than assault.	There is an element of fear in assault.