

INDIAN PENAL CODE

THE INDIAN PENAL CODE, 1860

(Act No. 45 of 1860)

[6th October 1860]3

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- 485. Making or possession of any instrument for counterfeiting a property mark
- 486. Selling goods marked with a counterfeit property mark
- 487. Making a false mark upon any receptacle containing goods
- 488. Punishment for making use of any such false mark
- 489. Tempering with property mark with intent to cause injury
- 489A. Counterfeiting currency-notes or bank-notes
- 489B. Using as genuine, forged or counterfeit currency-notes or bank-notes
- 489C. Possession of forged or counterfeit currency-notes or bank-notes
- 489D. Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes
- 489E. Making or using documents resembling currency-notes or bank-notes
- 490. Breach of contract of service during voyage or journey
- 491. Breach of contract to attend on and supply wants of helpless person
- 492. Breach of contract to serve at distant place to which servant is conveyed at master's expense
- 493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage
- 494. Marrying again during lifetime of husband or wife
- 495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted
- 496. Marriage ceremony fraudulently gone through without lawful marriage
- 497. Adultery

- 498. Enticing or taking away or detaining with criminal intent a married woman
- 498A. Husband or relative of husband of a woman subjecting her to cruelty
- 499. Defamation
- 500. Punishment for defamation
- 501. Printing or engraving matter known to be defamatory
- 502. Sale of printed or engraved substance containing defamatory matter
- 503. Criminal intimidation
- 504. Intentional insult with intent to provoke breach of the peace
- 505. Statements conducing to public mischief
- 506. Punishment for criminal intimidation
- 507. Criminal intimidation by an anonymous communication
- 508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure
- 509. Word, gesture or act intended to insult the modesty of a woman
- 510. Misconduct in public by a drunken person
- 511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment

CHAPTER 1

INTRODUCTION

Preamble.- Whereas it is expedient to provide a general Penal Code for India; It is enacted as follows:-

1. Title and extent of operation of the Code:- This Act shall be called the Indian Penal Code, and shall extend to the whole of India except the State of Jammu and Kashmir.

COMMENTS

History: The Indian Penal Code is the Product. Of the work of successive Law Commission constituted by the British during the 19th century. The main milestones in the work towards the preparation of the Code are as under:-

(1) Charter Act, 1833 under which the first Indian Law Commission was constituted.

(2) Constitution of the First Indian Law Commission (1834):

President-Macaulay

Members(Commissioner):

McLeod

Anderson

Millet

(3) Draft Code submitted to the Governor General in Council (14th October, 1837).

(4) Constitution of Second Indian Law Commission (26th April 1845).

(5) Report of the Second Indian Law Commission on the Draft Penal Code (1846 and 1847, i.e. in two parts).

- (6) Draft Code revised and presented to Governor General in Council (1856). Revision was done by Bethune and Peacock (Law Members).
- (7) Passing of the Code (6th October, 1860).

2. Punishment of offences committed within India.- Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which, he shall be guilty within Indian.

COMMENTS

Foreigners: The words 'every person' are believed to have made it clear that a foreigner is subject to Indian Penal Code for an act committed within Esop.- *Jilendranath Gohsoh v. Chief Secretary*, Air 1932 Cal 753 : ILR 60 Cal 364, Cf Esop (1836) 7 C & P 456.

Foreign Sovereigns : Foreign Sovereigns are exempt by International Law which (in this respect) is part of national law.- *The parliament Belge*, (1880) 5 P D 197-207.

Territorial Waters : See Proclamation of 30th September, 1867.- P.M. Bakshi, Selective Commentary on the Constitution and Rastya Rama, (1817) 8 B H C Cr CJ 63.

Within India” : Section 2 focuses on operation of the Code “within India” (see the last eight words). This limits its territorial operation. But it is to be read with Section 3, 4, 108A, etc. which (directly or indirectly) provided for its extra territorial preparation.

“Every person”: The words “every person” highlight the universal application of the Code to all persons. The expression “person” is defined in Section 11. Section 2 should, however, be read as subject to provisions to the contrary, which may be found in various enactments or sources. Principal examples are:

- (a) The constitution Articles, e.g Article 361.
- (b) Excepting provisions in the Indian penal Code (e.g. Chapter 4).
- (c) Excepting or limiting provisions in the Code of Criminal Procedure, 1973.
- (d) Excepting provisions in special laws in the nature of protective clauses.

(e) Rules of International Law (see infra).

Rules of public International Law: Certain rules of International Law, are regarded as part of the national law also. One such rule is that foreign states and foreign sovereigns are not subject to the jurisdiction of national courts.- The Parliament Beige, (1889) 5 PD 197- 207 (Court of Appeals per Lord justice Brett).

In the U.S., the rule was first rendered authoritatively by Chief Justice John Marshall in *The Schooner Exchange v. M.C Fid don*, (1812) 11 U.S.(7 Crenel)116, 136, 137,143-146.

The Foreign Sovereign Immunities Act, 1976 (U.S.A, 28 U.S.C. Section 1604) provides that –“ subject to existing international agreements to which the United States is a party at the time of enactment of this Act, a foreign state shall be immune from the jurisdiction of the courts of the United States and of the states except as provided in this Act”. This expression “foreign state” is defined as including an agency or instrumentality of a foreign state. See C. Lewis, State and Diplomatic Immunity, 1980.

In India, this rule continues to apply in regard to criminal proceedings. In regard to civil proceedings, it has been slightly modified by Section 86, Code of Civil Procedure, 1908. That Section, while not totally abrogating the immunity conferred by Public International Law, provides that a foreign sovereign can not be sued except with the consent of the Central Government.

3. Punishment of offences committed beyond but which by law may be tried within India.- Any person liable by any Indian law to be tried for an offence committed beyond India shall be dealt with according to the provisions of this Code for any act committed beyond India in the same manner as if such act had been committed within India.

COMMENTS

Scope : The section provides for extra- territorial operation of Indian legislation relating to criminal law, but only if the terms of the section are satisfied. A very important ingredient of the Section is contained in the words.” Any person liable by any Indian law....”.

The Section operates only where an Indian Law specifically provides that an act committed outside India may be dealt with under that law in India.

“Indian Law”: As to the expression “Indian Law “, see Madhavrao v. State of M.P., AIR 1916 SC 198. The Code itself, in Section 4, provides for extra territorial operation of the penal provisions of the Code. For extra territorial application of other, i.e. special laws, the “extent” clause (usually contained in the first Section of the special laws) should be consulted. The Child Marriages Restraint Act, 1929 does not contain any provision for its extra territorial application and, therefore, does not apply to marriage outside India. - Sheikh Haidar v. Sued Issa, ILR 1939 Nag 241.

At the same time, if the “Indian Law” clearly provides for its own extra territorial application then it is immaterial that the act or omission was not punishment in the foreign country. - Pheroze v. State, (1964) 2 Cr LJ 533 (Bom).

Application : Section 3, IPC applies only to a person liable by any Indian Law to be tried for an offence committed beyond India. If the Indian Law does not have extraterritorial operation then Section 3 does not apply. - Sheikh Haidar v. Sued Issa, ILR 1939 Nag 241.

At the same time if there is in force such law, it is not necessary that the act must be punishable where it was committed. - Pheroze v. Syed Issa, ILR 1939 Nag 241.

4. Extension of Code to extra territorial offences.- The provisions of this Code apply also to any offence committed by-

- (1) any citizen of India in any place without and beyond India;
- (2) any person on any ship or aircraft registered in India wherever it may be.

Explanation.- In this Section the word “offence” includes every act committed outside India which, if committed in India, would be punishable under this Code.

Illustration

A, who is a citizen of India, commits a murder in Uganda. He can be tried and convicted of murder in any place in India at which he may be found.

CHARGE

I, (name and office of the Magistrate) hereby charge you (name of the accused) as following:-

If in the place without or beyond India:-

That you being the citizen of India on or about theday of.....at with the intention of or with the intention of or with the knowledge that you will hereby commit the offence in(name of place) without or beyond India (specify the place thereby committed the offence(name of the offence) punishable under Section 4,I.P.C and within my cognizance.

And I hereby direct that you be tried on the said charge by the said court.

COMMENTS

Scope: Section 4, IPC defines the extra territorial application of the Code. Procedure for securing surrender is governed by the Extradition Act,1962.- Jugal Kishore More (1969) 3 SCR 320.

Section 4 does not apply where the offender is not a citizen of India.- Central Bank of India Ltd. V. Ram Narain,(1955)1 SCR 697.

Section 4 provides for the extra territorial operation of the Penal Code. Such operation is conditioned by the nationality of the offender- clause(1), or by the place of commission – clause(2). Under clause (1), the place of commission is immaterial provided the offender is an Indian citizen.

Citizenship is governed by the Citizenship Act, 1955.

Under clause(2) what is required is that the ship or aircraft, must be registered in India. Registration of ships is governed by the Merchant Shipping Act, 1958.

Registration of aircraft is governed by the Indian Aircraft Act, 1934.

Illegal arrest: Even if a person is arrested outside India illegally for trial in India, the trial is not vitiated by the illegality of the arrest.-Vinayak D. Saarkar,1920 ILR 35 Bom 225(arrest alleged to be in violation of rules of Public International Law).

Basis of extra territorial jurisdiction: the most fundamental principle of extra- territorial jurisdiction is nationality. As early as the first authoritative commentator on jurisdiction, the

Italian jurist Bartolus, himself a confirmed territoriality, it has been admitted that a state's laws may be applied extraterritorially to its citizens, Individuals or corporations, wherever they may be found. See Bartolus on the conflict of Laws 51 (Beale trans. 1914).

. A much more controversial form of extraterritorial jurisdiction is the so called effects principle. Extraterritorial though it may be in practice, in theory the effects principle is grounded on the principle of territorial jurisdiction. The premise is that a state has jurisdiction over extraterritorial conduct when the conduct has an effect within its territory.

The effects principle received its most notable enunciation in the Lotus case, where the permanent Court of International Justice was asked to decide whether Turkey had violated "the principles of international law" by asserting criminal jurisdiction over a French officer who had been navigating a private French vessel, when it collided with, and sank, a Turkish ship on the high seas.

Lotus case: The issue was one of extra territoriality because the Frenchman had at all times during the collision been on French territory, i.e. aboard the French ship, although damage had been inflicted upon Turkish territory, i.e. on the Turkish ship. The Lotus court adopted a strictly positivist view of international law, seeing it as a law entirely generated by the positive acts of states and emanating "from their own free will as expressed in conventions or by usages generally accepted s expressing principles of law".

Lotus case at 18: The permanent Court searched for "a rule of international law limiting the freedom of States to extend the criminal jurisdiction of their courts to a situation uniting the circumstances of the present case" and, finding none, ruled that Turkey had not acted improperly either in seizing the French Officer or in trying him for violation Turkey had not acted improperly either in seizing the French Officer or in trying him for violation Turkish law while outside Turkish territory.

Lotus case at 33 : besides nationality and effects, there have been suggested and accepted from time to time a variety of other foundations for a state's exercise of extraterritorial jurisdiction. Three points should be mentioned here: the protective principle, the universality principle, and the passive personality principle. The protective principle provides that a state has jurisdiction to prescribe law with respect to "certain conduct outside its territory by persons not

its nationals which is directed against the security of the state or a limited class of other state interests". Restatement(revised) supra note 8,402 (3).

5. **Certain laws not to be affected by this Act.**- Nothing in this Act shall affect the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airman in the service of the Government of India or the provisions of any special or local law.

COMMENTS

Scope: Section 5 marks it clear that the Indian Penal Code is not exhaustive of the entire criminal law of the country.- Motilal Shah, 1930 ILR 55 Bom 89.

But Section 26 of General Clauses Act, 1897 and article 20 of the Constitution prohibit double punishment for the same offence.

Section 5 saves the operation of two categories of laws, namely:-

- (i) enactments relating to armed forces, and
- (ii) special and local laws.

Armed forces : As to the category (i) mentioned above see the Army Act, 1950, the Air Force Act, 1950 and the Navy Act, 1957.

Special and local laws: As to the category (ii) mentioned above see the expressions "Special law and Local law : as defined in sections 41-42 of the Indian Penal Code.

Double Jeopardy: Although the operation of certain other laws is saved by Section 5 of the Penal Code, it is to be remembered that a person cannot be punished twice for the same offence. See-

- (i) Section 71, second Para, Indian Penal Code.
- (ii) Section 26, General Clauses Act, 1897.
- (iii) Article 20, Constitution of India.

CHAPTER-II

GENERAL EXPLANATIONS

6. Definitions in the code to be understood subject to exceptions.-

Throughout this Code every definition of an offence, every penal provisions, and every illustration or every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled “General Exceptions “, though those exceptions are not respected in such definition, penal provision, or illustration.

Illustrations

(a) The sections in this Code, which contain defections of offences, do not express that a child under seven years of age cannot commit such offences , but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement for he was bound by law to apprehend Z and therefore the case falls within the general exception which provides that “nothing is an offence which is dine by a person who is bound by law to do it”

COMMENTS

Scope: Section 6, in effect, provides that if the case of the accused falls within a general exception (Chapter 4) he is immune from criminal liability. It is not necessary to repeat in every section defining or punishing an offence that it is subject to Chapter 4.- About *Latif v. State of Assam*, 1918 Cr LJ 1205 (Gau.); *Khageswar Pujari v. State of Orissa*, 1948 CR LJ 1984 Cr LJ 1108 (Orissa).

Effect : The effect of Section 6 (in broad terms) is that every penal provision of the Code is to be read as subject to the general exceptions continued in Chapter 4 (sections 76-106) of the Code.- *Khageswar Pujari v. State of Orissa*, 1984 Cr LJ 1108 (Orissa)

7. Sense of expression once explained.- Every expression which is explained in any part of this Code in conformity with the explanation.

8. Gender.- The pronoun “ he” and its derivatives are used of any person, whether male or female.

9. Number.- Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

COMMENTS

Compare Section 13. General Clauses Act, 1897.

10. “Man”, “Woman”.- The word “man”, denotes a male human being of any age; the word “woman” denotes a female human being of any age.

COMMENTS

The principal significance of Section 10 lies in the words “if any age.” Thus “Woman” includes infant females as also mentioned in Section 354 of the Code.- State v. Major Singh, AIR 1967 SC 63 : 1967 Cr LJ.

11. “Person”.- The word “person includes any company or association or body of persons, whether incorporated or not.

COMMENTS

Scope : Section 11 has the effect of including within the expression :

- (a) any company, whether incorporated or not;
- (b) any association of persons, whether incorporated or not; and
- (c) any body of persons, whether incorporated or not.

Criminal liability of corporations : Corporations are either :

(a) Corporations sole (one person or entity constituted by law as an artificial juridical person), or

(b) Corporations in aggregate (e.g. companies).

Corporations and their officers : The general proposition that corporations may be criminally liable gets some support from Section 11, which has also the effect of giving them the benefit of criminal law if they happen to become the victim of specific offences sentenced to imprisonment.- *Syndicate Transport Co.*, (1963) 66 Bom LR 197. Conversely, if the offence is punishable with fine only, the corporation (e.g. a local authority) can be punished.- *Girdharilal v. Lalchand*, 1970 Cr LJ 987 (Raj).

More important is the question of liability of Directors and responsible officers of corporations. Where, technically, the offender is a corporation, the Directors, etc. may still be liable (in addition to the criminal liability of the corporation) if their own participation in the offence amounts to abetting the offence within the meaning of Sections 107 and 108 of the Indian Penal Code. Besides this, most special Acts enacted during the recent years contain provisions under which Directors and other Officers, who are in charge of the affairs of the corporation and responsible to the corporation for the conduct of the affairs of the corporation, are also declared criminally liable for an offence against that special Act, unless they can prove that the offence was committed without their knowledge, or that they exercised all due diligence to prevent the commission of that offence.

Criminal liability of partners: The Supreme Court, in *Sham Sundar v. State of Haryana*, (Judgment dated 21 August, 1989), JT 1989(3) SC 523, has held that with reference to Section 10 of the Essential Commodities Act, 1955, the true position is that only a partner responsible for conducting the business of the firm could be convicted. The case related to breach of the Haryana Rice Procurement (Levy) Order, 1979. The offender was said to have failed to supply the necessary quantity of rice as per levy rules. Such short supply in contravention of Rice Procurement Order is punishable under Section 7 of the Essential Commodities Act. All the partners were convicted of the offence. It was urged by the appellants before the Supreme Court that there was no evidence that the appellants were in charge of the business of the firm, and for want of evidence, the conviction could not be sustained. The Supreme Court upheld the contention and allowed the appeal. It may be mentioned that Section 10 (1) of the Essential Commodities Act provides that if the person contravening an Order made under the Act is a company (which is defined to include a firm), every person who, at the time of contravention,

was in charge of ,and was responsible to , the company for the conduct of the business of the company(as well as the company), shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly. However , this provision does not render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

The Supreme Court held that Section 10 of Essential Commodities Act was penal provision with a criminal liability, and must be construed strictly. Section 10 does not provide for vicarious liability and does not make all partners liable for an offence, whether they do business or not. The Court observed as under, in this context:-

“It is, therefore, necessary to add an emphatic note of caution in his regard. More often it is common that some of the partners of a firm may not even be knowing of what is going on day to day in the firm. There may be partners, better known as sleeping partners, who are not required to take part in the business of the firm. There may be ladies and minors who were admitted for the benefit of partnership. They may not know anything about the business of the firm. It would be a travesty of justice to prosecute all partners and ask them to prove under the proviso to sub-section (1) that the offence was committed without their knowledge. It is significant to note that the obligation for the accused to prove under the proviso that the offence took place without his knowledge or that he exercised all due diligence to prevent such offence, arises only when the prosecution establishes that the requisite condition mentioned in sub section (1) is established . The requisite condition is that the partner was responsible for carrying on the business and was, during the relevant time, in charge of the business. In the absence of any such proof, no partner could be convicted. We, therefore, reject the contention urged by counsel for the State”.

12. **“Public”**.- The word public includes any class of the public, or any community, any company , whether incorporated or not;
13. **[Definition of Queen]**.- Repealed by the A.O.1950.
14. **“Servant Government ”**.- The words “servant of Government” denote any officer or servant continued, appointed or employed in India by or under the authority of Government.
15. **[Definition of “British India”]**.- Repealed by the A.O.1937.

16. [Definition of “Government of India].- Repealed .

17. “Government”.- The word “Government “ denotes the Central Government or the Government or the Government of a State.

18. “India”.- “India” means the territory of India excluding the State of Jammu and Kashmir.

COMMENT

This definition does not conflict with the Constitution.- K.P.K. Vara Prasad v. Union of India, AIR 1980 AP 243.

It is only a verbal definition, confined to interpretation for the expression “India” as occurring in the code in various sections- such as Sections 108A, 121A, 359,360,etc. The focus in Section 18 is not on India as a political entity, but on the geographical aspect of the territory intended to be connoted by the expression “India” as occurring in those sections of the Code where the territorial aspect is the crucial element. The definition would have been more expressive (and would have created less controversy) if it began something like this-“India” in relation to the territory....”

19. “Judge”.- The word “judge” denotes not only every person who is officially designated as judge but also every person- who is empowered by law to give, in any legal proceeding, civil or criminal, definitive judgment by law to give, in any legal proceeding , civil or criminal, definitive judgment or a judgment which, if confirmed by some other authority, would be definitive or who is one of a body of persons if empowered by law to give such a judgment.

Illustrations

- (a) A Collector exercising jurisdiction in a suit under Act 10 of 1859, is a Judge.
- (b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a judge.
- (c) A member of a panchayat which has power, under Regulation VII, 1810, of the Madras Code to try and determine suits, is a judge.

- (d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

20. “Court of Justice”.- The words “Court of Justice” denote a Judge who is empowered by law to act judicially alone, or a body of judges who is empowered by law to act judicially as a body, when such judge or body of judges is acting judicially.

Illustrations

A panchayat acting under Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. “Public servant”.- The words “public servant” denote a person falling under any of the descriptions hereinafter following, namely:-

*First.*¹[***]

Second.- Every Commissioned Officer in the Military, Naval or Air Forces of India;

Third.- Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;

Fourth.- Every officer of a Court of Justice (including a liquidator, receiver or commissioner) whose duty it is as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.- Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;

Sixth.- Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent

1. Clause first omitted by the A.O.1950.

Seventh.- Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.- Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth.- Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of the government, or to make or authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government;

Tenth.- Every person whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the right of the people of any village, town or district;

Eleventh.- Every Person-

- (a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the government;
- (b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956).

Illustration

A Municipal Commissioner is a public servant.

Explanation: 1- Person falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation: 2- Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation :3 – The word “election” denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by; or under, any law prescribed as by election.

STATE AMENDMENT

State of Rajasthan:

Amendment of Section 21, Central Act, 45 of 1860.- In Section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860), in its application to the State of Rajasthan, after clause twelfth, the following new clause shall be added, namely:

“Thirteenth.- Every person employed or engaged by any public body in the conduct and supervision of any examination recognized or approved under any law.

Explanation :- The expression “Public Body” includes-

- (a) a University, Board of Education or other body, either established by or under a Central or State Act or under the provisions of the Constitution of India or constituted by the Government; and
- (b) a local authority.”

[Received the assent of the President on the 9th day of January, 1993 and Act published in Raj. Gaz. 11.2.1993 Pt.4(Ka), Extra; p.213].

COMMENTS

Bank Employees : If the Legislature wanted certain specific Bank employees to be considered “ Public Servants” for a limited purpose, the contrary cannot be held by taking recourse to the wide sweep of Section 21,I.P.C-N. Vaghul v. State of Maharashtra, 1987 Cr LJ 385 : (1987) 2 Crimes 289.

Banks: An employee of a nationalized bank is a public servant, being the employee of a Government company or of a corporation controlled by the Government of India.- Kundanlal v.B.N.Khanna, 1983 Cr LJ 141 (P&H). Contrary view in Raghunath Rai *treble*

bt soecuak ciyrts fir cirryotuib abd itger charges .- Union of India v. Ashok Kumar Mitra, AIR 1995 SC 1976.

President and Secretary of the Co-operative Society : The President and Secretary of the Co- operative Society are not public servants within the meaning of clause 12(b) of Section 21 of the Indian Code.- State of Punjab v. Kesarichand, 1987 Cr LJ 549: AIR 1987 P&H 216.

Private Medical Practitioner: Private Medical Practitioners are not public servants even if their names are included in the panel of doctors.- Dr. Arvind C. Shah v. State of Gujrat,(1986)1 GLR 481 : (1986)2 C r LG 59.

Surveyor : Surveyor of Insurance claims does not fall within Section 21 (5) or Section 21 (12).- A.R.Puri v. State, (1987)2 Crimes 102 (Del).

MP : A member of Parliament is a Public Servant u/s 2(c) of Prevention of Corruption Act, 1988.- P.V. Narasimha Rao v. State,(CBI/SPE),(1998)1 SCJ 529.

MLA : MILA is not a public servant .- R.S Nayak v. A.R Antulay, AIR 1984 SC 684 : 1984 Cr LJ 2080(Mad).

Ministers : Ministers are public servants because :

- (a) they receive 'pay', an expression wider than salary,
- (b) they are appointed by the Governor (articles 164 and 167 of the Constitution),
- (c) they perform public functions .- M.Karunanidhi v Union of India, 1979 Cr LJ773 (SC) : AIR 1979 SC 598; Shiv Bahadur, 1954 CrLJ 910 (SC).

Co-operative Societies : Co- operative Societies are not corporations owned or controlled by the State. Their officer are not public servants – not even those on deputation from Government. – S.S. Dhanoa v. Delhi Municipality, 1981 Cr LJ 781.

22. “Movable property”.- The words “movable property” are intended to include corporal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

23. “Wrongful gain”.- “wrongful gain” is gain by unlawful means of property to which the person losing it is legally entitled.

“Wrongful loss”.- “Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

Gaining wrongfully , losing wrongfully.- A person is said to gain wrongfully. A person is said to lose wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully, as well as when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

COMMENTS

The first part of Section 23, third paragraph makes it clear that it covers wrongful acquisition as well as wrongful retention in other words, initial wrongfulness or subsequent wrongful. – Kirshan Kumar,(1960)1 SCR 452.

24. “Dishonestly”.- Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing “dishonestly”.

COMMENTS

Concealment may amount to dishonesty.-N. Vaghul v. State of Maharashtra , 1987 Cr LJ 385: 1986 Bank J 643 : (1987)2 Crimes 289 : (1986)3 Bom CR 422.

25. “Fraudulently”.- A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

COMMENTS

It is necessary to point out that pecuniary advantage or pecuniary harm is not necessary for an act to amount to 'fraud'. - Dr. Vimla v. Delhi Administration, AIR 1963 SC 1572 : (1963)2 Cr LJ 432 : (1963) 2 SCJ 559

Conversely, deception is necessary to constitute fraud, but not necessary for causing wrongful gain or wrongful loss. - Dr. Vimla v. Delhi Administration, AIR 1963 sc 1572.

If there is neither deceit nor dishonest gain or loss, the case may not fall under either. - S.Dutt, 1966 CR LJ 459 (SC).

26. "Reason to believe".- A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing but not otherwise.

27. Property in possession of wife, clerk or servant.- When property is in the possession of a person's wife, clerk or servants, on account of that person, it is in that possession within the meaning of this Code.

Explanation.- A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this section.

COMMENTS

"On account to that person" : It is necessary that the possession of the wife must be on account of her husband. Thus where the wife is in intendment control of certain articles, the Section will not apply. - Dharam Singh, 1961Cr LJ 152 : AIR 1961 Punj 30. This position is true of all discriminatory things. - Chela Ram v. State, 1984 Cr LJ 1143 (Raj).

Possession in English Criminal Law : In Warner v. Metropolitan Police Commissioner, (1968) 2 All ER 356 (HL), the House of Lords clearly held that in criminal law the mental element is necessary to constitute possession and approved Lord Parker CJ's decision in *Lockyer v. Gibb*, (1966)2 All ER 653, 655, to that effect:

"A person cannot be said to be in possession of some article which he or she does not realize is or may be in her handbag, in possession of some article which he or she does not

realize is or may be in her handbag, in her room or in some other place over which she has control”.

28. “Counterfeit”. – A person is said to “counterfeit” who causes one thing to resemble another thing intending by means of that resemblance to practice deception, or knowing it to be likely that deception will thereby be practiced.

Explanation 1. -It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.- When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practice deception or knew it to be likely that deception would thereby be practiced.

29. “Document”.- The word “document” denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used or which may be used, as evidence of that matter.

Explanation 1. – It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended, for or may be used in, a Court of Justice, or not.

Illustrations

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power- of attorney is a document.

A map or plan which is intended to be used or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2. – Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this Section, although the same may not be actually expressed.

Illustration

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words “Pay to the order” or words to that effect had been written over the signature.

¹[29A. **“Electronic record”**- The words “electronic record” shall have the meaning assigned to them on clause (t) of sub section (1) of section 2 of the Information Technology Act, 2000.]

30. “Valuable security”.- The words “valuable security” denote a document which is, or purports to be, a document where by any legal right is created, extended, transferred, retracted, extinguished or released, or where by any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it the endorsement is a “valuable security”.

COMMENTS

The essence of ‘valuable securities lies in its essential link with(a) a legal right, or (b) a legal liability. In the case of a legal right, a mere acknowledgement that a person does not have a legal right becomes a valuable right. This is different from “release”, in which the right is asserted, but (by the same instrument) abandoned.

The principal Sections of the Code in which the expression “valuable security” occurs are concerned with (a) offences against the human body (Sections 329-331, 347,348), (b) offences against property (Section 420), and(c) offences relating to documents (Sections 467 and471).

An unregistered document (which is not fully effective without registration) is not, in the strict sense, a valuable security but it purports to be a valuable security and so falls within Section 467 (forgery of valuable security, etc).- Kashi Nath v. Naik, (1897) ILR 25 Cal 207.

If a document purports to be only a copy of a valuable security, its forgery is not punishable under Section 467.- Gobinda Prasad, (1962) I 1 Cr LJ 316.

However, in certain circumstances, such conduct may amount to the offence of cheating.

31. “A will”. The words “a will” denote any testamentary document.

COMMENTS

Section 31 of IPC may be compared with Section 2 (h) of Indian Succession Act (39 of 1925). The latter defines “will” as the legal declaration of the intentions of a testator with respect to his property when he desires to be carried into effect after his death. Forgery of a will is punishable under Section 467 of the Indian Penal Code.

32. Words referring to acts include illegal omissions.- In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

COMMENTS

Compare Section 3(2), General Clauses Act, 1897 (latter part) where it enacts that words which refer to acts done extend also to illegal omissions.

Concept of “act” : in jurisprudence “act” means any event which is subject to the control of the human will. See Salmond Jurisprudence (11th edition), pages 399-401.

The elements of an “act” are-

- (1) its origin in some mental or bodily activity of the doer,
- (2) its circumstances, and
- (3) its consequences.

Omission is covered with in 'act' if it is illegal.- Rewati Mohan Das v. Yatindra Mohan Ghosh, AIR 1934 PC 100. But it does not appear to be necessary that the omission should be intentional.

If there is a duty to take care in a particular situation, omission to take care in that situation would be punishable.- Benoy Chandra, 1984 Cr LJ 1038(Cal). An omission to act with care if caused by 'mental' blackout, would be excused.- Cf Bratty v. Attorney General for Northern Ireland,, (1961)3 All ER 523(HL).

According to Holmet, The Common Law, Para 91 : an act is always a voluntary muscular contraction and nothing else.

Sleep walking : Conduct during fit or in sleep walking is excused as it is involuntary.- R v. Charlson, (1955)1 All ER 859,861,864; R v. Padison, (1973)3 All ER 347; Cf. Ellholt-Responsibility for involuntary acts, Ryan v. R (1967), 687 41 Australian Law Journal 497.

33. "Act", "Omission".- The word "act" denotes as well a series of acts, as a single act; the word "omission" denotes as well a series of omissions as a single omission.

COMMENT

Read with Section 32, Section 33 yields the following propositions:-

"Act" includes-

- (a) a single positive act.
- (b) Series of acts.
- (c) A single illegal omission.
- (d) A series of illegal omissions.

34. Acts done by several persons in furtherance of common intention.- When a criminal act is done by several persons in furtherance of the common intention of all, each of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

CHARGE

That on or about you.....at.....along with B.C.D.E., etc., committed a criminal act (enter the detail of the act) punishable under Section 34,I.P.C., in furtherance of a common intention or you..... And B.C.D.E. etc., arrived at (give the date and time) the meeting,(give the details of common intention) and you are guilty under Sectionof the I.P.C, read with Section 34, I.P.C.

COMMENTS

Principle: The principle underlying the section is that as the intention is common, the liability must also be common.- Ganesh Singh v. Ram Rafie, (1869)S3 Bom. LR (Privy Council) 44,45; B.N. Sirkantiah v.State, AIR 1958 SC 672. See also Viswanth Shanthamallappa Dhule v. State of Karnataka, AIR 1998 SC 246 : 1998 Cr LJ 400.

Nature of the liability : Where Section 34 applies, the liability of the person liable by virtue of the section (participation in the criminal act with common intention) is not the liability as an abettor but liability as a principal.- Nga Aung Thein, 1935 ILR 13 RANG (210).

When a criminal act is done by several persons : Participation in the act and common intention are two essential ingredients of the section. Therefore, a person who has at no time played any part in the act charged cannot be held guilty by virtue of this section. (Though the participation may not be active or physical or immediate.)- Inderjit v. State, 1986 Cr LJ 966 (Del); Dasrathlal v. State of Gujarat,1979 Cr LJ 1078 (SC).

Applicability of :

- (i) The court is to take recourse to this section even if the section is not specifically mentioned. The finding that assailant concerned should have common intention with the other accused which is in restoration of such a recourse to this section.- Dhanna v.State of Madhya Pradesh, AIR 1996 SC 2478.
- (ii) Section 34 applies even if cumulative effect of injuries be of nature sufficient in the ordinary course of nature to cause death .- State of Assam v. Siba Prasad. Bora, 1985 Cr LJ 43(Gau). See also Lakha Singh v. Singh of Punjab, AIR 1998 SC 323 : 1998 Cr LJ 657

- (iii) In order to attract Section 34 of the Code, there must be pre-arranged plan and meeting of minds which may also develop on the spot. The conduct of the accused preceding, attending and following the occurrence is relevant to find out as to whether he had shared the common intention.- *Domu chopadi v. State*, 1986 (2) Cr LC 261 (Orissa).
- (iv) When accused acted in heat of moment and was on bail for the years, sentence reduced from RI of 3 years to RI of one and half year.- *Rajendra Prasad v. State of Bihar*, 1987 Cr LJ 1069 : AIR 1987 SC 1335 : 1987 CR LR 273 (SC).
- (v) Mere surrender by appellant along with accused before the police does not show meeting of minds as to bring the case within ambit of Section 34.- *Rangaswami v. State of T.N.*, AIR 1989 SC 1137 : 1+989 Cr LJ 875.
- (vi) When an offence is committed in furtherance of common intention of two or more accused, then every one of them is guilty.- *State of Punjab v. Surjit Singh*, (1987) 1 SCJ 254 : 1987 Cr LJ 845 ; AIR 1987 SC 1045 : (1987)1 Crimes 252
- (vii) When circumstances led to no other inference except that of guilt of accused, conviction is justified.- *Basanti v. State of H.P.*, 1987 Cr LJ 1869 :AIR 1987 SC 1572.
- (viii) Strong suspicion against accused cannot take place of proof.- *Basanti v. State of H.P.*,1967 Cr LJ1869: AIR 1987 SC 1572.
- (ix) In order to convict a person vicariously liable under Section 34 or Section 149, it is not necessary to prove that each and every one of them had indulged in it is not necessary to prove that each and every one of them had indulged in it is not necessary to prove that each and every one of them had indulged in overt acts,- *Rambilas Singh v. State of Bihar*,1989 Cr LJ 1782: AIR 1989 SC 1593 : (1989) 2 SCJ 280 : (1989)2 Crimes 368 (SC).

Establishment of common intention, done by proving that each shared the intention with the others. It may be formed at the spur of the moment .- *Dajya Moshya Bhil v. State of*

Maharashtra, 1984 Cr LJ 1728 :AIR 1984 SC 1717. Common intention held a question of fact.-
Maqsoodan v. State of U.P., AIR 1983 SC 126 : 1983 Cr LJ 218.

Sharing of common intention by all the accused:

- (i) Accused armed with Dharya which hit the forehead of the victim, who was being chased with stones by other co-accused.
- (ii) Sharing of common intention can be inferred from the fact that second accused secured the deceased and the first accused stabbed him.- Bachittar Singh v. State, (Delhi Administration), 1991 CrLJ2619 (Delhi). See also Vishwanath Shanthamallappa Dhule v. State of Karnataka, AIR 1998 SC 246 : 1998 Cr LJ 400.
- (iii) Some of the accused committing assault on deceased. All of accused persons are not liable for conviction, Dukhmochan Pandey v. State of Bihar, 1998 Cr LJ 66: AIR 1998 SC 40.

Benefit of doubt :

- (i) intention of one of the accused proved but not conductively in the case of others. Held, benefit of doubt to be extended, sentence reduced from life to 5 years.- Ranapartap v. State of Haryana, AIR 1983 SC 680: 1983 Cr LJ 1272: 1983 (2) Crime 342 (SC).
- (ii) The accused in the instant case took a leading part by entering the house and aiding and assisting other in murdering six persons in the house. He was armed with a gun and participated in the murder of the deceased. He was given benefit of doubt since the witnesses described the features of the accused and they did not tally.- Lokpal Singh v. State of M.P., 1985 Cr LJ 1134 : AIR 1985 SC 891 : (1985) Cr LR (SC)189.
- (iii) Supreme Court found the fact and circumstance which proved joint participation of appellants in the crime, in the manner in which looted properties were distributed among them.- Mukund alias Kundu Mishjra v. State of M.P., AIR 1997 SC 2622 : 1997 Cr LJ 3182 : (1997)2 SCJ 65.

Common Ingredient of:

- (i) All other accused are acquitted as evidence of eye witnesses did not prove their participation in the offence of murder. Main accused could not be given benefit of doubt on the same ground. The benefit of doubt does not come under finding of the evidence of some witness as being totally false and absolutely unreliable.-
Jarnail Singh v. State of Punjab, AIR 1996 SC 755 : (1996)2 SCJ 130.
- (ii) All accused acted in concert, were associated with each other in dragging the deceased.

35. When such an act is criminal by reason of its being done with a criminal knowledge or intention.-Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

36. Effect caused partly by act and partly by omission.- Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

37. Co-operation by doing one of several acts constituting an offence.- When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts either singly or jointly with any other person, commits that offence.

Illustration

- (a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to Murder Z. Z dies from the defect of the several doses of poison so

administered to him. Here A and B intentionally co-operate in the commission of murder and as each of them dies an act by which the death is caused, they are both guilty of the offence though their acts are Separate.

- (b) A and B are joint jailors, and as such have the charge of Z, a prisoner alternatively for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose, dies of hunger. Both A and B are guilty of the murder of Z.
- (c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but as A did not co-operate with B. A is guilty only of an attempt to commit murder

38. Persons concerned in criminal act may be guilty of different offences.- When several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder B, having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

39. "Voluntarily".- A person is said to cause an effect "voluntarily" When he causes it by means whereby he intended to cause it, or by means, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery and thus causes the death of a person. Here, A may not have intended to cause death; and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

¹[40. **“Offence”**.- Except in the ²[Chapters] and sections mentioned in clauses 2 and 3 of this section, the words “offence” denotes a thing made punishable by this Code.

In Chapter IV, ³[Chapter V A] and in the following sections namely, sections “[64, 65, 66, ⁵[67], 71], 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389, and 445, the words “offence” has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.]

1. Subs. by Act 27 of 1870, sec. 1, for the original section.

2. Subject. by Act 8 of 1930, sec.2 and Sch.1, for “Chapter”.

3. Ins. by Act 8 of 1913, sec. 2.

4. Ins. by Act 8 of 1882, sec.1.

5. Ins. by Act 10 of 1886, sec. 21 (1)

41. “Special law”.- A “special law” is a law applicable to a particular subject.

42. “Local law”.- A “local law” is a law applicable only to a particular part of ⁶[⁷[***]⁸[India]].

43. “Illegal”, “Legally bound to do”.- The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be “legally bound to do” whatever it is illegal in him to omit.

44. “Injury”.- The word “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

- 45. “Life”**.- The word “death” denotes the death of a human being, unless the contrary appears from the context .
- 46. “Death”**.-The word “death” denotes the death of a human being , unless the contrary appears from the context.
- 47. “Animal”**.- The word “animal” denotes any living creature, other than a human being.
- 48. “Vessel”**.-The word “vessel” denotes any thing made for the conveyance by water of human beings or of property.
- 49. “Year”, “Month”**.- Wherever the word “year” or the word “month” is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.
- 50. “Section”**.- The word “section” denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.
6. Subs. By the A.O 1948, for “British India”.
 7. The words “the territories comprised in “ omitted by Act 48 of 1952, sec 3 and Sch. II.
 8. Subs. by Act 3 of 1915, sec . 3 and Sch., for the “the States” which had been subs. by the A.O 1950, for “the Provinces”.
- 51. “Oath”**.- The word “oath” includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant or to be used for the purpose or authorized by law to be made before a public servant or to be used for the purpose of proof, whether in a Court of Justice or not.
- 52. “Good faith”**.- Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention.
- 52A. “Harbor”**.- Except in section 157, and in section 130 in the case in which the harbour is given by the wife or husband or the person harboured, the word “ harbor” includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means or conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.]

CHAPTER III
OF PUNISHMENTS

53. Punishment.- The punishments to which offenders are liable under the provisions of this Code are-

First.- Delhi;

²[Secondly.- Imprisonment for life;]

³[***]

Fifthly.- Forfeiture of property ;

Sixthly.- Fine.

COMMENTS

Punishment and sentence both are clubbed together for their similarity in between; Ramesh Chandra v. State of Madhya Pradesh, 1999 (1) JCI 223.

(a) Ins. by Act 8 of 1942,sec.2.

(b) Subs. by Act 26 of 1995,sec. 117 and Sch., for “Secondly – Transportation”(w.e.f.1-1-1956).

(c) Clause “*Thirdly*” omitted by Act 17 of 1949,sec.2 (w.e.f.1-1-1956)

¹**[53A. Construction of reference to transportation-** (1) Subject to the provisions of sub-section (2) and sub-section (3), any reference to “transportation for life” in any other law for the time being in force or in any instrument or order having effect by virtue of any such law or of any enactment repealed shall be construed as a reference to “imprisonment for life”.

(2) every case in which a sentence of transportation for a term has been passed before the commencement of the Code of Criminal Procedure (Amendment)Act, ²[1955] (26 of 1955), the offender shall be dealt with in the same manner as if sentenced to rigorous imprisonment for the same term.

(3) Any reference to transportation for a term or to transportation for any shorter term (by whatever name called) in any other law for the time being in force shall be deemed to have been omitted.

(4) Any reference to “transportation” in any other law for the time being in force shall .-

(a) if the expression means transportation for life, be construed as a reference to imprisonment for life;

(b) if the expression means transportation for any shorter term, be deemed to have been omitted.]

54. Commutation of sentence of death.- In every case in which sentence of death shall have been passed, ³[the appropriate Government] may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

55. Commutation of sentence of imprisonment for life.- In every case in which sentence of ⁴[imprisonment] for life shall have been passed, ⁵[the appropriate Government] may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

55A. Definition of “appropriate Government”.- In sections 54 and 55 the expression “ appropriate Government” means,-

(a) in case where the sentence is a sentence of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and

(b) in case where the sentence (whether of death or not)is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State within the offender is sentenced.]

56. Sentence of Europeans and Americans to penal servitude, proviso as to sentence for term exceeding ten years but not for life.- [Rep. By the Criminal Law(Removal of Racial Discriminations) Act, 1949(17 of 1949) (w.e.f. 6-4-1949).]

57. Fractions of terms of punishment.- In calculating fractions of terms of punishment, ¹[imprisonment] for life shall be reckoned as equivalent to ¹[imprisonment] for twenty years.

58. Offenders sentenced to transportation how dealt with until transported.-[Rep. By the Code of Criminal Procedure (Amendment)Act, 1955,sec.117 and Sch.(w.e.f. 1-1-1956).]

59. Transportation instead of imprisonment.- [Rep. By the Code of Criminal Procedure(Amendment) Act, 1955 (26 of 1955), sec 117 and Sch.(w. e .f.1-1-1956).

60. Sentence may be (in certain cases of imprisonment)wholly or partly rigorous or simple.- In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be whole simple , or that any part of such imprisonment shall be rigorous and the rest simple.

61. Sentence of forfeiture of property.- [Rep. By the Indian Penal Code (Amendment) Act, 1921 (16 of 1921), sec.4.]

1. Subs. by Act 26 of 1955, sec.117 and Sch., for “transportation” (w.e.f.1-1-1956)

62. Forfeiture of property in respect of offenders punishable with death, transportation or imprisonment .- [Rep. By the Indian Penal Code (Amendment) Act, 1921 (16 of 1921) sec.4.]

63. Amount of fine.- Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

64. Sentence of imprisonment for non-payment of fine.- ² [In every case, of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, and in every case of an offence punishable ³[with imprisonment of fine, or] with fine only , in which the offender is sentenced to a fine,]

It shall be competent to the Court which sentence such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

65. Limit to imprisonment for non-payment of fine.- The term for which the court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

66. Description of imprisonment for non-payment of fine.- The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

2. Subs. by Act 8 of 1882, sec. 2 for "In every case in which an offender is sentenced to a fine".

3. Ins. by Act 10 of 1886, sec. 21(2).

67. Imprisonment for non-payment of fine, when offence punishable with fine only.- If the offence be punishable with fine only, ¹[the imprisonment which the Court imposes in default of payment of the fine shall be simple, and] the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six month in any other case.

68. Imprisonment to terminate on payment of fine.- The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

69. Termination of imprisonment on payment of proportional part of fine- If before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of a payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment. A will be discharged as soon as the first month has expired. If seventhly- five rupees be paid or levied at the time of the expiration of the first month , or at any later time while A continues

in imprisonment. A will be immediately discharged. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

1. Ins. by Act 8 of 1882., sec. 3.

70. Fine leviable within six years or during imprisonment – Death not to discharge property from liability .- The fine, or any part there of which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

71. Limit of punishment of offence made up of several offences.- Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

²[Where any thing is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence, the offender shall not be punished with a more severe punishment than the court which tries him could award for any one of such offences.]

Illustrations

- (a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating. And also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.
- (b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

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2. Added by Act 8 of 1882, sec.4.

72. Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.- In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences, he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is provided if the same punishment is not provided for all.

73. Solitary confinement.- Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement of any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say-

a time not exceeding one month if the term of imprisonment shall not exceed six months;

a time not exceeding two months if the term of imprisonment shall exceed six months and ¹[shall not exceed one] year.

A time not exceeding three months if the term of imprisonment shall exceed one year.

74. Limit of solitary confinement.- In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

1. Subs. by Act 8 of 1882, sec. 5 for "be less than a.

²**[75. Enhanced punishment for certain offences under Chapter XII or Chapter XVII after previous conviction.-** Whoever, having been convicted,-

(a) by a court in ³[India], of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, ¹[***] shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to

²[imprisonment for life], or to imprisonment of either description of for a term which may extend to ten years.]

CHAPTER IV

GENERAL EXCEPTIONS

76. Act done by a person bound , or by mistake of fact believing himself bound, by law.- Nothing is an offence which is done by a person who is , or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustrations

- (a) A, a soldier, fires on a mob by the order of the order of his superior officer, in conformity with the commands of the law. A has committed no offence.
- (b) A , an officer of a Court of justice, being ordered by that Court to arrest Y, and , after due enquiry, believes to be, given to him by law .

77. Act of judge when acting judicially.- Nothing is an offence which is done by a judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Illustrations

2. Subs. by Act 3 of 1910,sec. 2, for the original section.

3.The words "British India" have successively been subs. by the A.O. 1950 and Act 3 of 1951, sec.3 and Sch., to read as above.

78. Act done by a pursuant to the judgment or order of Court.- Nothing which is done in pursuance of , or which is warranted by the judgment or order of, a Court of justice; if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

79. Act done by a person justified, or by mistake of fact believing himself justified, by law.- Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake

of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law in good faith, he lives himself to be justified by law, in doing it.

Illustration

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self defense

80. Accident in doing a lawful act.- Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution. A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. Act likely to cause harm, but done without criminal intent, and to prevent other harm.- Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intentions to cause harm, and in good faith for purpose of preventing or avoiding other harm to person or property.

Explanation.- It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations

(a) A, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down to boat B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it is found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

- (b) A, in a great fire, pulls down houses on order to prevent the conflagration from spreading . He dies this with the intention in good Faith of saving human life or property. Here, if it is found that the harm to be prevented was of such a nature and so imminent as to excuse A's act A is not guilty of the offence.

82. Act of a child under seven years of age.- Nothing is an offence which is done by a child under seven years of age.

83. Act of child above seven and under twelve of immature understanding.-Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

84. Act of a person of unsound mind.- Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the act, or that he is doing what is either wrong or contrary to law.

85. Act of a person incapable of judgment by reason of intoxication caused against his will.- Nothing is an offence which is done by a person who, at the time of doing it , is by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrongs, or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

- (i) Voluntary drunkenness is no excuse for commission of a crime ; Mirza Ghani Baig v. State of Andhra Pradesh,(1997) 2 Crimes 19 (AP).
- (ii) So far as knowledge is concerned, the standard of test is same as in case of intention;
- (iii) The court must attribute to the intoxicated man the same knowledge as if he was quite sober unless he was besides his mind altogether at the time of incident; Mirza Ghani Baig v.State of Andhra Pradesh,(1997)2 Crimes 19 (AP).

86. Offence requiring a particular intent or knowledge committed by one who is intoxicated.- In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

COMMENTS

- (i) The prosecution has to prove that in spite of drunkenness the accused had intention to commit the act forbidden by law; Mirza Gani Baig v. State of Andhra Pradesh,(1997)2 Crimes 19 (AP).

- (ii) Sometimes intention on the part of the person who is drunk can also be assessed from the nature of weapon used in the commission of the offence. If a person uses a weapon which is not dangerous and the attack results in death, a malicious intention cannot be drawn against him even though drunkenness is no excuse; *Mirza Ghani Baig v. State of Andhra Pradesh*, (1997) 2 Crimes 19 (AP).

87. Act not intended and not known to be likely to cause death or grievous hurt , done by consent .-

Nothing which is not intended to cause death , or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied , to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration

A, a surgeon , knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death and intending in good faith, Z's benefit performs that operation on Z, with Z's consent. A has committed no offence.

88. Act not intended to cause death, done by consent in good faith for person's benefit.- Nothing which is not intended to cause death , is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death and intending in good faith, Z's benefit performs that operation on Z, with Z's consent. A has committed no offence.

89. Act done in good faith for benefit of child or by consent of guardian.- Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person:

Provisos –Provided-

First-That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Secondly-That this exception shall not extend to the doing of any thing which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly-That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly-That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations

A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death, but not intending to cause the child's death. A is within the exception in as much as his object was the cure of the child.

90. Consent known to be given under fear or misconception.- A consent is not such a consent as it intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

Consent of insane person.- if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

Consent of child.- unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

91. Exclusion of acts which are offences independently of harm caused.- The exceptions in sections 87,88 and 89 do not extend to acts which are offences independently of any harm which they may

cause, or be known to be likely to cause, to the persons giving the consent, or on whose behalf the consent is given.

Illustration

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman

92. Act done in good faith for benefit of a person without consent.- Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit:

Provisos- Provided-

*First-*That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

Secondly- That this exception shall not extend to the doing of any thing which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

*Thirdly-*That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

*Fourthly-*That this exception shall not extend to the abetment of any offence, to the committing of which offence it is which offence to would not extend.

Illustrations

(a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

- (b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.
- (c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is no time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child's benefit. A has committed no offence.
- (d) A is a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the housetop, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.- Mere pecuniary benefit is not benefit within the meaning of sections 88, 89 and 92.

93. Communication made in good faith.- No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

94. Act to which a person is compelled by threats.- Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.- A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.- A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

95. Act causing slight harm.- nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defense

97. Things done in private defence.- Nothing is an offence which is done in the exercise of the right of private defence.

COMMENTS

- (i) In judging whether accused has exceeded his right to private defence or not the court has to take into account the weapons used; *Madan Mohan Pandey v. State of Uttar Pradesh*, (1991) Cr LJ 467 (SC)
- (ii) The accused is not required to prove the plea of private defence of person beyond reasonable manner of doubt. The onus on the accused is only to show that the defence version is probable one which is reflected from the salient features and the circumstances in the prosecution case itself; *Sawai Ram v. State of Rajasthan*, (1997)2 Crimes 148 (Raj).
- (iii) Divergent views expressed by court where prosecution failed to explain the injuries sustained by accused in same occurrence. Hence referred to larger Bench; *Ram Sunder Yadav v. State of Bihar*, 1999 Cr LJ 3671 (SC).
- (i) The defence version regarding accused acting in self defence was liable to be proved by accused; *Rasikbhai Ram Singh Rana v. State of Gujarat*, 1999 (1) Guj CR 176.

97. Right of private defence of the body and of property.- Every person has a right, subject to the restrictions contained in section 99, to defend-

First-His own body, and the body of any other person, against any offence affecting the human body;

Secondly- The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery,

mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

COMMENTS

Where the accused persons armed with guns started continuous firing at members of prosecution parties, even if accused has a claim of right to the property should have approach to Magistrate it is difficult to concede right of private defence; Ayodhya Ram v. State, 1999 (4) Crimes 113:

98. Right of private defence against the act of a person of unsound mind, etc.- When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

- (i) Z, under the influence of madness, attempts to kill A; Z guilty of no offence. But A has the same right of private defence which he would have if Z were sane.
- (ii) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

99. Act against which there is no right of private defence.- There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act, may not be strictly justifiable by law.

There is right of private defence against an act which does not, reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

There is no right of private defence in case in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised.- The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.- A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows or has reason to believe, that the person doing the act is such public servant.

Explanation 2.- A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of an public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

100. When the right of private defence of the body extends to causing death.- The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:-

First.- Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly.- Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly. – An assault with the intention of committing rape;

Fourthly.- An assault with the intention of gratifying unnatural lust;

Fifthly.- An assault with the intention of kidnapping or abducting;

Sixthly.- An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

COMMENTS

- (i) The inmates clearly had a right of private defence against the against the intruders who tried to extract money by force; Kishore Shambhudata Maharashtra,(1989) Cr LJ 1149: AIR 1989 SC 1173.
- (ii) If the accused had already dealt several blows on the deceased, he could not have been in a position to shoot at the accused persons. Having regard to some of the admissions made by the witness, it appears that the accused took forcible possession of the land some days ago. Therefore, even assuming that they come into possession after committing trespassing, if the deceased and others had gone to the land they cannot be held to be aggressors as pleaded by the defence; Khuddu v. State of Uttar Pradesh , AIR 1993 SC 1538 (1540).
- (iii) Under what circumstances accused gave knife blow to the deceased could be not explained by accused, acquittal on ground of self defence not justified; State of Uttar Pradesh v.Laeg, 1999 (5)SCC 588 :AIR 1999 SC 1942.
- (iv) While being chased by deceased appellant attacked on deceased caused fire incited wound, held exceeded the right of private defence, conviction under section 304 Part I Proper; Suresh Singh v.State, AIR 1999 SC 1773 : 1999 (2) Crimes 42.
- (v) Attack by single blow on the neck of deceased proved fatal.Held accused exceeded right of private defence; Amar Singh v. State of Madhya Pradesh, 1997 SCC (Cr) 630.
- (vi) Self inflicted injuries not explained by prosecution except the reliance on medical evidence acquittal of accused not justified ; Chuhar Singh v. State of Punjab,1999 AIR (SC) 1773: 1999 (2) Crime 1052: 1991 SC (Cr) 1066: 1998 (4) JT 449.
- (vii) Absence of pleading of self defence injuries caused by sharp cutting weapon circumstances of blow by knife nit explained by accused on deceased acquittal by High Court set aside ;State of Uttar Pardesh v. Laeeq, 1999 (5) SCC 588: 1999 (5) Supreme 55.

101. When such right extends to causing any harm other than death.- If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

102. Commencement and continuance of the right of private defence of the body.- The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

103. When the right of private defence of property extends to causing death.- The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:-

First- Robbery;

Secondly- House-breaking by night;

Thirdly- Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly- Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

STATE AMENDMENTS

State of Karnataka:

- (1) In clause Thirdly,-
 - (i) after the words "mischief by fire"; the words "or any explosive substance" shall be inserted;

(ii) after the words “as a human dwelling or” insert the words” as a place of worship, or”.

(2) After clause Fourthly, the following clause shall be inserted, namely:-

Fifthly .- Mischief by fire or any explosive substance committed on any property used or intended to be used for the purpose of Government or any local authority, statutory body or company owned or controlled by Government , railway or tramway, or on any vehicle used or adapted to be used , for the carriage of passengers for hire or reward”.

[Vide Maharashtra Act No. 19 or 1917, sec.26 ,(w.e.f.31-12-1917)].

State of Maharashtra.

In section 103, after clause fourthly , add the following clause, namely:-

“Firstly:- Mischief by fire or any explosive substance committed on-any property used or intended to be intended to be used for the purpose of Government, or any local authority statutory body or company owned or controlled by Government or railway or any vehicle used or adapted to be used for the carriage of passengers for hire or reward”.

State of Uttar Pradesh :

In section 103, after clause fourthly, add the following clause, namely:-

“Fifthly: Mischief by fire or any explosive substance committed on-

- (a) Any property used or intended to be used for the purpose of Government, or any local authority or other corporation owned or controlled by the Government, or
- (b) any railway as defined in clause (4) of section 3 of the Indian Railways Act, 1890 or railways stores as defined in the Railways Stores (Unlawful Possession) Act, 1955, or
- (c) any transport vehicle as defined in clause (33) of section 2 of the Motor Vehicles Act.

[Vide U.P. Act No. 29 of 1970, sec.2 (w.e.f. 17-7-1970)].

COMMENTS

Ingredient of plea of self defence not available - acquittal not justified; Jai Bhagwan v. State of Haryana AIR 1999 SC 1083 : 1999 (3) SCC 102.

104. When such right extends to causing any harm other than death.- If the offence, the committing or which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99, to the voluntary causing to the wrong-doer of any harm other than death.

COMMENTS

Accused caused grievous hurt by dangerous weapon, he is protected as he so in exercise of right of self defence under section 104 I.P.C. guilt can not be proved under section 326 IPC. Acquittal justified ; Jai Bhagwan v. State of Haryana, AIR 1999 SC 1083: 1999 (3) SCC 102. 1999 (1) Crimes 98.

105. Commencement and continuance of the right of private defence of property.- The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against recovery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house – trespass which has been begun by such house- breaking continue.

106. Right of private defence against deadly assault when there is risk of harm to innocent person.- If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he can not effectually exercise that without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence of by so firing he harms any of the children.

CHAPTER V

107. Abetment of a thing.- A person abets the doing of a thing, who-

First.- Instigates any person to do that thing; or

Secondly - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.- Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.- A person who by willful misrepresentation or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, willfully represents to A that C is Z, and there by intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2. – Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.

108. Abettor.- A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.- The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.- To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustration

- (a) A instigated B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.
- (b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.- It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

- (a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.
- (b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

- (c) A instigates B to set fire to a dwelling- house. B, in consequence of the unsoundness of his mind , being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment, provided for that offence.
- (d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession , in good faith, believing it to be A's property B, acting under this misconception, does not take dishonesty, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B and committed theft.

Explanation 4.- The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B is liable to be punished for his offence with the punishment for murder; and , as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.- It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed.

Illustration

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison ; Z dies in consequence, Here, though A and C have not conspired together, Yet C has been engaged in

the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder.

¹**108-A. Abetment in India of offences outside India.**- A person abets an offence within the meaning of this Code who, in ²[India] ,abets the commission of any act without and beyond ²[India] which would constitute an offence if committed in ²[India].

Illustration

A, in ² [Indian] , instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder.]

109. Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.- Whoever abets any offence shall ,if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.- An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Illustration

- (a) A offers a bribe to B, a public servant , as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 161.

1. Subs. by Act 26 of 1955, sec. 117 and Sch., for "transportation for life" (w.e.f 1-1-1956)

2. The words" British India" have successively been subs. by A.O 1948,the A.O 1950 and Act 3 of 1951, sec. 3 and Sch. To read as above.

(b) A instigates B to give false evidence. B, in consequence of the instigation commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(a) (a) A and B conspire to poison Z. A in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

CLASSIFICATION OF OFFENCE

Punishment –Same as for offence abetted- According as offence abetted is cognizable or non- cognizable –According as offence abetted is bailable or non-bailable –Triable by court by which offence abetted is triable-Non- compoundable.

111. Liability of abettor when one act abetted and different act done.- When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

proviso.- Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment. A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A though guilty of abetting the burning of the house, is not

guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

© A instigates B and C to break into an inhabited house at midnight for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

CLASSIFICATION OF OFFENCE

Punishment – Same as for offence intended to be abetted- According as offence abetted is cognizable or non- cognizable –According as offence abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

113. Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.- When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, caused a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

CLASSIFICATION OF OFFENCE

Punishment – Same as for offence committed – According as offence abettered is cognizable or non- According as offence abetted is bailable or non- bailable- Triable by court by which offence abetted is triable – Non-compoundable.

114. A better present when offence is committed.- Whenever any person, who is absent would be liable to be punished as an abettor, is present when the act or offence for

which he would be punished in consequence of the abetment is omitted, he shall be deemed to have committed such act or offence.

CLASSIFICATION OF OFFENCE

Punishment- Same as for offence committed- According as offence abetted is cognizable or non-cognizable- According as offence abetted is bailable or non-bailable -Triable by court by which offence abetted is triable- Non-compoundable .

115. Abetment of offence punishable with death or imprisonment for life – if offence not committed.- Whoever abets the commission of an offence punishable with death or ¹[imprisonment for life], shall, if that offence be not committed in consequence of the abetment , and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine;

If act causing harm be done in consequence.- and if any act for which the abettor is liable in consequence of the abetment, and which cause hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years and shall also be liable to fine.

1. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transportation for life” (w.e.f 1-1-1956)

Illustration

A instigates B to murder Z. the offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or ¹[imprisonment for life].therefore A is liable to imprisonment of either description for a term which may extend to seven years and also to a fine; and if any hurt be done to Z in consequence of the abetment , he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 7 years and fine- According as offence abetted is cognizable or non-cognizable- non-bailable-Triable by court by which offence abetted is triable- Non-compoundable.

Para II : Punishment- Imprisonment for 14 years and fine- According as offence abetted is cognizable or non-cognizable- non-bailable-Triable by court by which offence abetted is triable- Non-compoundable.

116. Abetment of offence punishable with imprisonment- if offence be not committed.-

Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both;

If abettor or person abetted be a public servant whose duty it is to prevent offence.- and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations

- (a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.
- (b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.
- (c) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

- (a) (a) B abets the commission of a robbery by A, a police-officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

CLASSIFICATION OF OFFENCE

Para I.:- Punishment – Imprisonment extending to a quarter part of the longest term. Provided for the offence, or fine, or both – According as offence abetted is cognizable or non-cognizable – According as offence abetted is bailable or non-bailable – Triable by court by which offence abetted is triable – Non-compoundable.

Para II :- Punishment – Imprisonment extending to half of the longest term, provided for the offence, or fine, or both – According as offence abetted is cognizable or non-cognizable – According as offence abetted is bailable or non-bailable – Triable by court by which offence abetted is triable – Non-compoundable.

117. Abetting commission of offence by the public or by more than ten persons.-

Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished – Triable by court by which offence abetted is triable – Non-compoundable.

Illustration

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

CLASSIFICATION OF OFFENCE

Punishment – Imprisonment for 3 years, or fine, or both – According as offence abetted is cognizable or non-cognizable – According as offence abetted is bailable or non-bailable – Triable by court by which offence abetted is triable – Non-compoundable.

118. Concealing design to commit offence punishable with death or imprisonment for life. – Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the

commission of an offence punishable with death or ¹[imprisonment for life]; voluntarily conceals, by act or illegal omission, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design,

If offence be committed- if offence be not committed.- Shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description, for a term which may extend to three years; and in either case shall also be liable to fine.

1. Subs. by Act 26 of 1955, sec. 117 and Sch., for "transportation for life" (w.e.f 1-1-1956)

Illustration

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

CLASSIFICATION OF OFFENCE

Para I : Punishment – Imprisonment for 7 years and fine –According as offence abetted is cognizable or non- cognizable- Non- bailable- Triable by court by which offence abetted is triable-Non- compoundable.

Para II : Punishment – Imprisonment for 3 years and fine –According as offence abetted is cognizable or non- cognizable- Non- bailable- Triable by court by which offence abetted is triable-Non- compoundable.

119. Public servant concealing design to commit offence which it is his duty to prevent.-

Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent;

voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design;

If offence be committed.- shall , if the offence be committed , be punished with imprisonment of any description provided or the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both;

If offence be punishable with death, etc.- or , if the offence be punishable with death or ¹[imprisonment for life], with imprisonment of either description for a term which may extend to ten years;

If offence be not committed.- or if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.

Illustration

A , an officer of police , being legally bound to give information of all designs to commit robbery which may come o his knowledge, and knowing that B designs to commit robbery, omits to gives such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is lovable to punishment according to the provision of this section.

CLASSIFICATION OF OFFENCE

Para I : Punishment – Imprisonment extending to half of the longest term provided for the offence or fine or both – According as offence abetted is cognizable or non-cognizable- According as offence abetted is bailable or non-bailable-Triable by court which offence abetted is triable-Non- compoundable .

Para II : Punishment- Imprisonment for 10 years - According as offence abetted is cognizable or non-cognizable- non-bailable- Triable by court by which offence abetted is triable- Non-compoundable.

Para III : Punishment- Imprisonment extending to a quarter part of the longest term provided for the offence or fine, or both - According as offence abetted is cognizable or non-cognizable- Bailable- Triable by court by which offence abetted is triable- Non-compoundable.

1. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transportation for life” (w.e.f 1-1-1956)

120. Concealing design to commit offence punishable with imprisonment : Whoever intending to facilitate or knowing it to be likely that he will thereby facilitated the commission of an offence punishable with imprisonment, voluntarily conceals by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

If offence be committed- if offence be not committed.- shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both

CLASSIFICATION OF OFFENCE

Para I : Punishment – Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both – According as offence abetted is cognizable or non-cognizable- According as offence abetted is bailable or non-bailable or non-bailable – Triable by court by which offence abetted is triable- Non- compoundable.

Para II : Punishment – Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both – According as offence abetted is cognizable or non-cognizable- Bailable – Triable by court by which offence abetted is triable- Non- compoundable.

COMMENTS

Allegations of conspiracy in committing murder by group of 30 to 40 persons even though a strong suspicion raised regarding involvement of respondent where incident led to murder, prosecution evidence inconsistent- reversal of acquittal was proper; State of Haryana v. Pradeep Kumar, 1999 SCC (Cr) 358 : 1999 (1) Crime 8 (SC).

¹[CHAPTER VA]

CRIMINAL CONSPIRACY

120A. Definition of criminal conspiracy.- When two or more persons agree to do, or cause to done,-

- (1) an illegal act, or
- (2) an act which is not illegal by illegal means , such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.- It is immaterial whether the illegal act is the ultimate object of such agreement , or is merely incidental to that object].

COMMENTS

- (i) The prosecution is not required to prove that perpetrators agreed to do or cause to be done the illegal act; Mohd. Usman . Hussain Maniyar v. State of Maharashtra, AIR 1918 SC 162: (1918) SC Cr 381 : (1918) Cr LJ 597.
- (ii) The evidence as to transmission of thoughts sharing the unlawful design may be sufficient; Kehar Singh v. State (Delhi Admn.), (1989)Cr LJ : AIR 1988 SC 1883.

¹[**120B. Punishment of criminal conspiracy.-** (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, ² [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall , where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

1. 1. Ins. by Act 8 of 1913, sec. 3.

1. 1. Ins by Act 8 of 1913, sec. 3.

(2) Where is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six month , or which fine or with both]

CLASSIFICATION OF OFFENCE

Para I : Punishment – Same as for abetment of the offence which is the object of the conspiracy- According as the offence which is the object of conspiracy is cognizable or non- cognizable- According

as offence which is object of conspiracy is beilable or non- bailable- Triable by court by which abetment of he offence which is the object of conspiracy is triable- Non- compoundable.

Para II : Punishment – Imprisonment for six months or fine, or both- non- cognizable-Bailable-Triable by Magistrate of the first class- Non- compoundable.

COMMENTS

(i) (i) Before a person can be convicted with the aid of section 34 IPC, the ingredients that are required to be satisfied that he along with others committed a criminal act and act was done in furtherance of common intention; Chandra Kant v. State of Madhya Pradesh, AIR 1999 SC 1557.

(ii) (ii) The offence under section 120 B is an agreement between the parties to do a particular act. Association of relation to lead a conspiracy is not enough to establish to kill the deceased ; Sanjiv Kumar v. State of Humachal Pradesh, 1999

2. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transportation for life” (w.e.f 1-1-1956)

AIR (SC) 782: 1999 (1) JT 716.

(iii) To bring home the charge of conspiracy within the ambit of section 120-B of IPC it is necessary to establish conspiracy by direct evidence; Vijayan v. State of Kerala, 1999 (3) SCC 54: 1999 AIR (SC) 1086.

CHAPTER VI

OF OFFENCES AGAINST THE STATE

121. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.- Whoever, wages war against the ¹[Government of India], or attempts to wage such war, or abets the waging of such war, shall be punished with death, or ²[imprisonment for life] ³[and shall also be liable to fine].

⁴ [Illustration]

⁵[***] A joins an insurrection against the ⁶[Government of India].A has committed the offence defined in this section .

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1. 1. Subs. by the A.O 1950, for “Queen”.
 2. 2. Subs. by Act 26 of 1955,sec 117 and Sch., for “transportation for life” (w.e.f.1-1-1956).
 3. 3. Subs. by Act 16 of 1921,sec 2 for “and shall forfeit all his property”.
 4. 4. Subs. by Act 36 of 1957,sec 3 and Sch. II, for ”Illustrations”.
 5. 5. The brackets and letter “(a)” omitted by Act 36 of 1957, sec 3 and Sch. II.
 6. 6. Subs. by the A.O. 1950, for “Queen”.

⁷[***]

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or imprisonment for 10 years and fine- Cognizable- Non-bailable- Triable by Court of Session- Non- compoundable.

122. Collecting arms, etc ., with intention of waging war against the Government of India.- Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to war against the ¹[Government of India] , shall be punished with ²[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, ³[and shall also be liable to fine].

Punishment- Imprisonment for life, or imprisonment for 10 years and fine- Cognizable – Non-bailable- Triable by Court of Session – Non- compoundable.

123. Concealing with intent to facilitate design to wage war.- Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the ³[Government of India],intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate , the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

15. Ins. by Act 16 of 1921, sec. 3, for “and shall forfeit all his property”.

1. 1. Subs. by the A.O 1950, for “Governor General”.
2. 2. Subs. by Act 3 of 1951,sec 3 and Sch., for ”Governor”
3. 3. The words “or Rajpramukh” omitted by the A.O.1956.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 10 years and fine- Cognizable – Non-bailable- Triable by Court of Session – Non- compoundable.

124. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.- Whoever, with the intention of including if including or compelling the ¹[President] of India, or the ²[Government³***]] of any ⁴[State],⁵***⁶***⁷*** to exercise or refrain from exercising in any manner any of the lawful powers of such ⁸[President or ²[Governor ³***]],

assault or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such ⁸[President or ²[Governor ³***]], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

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1. 1. Subs. by the A.O 1950, for "Governor General".
 2. 2. Subs by Act 3 of 1951, sec. 3 and Sch., for "Governor".
 3. 3. The words " or Rajpramukh" omitted by the A.O.1956.
 4. 4. Subs. by the A.O. 1950, for " Province" which had been subs. by the A.O 1937, for "Presidency".
 5. 5. The words " or a Lieutenant-Governor" omitted by the A.O. 1937.
 6. 6. The words "or a Member of the Council of the Governor General of India " omitted by
 7. 7. The words "or of the Council or any Presidency" omitted by the A.O. 1937.
 8. 8. The original words" Governor General, Governor, Lieutenant –Governor or Member of Council" have successful been amended by the A.O. 1937, the A.O. 1948 and the A.O. 1937, the A.O. 1948 and the A.O. 1950 to read as above.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or imprisonment for 7 years and fine- Cognizable – Non-bailable –Triable by Court of Session- Non- compoundable.

⁹**[124A. Sedition.-** Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, ¹⁰[***] the Government established by law in 11[India]. 12[***] shall be punished with 13[imprisonment for life], to which fine by law in 11[India], 12[***] shall be punished with 13[imprisonment for life] , to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added , or with fine.

Explanation 1.- The expression "disaffection" includes disloyalty and all fallings of enmity.

9. 9. Subs. by Act 4 of 1989,sec. 4 for the original section 124A which had been ins. by Act 27 of 1870, sec. 5.

10. 10. The words" Her Majesty or" omitted by the A.O. 1950. The words" or the Crown Representaive ins. after the word "Majesty" by the A.O 1937 were omitted by the A.O. 1948.

11. 11. The words "British India" have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, sec.3 and Sch. To read as above.

12. 12. The words" or British India" ins. by the A.O. 1937 omitted by the A.O. 1948.

13. 13. Subs. by Act 26 of 1955, sec. 177 and Sch., for " transportation for life or any shorter term" (w.e.f 1-1-1956).

Explanation 2.- Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means , without exciting or attempting to excite hatred , contempt or disaffection, do not constitute an offence under this section.

Explanation 3.- Comments expressing disapprobation of the administrative or other action of attempting to excite haltered, contempt or disaffection, do not constitute an offence under this section .

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life and fine, or life and fine, or imprisonment for 3 years and fine, or fine- Cognizable- Non- bailable-Triable by Court of Session-Non-compoundable.

COMMENTS

- (i) The offence of sedition under section 124A is the doing of certain acts which would bring the Government established by law in India into hatred or contempt, or create disaffection against it; *Bilal Ahmed Kaloo v. State of Andhra Pradesh*, (1997) Supreme Today 127.
- (ii) Cassettes were heard by accused of speech of Sant Jarnail Singh Bhinderwale, held no commission of offence is said to be made out; *Balbir Singh v. State of Punjab*, 1999 (5) SCC 682 ; 1999 SCC (Cr)1030.

125. Waging war against any Asiatic power in alliance with the Government of India.- Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the 1[Government of India]or attempts to wage such war, or abets the waging of such war, shall be punished with 2[imprisonment for life],

1. 1. Subs. by the A.O. 1950, for "Queen"

2. Subs. by Act 26 of 1955, sec.117 and Sch., for "transportation for life"(w.e.f.1-1-1956

to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or imprisonment for 7 years and fine- Cognizable – Non-bailable –Tribable by Court of Session- Non- compoundable.

126. Committing depredation on territories of power at peace with the Government of India.-

Whoever commits depredation, or makes preparation to commit depredation, on the territories of any power in alliance or at peace with t 1[Government of India], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life and fine, or life and fine, or imprisonment for 7 years and fine, or fine- Cognizable- Non- bailable-Tribable by Court of Session-Non-compoundable.

127. Receiving property taken by war on depredation mentioned in sections 125 and 126. Whoever

receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life and fine, or life and fine, or imprisonment for 7 years and fine, or fine- Cognizable- Non- bailable-Tribable by Court of Session-Non-compoundable.

128. Public servant voluntarily allowing prisoner of State or war to escape - Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with 1[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life and fine, or life and fine, or imprisonment for 10 Years and fine, or fine- Cognizable- Non- bailable-Triable by Court of Session-Non-compoundable.

129. Public servant negligently suffering such prisoner to escape.- Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Simple Imprisonment for 3years and fine- Cognizable- Non- bailable-Triable by Court of Session- Non- compoundable.

130 Aiding escape of , rescuing or harbouring such prisoner.- Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to offer any resistance to the recapture of such prisoner, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

1. 1. Subs. by Act 26 of 1955, sec. 117 and such., for "transportation for life"(w.e.f.1-1-1956)

Explanation.- A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in ²[India], is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life or imprisonment for 10 Years and fine- Cognizable- Non-bailable-Triable by Court or Session- Non- compoundable.

CHAPTER VII OF OFFENCES RELATING TO THE ARMY ¹[NAVY AND AIR FORCE]

131. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty –Whoever abets the committing of mutiny by an officer, soldier, ²[sailor or airman], in the Army, ³[Navy or Air Force] of the ⁴[Government of India] or attempts to seduce any such officer, soldier, ⁵[sailor or airman] for, his allegiance or his duty, shall be punished with ⁶[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

⁷[Explanation.- In this section the words “ officer”, ⁸“soldier”, ⁹“soldier] and “airman”] include any person subject to the ¹⁰[Army Act, ¹¹[the Army Act, 1950(46 of 1950, ⁹[the Naval Discipline Act, ¹²[***] the ¹³[Indian Navy(Discipline) Act, 1934 (34 of 1934)] ¹⁴[the Air Force Act or ¹⁵[the Air Force Act, 1950(45 of 1950)], as the case may be]]

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|-----|-----|---|
| 1. | 1. | 1.Subs. by Act 10 of 1927, sec 2 and Sch.1, for “and Navy”. |
| 2. | 2. | Subs. by Act 10 of 1927, sec 2 and Sch.1, for “or sailor”. |
| 3. | 3. | Subs. by Act 10 of 1927, sec 2 and Sch.1, for “Navy”. |
| 4. | 4. | Subs by the A.O. 1950 of “Queen”. |
| 5. | 5. | Subs. by Act 10 of 1927, sec2 and Sch.I, for “or sailor”. |
| 6. | 6. | Subs by Act 26 of 1955, sec 117and Sch., for “transportation for life”.(w.e.f.1-1-1956). |
| 7. | 7. | Ins. by Act 27 of 1870 ,sec.6. |
| 8. | 8. | Subs. by Act 10 1927,sec.2 and Sch.I, for “ and soldier”. |
| 9. | 9. | Ins. By Act 35 of 1934, sec. 2 and sch. |
| 10. | 10. | Subs. by Act 10 of 1927, sec 2 and Sch.1, for “Articles of War for the better government of Her Majesty’s Army, or to the Articles of war contained in Act No.5 of 1869”. |

CLASSIFICATION OF OFFENCE

Punishment-Death,or Imprisonment for life or imprisonment for 10 Years and fine- Cognizable- Non- bailable-Triable by Court or Session- Non- compoundable

133. Abetment of assault by soldier, sailor or airman on his superior officer when in execution of his office.- Whoever abets an assault by an officer, soldier, ²[sailor or airman], in the Army, ¹[Navy or Air force] of the ⁴[Government of India], on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3years and fine- Cognizable- Non- bailable-Triable by Court or Session- Non- compoundable.

134. Abetment of such assault , if the assault is committed.- Whoever abets an assault by an officer, soldier, ¹[sailor or airman], in the Army, ²[Navy or Air Force] of the ³[Government of India], on any superior officer being in the execution of his office, shall ,if such assault be committed in consequence of that abetment be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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11. Subs. by Act 3 of 1951,sec,3 and Sch. for “the Indian Army Act, 1911”.
 12. Teh words” or that Act as modified by” omitted by the A.O. 1950.
 13. Now see the Navy Act, 1957 (62 of 1957).
 14. Subs. by Act 14 of 1932,sec,130 and Sch., for “or the Air Force Act”.
 15. Subs. by Act 3 of 1956,sec, and Sch., for “ the Indian Air Force Act 1932”.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine- Cognizable- Non- bailable-Triable by Magistrate- Non- compoundable.

135. Abetment of desertion of soldier, sailor or airman.- Whoever abets the desertion of any officer, soldier, ¹[sailor or airman], in the Army ,²[Navy or Air Force] of the ³[Government of India] , has deserted, harbours such officer, soldier, ¹[sailor or airman], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.- This provision does not extend to the case in which the harbour is given by a wife to her husband.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years and fine- Cognizable- Non- bailable-Triable by Magistrate- Non- compoundable.

136. Harboursing deserter.- Whoever, except as hereinafter expected, knowing or having reason to believe that an officer, soldier, ¹[sailor or airman], in the Army, ²[Navy or Air Force] of the ³[Government of India], has deserted, harbours such officer, soldier, ¹[sailor or airman], shall be punished with imprisonment or either description for a term which may extend to two years, or with fine or with both.

Exception.- This provision does not extend to the case in which the harbour is given by a wife to her husband.

CLASSIFICATION OF OFFENCE

. Punishment-Imprisonment for 2 years and fine, or both- Cognizable- Non- bailable-Triable by Magistrate- Non- compoundable

137. Deserter concealed on board merchant vessel through negligence of master - The master or person in charge of a merchant vessel. On board of which any deserter from the Army, ²[Navy or Air Force] of the ³[Government of India] is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred rupees if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but some want of discipline on board on board of the vessel.

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1. Subs. by Act 10 of 1927, sec.2 and Sch.I, for " or sailor".
 2. Subs. by Act 10 of 1927, sec.2 and Sch.I, for " or Navy".
 3. Subs. by the A.O. 1950, for "Queen".

CLASSIFICATION OF OFFENCE

Punishment-Fine of 500 rupees- Non-Cognizable-Bailable-Triable by any Magistrate- Non-compoundable

138. Abetment of act of insubordination by soldier, sailor or airman.- Whoever abets what he knows to be an act of insubordination by an officer soldier, ¹[sailor or airman], in the Army, ²[Navy or Air Force] of the ³[Government of India], shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 6 months, or fine, or both- Cognizable- Bailable- e-Triable by Magistrate- Non- compoundable.

⁴**[138A. Application of foregoing sections to the Indian Marine Service.**-[Rep. By the Army Act, 1934(35 of 1934), sec. 2 and Sch.].]

139. Persons subject to certain Acts.- No person subject to ⁵the Army Act, ⁶[the Army Act, 1950 (46 of 1950), or the Naval Discipline Act, ⁷[⁸***] ⁹[the Indian Navy(Discipline) Act, 1934 (34 of 1934)], ¹⁰[the Air Force Act ¹¹[the Air Force Act, 1950(45 of 1950)]]], is subject to punishment under this Code for any of the offence defined in this Chapter.

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1. Subs. by Act 10 of 1927, sec.2 and Sch.I, for "or sailor"
 2. Subs. by Act 10 of 1927, sec 2 and Sch.1, for "or sailor".
 3. Subs by the A.O. 1950 of "Queen".
 4. Ins. by Act 14 of 1887, sec 79.
 5. Subs. by Act 10 of 1927, sec 2 and Sch.I, for "any Article of War for the Army or Navy of the Queen, or for any part such Army of Navy".
 6. Subs. by Act 3 of 1951, sec 3 and Sch. for "the Indian Army Act, 1911".

140. Wearing garb or carrying token used by soldier or airman.- Whoever, not being a soldier,¹[sailor or airman], in the Military, ²[Naval or Air] Service of the³[Government of India], wears any garb or carries any token resembling any garb or token used by such a soldier, ¹[sailor or airman], with the intention that it may be believed that he is such a soldier, ¹[sailor or airman], 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.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 months ,or fine of 500rupees, or both- Cognizable- Bailable- e-Triable by Magistrate- Non- compoundable.

CHAPTER VIII

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

141. Unlawful assembly.- An assembly of five or more persons is designated an “unlawful assembly” , if the common object of the persons composing that assembly is –

First.- To overawe by criminal force, or show of criminal force, 1[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or

Second.- To resist the execution of any law, or of any legal process; or

Third.- To commit any mischief or criminal trespass or other offence; or

Fourth.- By means of criminal force , or show of criminal force , to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment.

7. Ins by Act 35 of 1934, sec 2 and Sch.

8. The words” or that Act as modified “ omitted by the A.O. 1950.

9. Now see the Navy Act,1957 (62 of 1957).

10. Subs by Act 14 of 1932, sec.130 and Sch . for “or the Air Force Act”

11. Subs by Act 3 of 1951, sec.3 and Sch . for “ the Indian Air Force Act, 1932”.

Subs. by The A.O. 1950 for "Center or any Provincial Government or legislature" of a right of way , or of the use of water or other incorporeal right of which he is in possession or enjoyment , or to enforce any right or supposed right; or

Fifth. - By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.- An assembly which was not unlawful when it assembled. May subsequently become an unlawful assembly.

COMMENTS

Conviction by taking recourse to section 149 can not be made out unless five specified objects are not proved; Ramashish v. State of Bihar, 1999 (6) JT 560: 1999 (2) JCC (SC) 471.

142. Being member of unlawful assembly.- Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it , is said to be a member of an unlawful assembly.

143. Punishment .- Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 6 months ,or fine or both- Cognizable- Bailable-Triable by Magistrate- Non- compoundable.

144. Joining unlawful assembly armed with deadly weapon.- Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate- Non- compoundable.

145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.-

Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment-Imprisonment for 2 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate- Non- compoundable.

146. Rioting.- Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

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.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate- Non- compoundable.

COMMENTS

- (i) The Sub- Inspector was pursuing investigation which is his duty and therefore it could not be said that while he was pursuing the investigation, it was in pursuance of an unlawful object and therefore no conviction could be passed under section 147; Maiku v. State of Uttar Pradesh, (1989) Cr LJ 860 : AIR 1989 SC 67.
- (ii) The Court can not place reliance on evidence of witnesses who speak generally and in omnibus way without specific reference to the identity of individual and their specific overacts in regards to incident that took place Kamer Vasha v. State of Uttar Pradesh, 1999 (7) JT 598: 1999 (9) Supreme 310.

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 .

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate of the first class- Non- compoundable.

COMMENTS

- (i) There must be nexus between the common object and the offence committed and if it is found that the same was committed to accomplish the common object every member of the assembly will become liable for the same was committed to accomplish the common object every member of the LJ 1466 : AIR 1989 SC 1456.
- (ii) Where the presence of injured eye witnesses at the place of occurrence was undoubtful and their evidence corroborated by medical evidence supported by prompt FIR against all 16 accused , therefore merely non explanation of injuries sustained by accused persons by these witnesses not fatal for prosecution and as such common object of unlawful assembly to cause death established; State of Madhya Pradesh v. Bhagwan Singh, 2000 CrLJ 123 (MP).

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 object 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.

CLASSIFICATION OF OFFENCE

Punishment-The same as for the offence –According as offence is Cognizable or non –cognizable –According as offence is bailable or non- bailable -Triable by court by which the offence is triable - Non- compoundable.

COMMENTS

- (i) It is well settled that once a membership of an unlawful assembly is established, it is no incumbent in the prosecution to establish whether any specific overt act has been

assigned to any accused . Mere membership of the unlawful assembly is sufficient; State of Maharashtra v. Joseph Mingel Koli, (1997) 2 Crimes 228 (Bom).

- (ii) Every member of an unlawful assembly is vicariously liable for the acts done by others either in the prosecution of the common object of the unlawful assembly or such which the members of the unlawful assembly knew were likely to be committed; State of Maharashtra v. Joseph Mingel Koli, (1997) 2 Crimes 228 (Bom).

150. Hiring, or conniving at hiring, or persons to join unlawful assembly.- Whoever hires or engages or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly , and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment , in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

CLASSIFICATION OF OFFENCE

Punishment-The same as for a member of such assembly, and for any offence committed by any members of such assembly- Cognizable—According as offence is bailable or non- bailable -Triable by court by which the offence is triable - Non- compoundable.

151. Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.- Whoever knowingly joins or continues in any assembly of five or ,ore persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.- If the assembly is an unlawful is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 6 months ,or fine or both- Cognizable- Bailable-Triable by any Magistrate- Non- compoundable.

152. Assaulting or obstructing public servant when suppressing riot,etc.- Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or

affray , or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate of the first class- Non- compoundable

153. Wantonly giving provocation with intent to cause riot – if rioting be committed- if not committed.- Whoever malignantly, or wantonly , by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed , shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine. Or with both ; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 1 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate of the first class- Non- compoundable

Para II. Punishment-Imprisonment for 6 month , or fine or both - Cognizable- Bailable-Triable by any Magistrate of the first class- Non- compoundable

1. Subs. by Act 35 of 1969, sec.2 , for former section.

¹[**153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintains of harmony.-** (1) Whoever

- (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on ground of religion , race, place of birth, residence, language, caste or fallings or enmity, hatred or ill- will between different religious, racial, language or regional groups or castes or communities, or

- (b) Commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities ,or
- ²[(c) organizes any exercise, movement, drill or other similar activity intending that violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence , or participates in such activity intending to use or be trained to use or e trained to use criminal force or violence or knowing it to be likely that the participants in such activity will used or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, religious, racial, language or regional group or caste or community,]

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Offence committed in place of worship, etc.- (2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 3 years, or fine or both - Cognizable-Non- bailable-Triable by any Magistrate of the first class- Non- compoundable

Para II. Punishment-Imprisonment for 5 years, or fine or both - Cognizable-Non- bailable-Triable by any Magistrate of the first class- Non- compoundable

COMMENTS

- (i) Mens rea is a necessary ingredient for the offence under section 153A of the Indian Penal Code; *Bilal Ahmed Kaloo v. State of Andhra Pradesh*, (1997) 7 *Sureme Today* 127.

- (ii) Publication of the words or representation is not offence under section 153A of the Indian Penal Code; Bilal Aje,d Kalloo v. State of Andhra Pradesh, (1997) 7 Sureme Today 127.

¹[**153B. Imputations, assertions prejudicial to national-integration.**- (1) Whoever, by words either spoken or written or by sings or by visible epresentations or otherwise,-

- (a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community , bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or
- (b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community , be denied or deprived of their rights as citizens of India, or
- (c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being member if any religious , racial,language or regional group or cast or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill- will between such members and other persons, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

1. Ins. by Act 31 of 1972, sec.2.

(2) Whoever commits an offence specified in sub-section (1) , in any place of worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall be liable to fine.]

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 3 years, or fine or both - Cognizable-Non- bailable-Triable by any Magistrate of the first class- Non- compoundable.

Para II. Punishment-Imprisonment for 5 years, or fine or both - Cognizable-Non- bailable-Triable by any Magistrate of the first class- Non- compoundable

154. Owner or occupier of land on which an unlawful assembly is held.- Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe to is likely to be committed, do not give the earliest notice thereof in his or their Power to the principal officer at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

CLASSIFICATION OF OFFENCE

Punishment-Fine of 10,000 rupees Non- Cognizable-Bailable-Triable by any Magistrate - Non-compoundable.

155. Liability of person for whose benefit riot is committed .- Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land, respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot , or who has accepted or derived any benefit there from , such person shall be punishable with fine, if he or his agent or manager having reason to believe that such riot was likely to be committed or that he respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

CLASSIFICATION OF OFFENCE

Punishment-Fine- Non- Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

156. Liability of agent of owner or occupier for whose benefit riot is committed.- Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine,if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be committed, or that the all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

CLASSIFICATION OF OFFENCE

Punishment-Fine- Non- Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

157. Harbours persons hired for an unlawful assembly.- Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Fine- Non- Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

158. Being hired to take part in an unlawful assembly or riot.- Whoever is engaged or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in Section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with fine, or with both.

Or to go armed.- and whoever, being so engaged or hired as aforesaid, goes armed or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offences is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 6 months, or both- Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

Para II. Punishment-Imprisonment for 2year, or both- Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

159. Affray.- When two or more persons, by fighting in a public place, disturb the public peace, they are said to "Commit an affray".

160. Punishment for committing affray.- Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for one months , or fine of 100 rupees, or both- Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

CHAPTER IX

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

161 To 165A.- [Rep. By the prevention of Corruption Act, 1988(49 of 1988), sec. 31.]

166. Public servant disobeying law, with intent to cause injury to any person.- Whoever, being a public servant , knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

A, being an officer directed by law to take property in execution , in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z.A has committed the offence defined in this section.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 years, or fine or both- Non-Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

167.- Public servant framing an incorrect document with intent to cause injury.- Whoever, being a public servant, and being , as¹[such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record] in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be

punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

1. Subs. by the Information Technology Act, 2000.sec. 91 and Sch.1, for certain words.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine or both- Non-Cognizable-Bailable-Triable by any Magistrate of the first class- Non- compoundable.

168. Public servant unlawfully engaging in trade.- Whoever, being a public servant and being legally bound as such public servant not to engage in trade, engage in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 years, or fine or both- Non-Cognizable-Bailable-Triable by any Magistrate of the first class- - Non- compoundable.

169. Public servant unlawfully buying or bidding for property.- Whoever, being a public servant and being legally bound as such public servant, not to purchase or bid for certain property, purchase or bids for that property, either in his own name or in the name of another, or jointly, or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine or both and confiscation of property if purchased - Non-Cognizable-Bailable-Triable by any Magistrate of the first class- - Non- compoundable.

170. Personating a public servant.- Whoever pretends to hold any particular office of a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine or both –Cognizable- Non-bailable-Triable by any Magistrate of the first class- - Non- compoundable.

171. Wearing garb or carrying token used by public servant with fraudulent intent.-

Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred to two hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 months, or fine of 200 rupees, or both- Cognizable- Bailable- Triable by Magistrate- Non- compoundable.

¹CHAPTER IXA

171A. “Candidate”, “Electoral right “ defined.- For the purpose of this Chapter-

²[(a) “candidate” means a person who has been nominated as a candidate at any election;]

(b) “electoral right “ means the right of a person to stand, or not to stand as, or to a withdraw from being, a candidate or to vote or refrain from voting at any election.

1. 1. Chapter IXA ins. by Act 39 of 1920,sec.2.
2. 2. Subs. by Act 40 of 1975,sec.9, for clause(a)

171B. Bribery.- (1) Whoever-

- (i) gives a gratification 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; or
- (ii) accepts either for himself or for any other person any gratification as reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right;

commits the offence of bribery :

Provided that a declaration of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give , or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done , shall be deemed to have accepted the gratification as a reward.

171C. Undue influence at elections.- (1) Whoever voluntarily interfere or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provision of sub-section (1) , whoever-

- (a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or
- (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter , within the meaning of sub- section (1).

(3) A declaration of public policy or a promise of public action , or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

171D. Personation at elections .- Whoever at an election applied 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 of personation at an election.

171E. Punishment for bribery.- Whoever commits the offence of bribery shall be punished with fine ,or with both.

Provided that bribery by treating shall be punished with fine only.

Explanation.- “Treating” means that form of bribery where the gratification consists in food, drink , entertainment, or provision.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 years, or fine or both or if treating only-Non - Cognizable-Bailable-Triable by Magistrate of the first class- Non- compoundable.

171F. Punishment for undue influence or personation at an election.- Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 1 years, or fine or both or if treating only Non- Cognizable-Bailable-Triable by Magistrate of the first class- Non- compoundable.

Para II. Punishment -Imprisonment for 1 years, or fine or both or if treating only-Non - Cognizable- Bailable-Triable by Magistrate of the first class- Non- compoundable.

171G. False statement in connection with an election.- Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true , in relation to the personal character or conduct of any candidate shall be punished with fine.

CLASSIFICATION OF OFFENCE

Punishment-Fine Non- Cognizable- Bailable-Triable by Magistrate of the first class- Non-compoundable.

171 H. False statement in connection with an election.- Whoever with intent to affect the result of an election makes or publishes any statement of fact which is false and which he either knows or believes to be false or does not believe to be true , in relation to the personal character or conduct of any candidate shall be punished with fine.

CLASSIFICATION OF OFFENCE

Punishment-Fine Non- Cognizable- Bailable-Triable by Magistrate of the first class- Non-compoundable.

171H. Illegal payments in connection with an election.- Whoever without the general or special authority in writing of a candidate incurs or authorizes expenses on account of the holding of any public meeting , or upon any advertisement, circular or publication , or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate , shall be punished with fine which may extend to five hundred rupees:

Provided that if any persons having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate.

CLASSIFICATION OF OFFENCE

Punishment-Fine of 500 rupees Non- Cognizable- Bailable-Triable by Magistrate of the first class- Non- compoundable.

171I. Failure to keep election accounts.- Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

CLASSIFICATION OF OFFENCE

Punishment-Fine 500 rupees- Non- Cognizable- Bailable-Triable by Magistrate of the first class- Non- compoundable.

CHAPTER X

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172. Absconding to avoid service of summons or other proceeding.- Whoever absconds in order to avoid being served with a summons, notice or order, proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons or notice or order is to attend in person or by agent, or to [produce a document or an electronic record in a Court of justice], with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Para I. Punishment- Simple imprisonment for 1 months, or fine of 500 rupees or both- Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

Para II. Punishment-Simple imprisonment for 6months, or fine of 1000 rupees or both- Non-cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

173. Preventing service of summons or other proceeding or preventing publication thereof .- Whoever in any manner intentionally prevents the serving on himself, or

on any other person, or any summons, notice or order, proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order,

or intentionally prevents the lawful affixing to any place such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made.

Shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with fine which may extend to five hundred rupees, or with both;

Or, if the summons, notice, order or proclamation is to be produced or delivered up to a Court of justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Para I. Punishment- Simple imprisonment for 1 month, or fine of 500 rupees, or both- Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

Para II. Punishment- Simple imprisonment for 6 month, or fine of 1, rupees, or both- Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

174. Non-attendance in obedience to an order from public servant.- Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same,

intentionally omits to attend at that place of time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart.

Shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Or, if summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both,

Illustrations

- (a) A, being legally bound to appear before the ²[High Court at Calcutta in obedience to a subpoena issuing from that Court, intentionally omits to appear . A has committed the offence defined in this section.
- (b) A, being legally bound to appear before a ³[District judge], as a witness , in obedience to a summons issued by that ³[District judge] intentionally omits to appear. A has committed the offence defined in this section.

-
- 1. 1. Subs. by the information Technology Act 2000,sec. 91 and Sch. I, for “produce a document in a court of justice”
 - 2. 2. Subs. by the A.O 1950, for “Supreme Court”.
 - 3. Subs. by the A.O. 1950, for “Zila judge”.

CLASSIFICATION OF OFFENCE

Para I. Punishment- Simple imprisonment for 1 month, or fine of 500 rupees, or both- Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

Para II. Punishment- Simple imprisonment for 6 month, or fine of 1,000 rupees, or both- Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

175. Omission to produce to public servant by person legally bound to produce it.-Whoever, being legally bound to produce or deliver up any ¹[document or electronic record] of any public servant,as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both,

or, if ¹[document or electronic record] is to be produced or delivered up to a court justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration

A, being legally bound to produce a document before a ²[District Court], intentionally omits to produce the same. A has committed the offence defined in this section.

CLASSIFICATION OF OFFENCE

Para I. Punishment- Simple imprisonment for 1 month, or fine of 500 rupees, or both-Non-cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

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1. 1. Subs. by the information Technology Act 2000, sec. 91 and Sch. I, for “ document ”.
 2. 2. Subs. by the A.O 1950, for “Zila Court”.
 3. 3. Subs. by the A.O. 22 of 1939, sec.2.

Para II. Punishment- Simple imprisonment for 6 month, or fine of 1,000 rupees, or both-Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

177. Furnishing false information.- Whoever, being legally bound to furnish information on any subject to any public servant, as furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Or, if the information, which of the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations

(a) A, a landholder, knowing of the commission of a murder within the limits of his estate, willfully misinforms the magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound under clause 5 section VII, ¹[Regulation III, 1821], of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest police station, willfully misinforms the police officer that a body of suspicious character passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the later part of this section.

1. Rep. by Act 17 of 1862.

²[Plantation .- In section 176 and in this section the word “offence”. Includes any act committed at any place out of ³[India], which if committed in ³[India], would be punished under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 42, 435, 436, 449, 450, 457, 458, 459, and 460; and the word “offender” includes any person who is alleged to have been guilty of any such act.]

CLASSIFICATION OF OFFENCE

Para I. Punishment- Imprisonment for 6 month, or fine of 1,000 rupees, or both-Non-cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

Para II. Punishment- Simple imprisonment for 2 years, or fine, or both-Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

178. Refusing oath or affirmation when duly required by public servant to make it.-

Whoever refuses to bind himself by an oath ¹[or affirmation] to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with fine which may extend to one thousand rupees, or with both.

Punishment- Simple imprisonment for 6 month, or fine of 1,000 rupees, or both-Non-cognizable –Bailable-Triable by the court in which the offence is committed, subject to the provisions of Chapter XXVI; if not committed in a court, any Magistrate –Non- compoundable.

2. Added by Act 3 of 1894.
3. The words “British India “ have successively been subs . by the A.O. 1950 and Act 3 of 1951. 3 and Sch. to read as above.

179. Refusing to answer public servant authorised to question.- Whoever , being legally bound to state the truth on any public servant, refuses to answer any estion demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant , shall be punished with simple imprisonment for a term which may extend to six months , or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFENCE

Punishment- Simple imprisonment for 6 month, or fine of 1,000 rupees, or both-Non-cognizable –Bailable-Triable by the court in which the offence is committed, subject to the provisions of Chapter XXVI; if not committed in a court, any Magistrate –Non- compoundable.

180. Refusing to sign statement.- Whoever refuse to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement , shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CLASSIFICATION OF OFENCE

Punishment- Simple imprisonment for 3 month, or fine of 500 rupees, or both-Non-cognizable –Bailable-Triable by the court in which the offence is committed, subject to the provisions of Chapter XXVI; if not committed in a court, any Magistrate –Non- compoundable.

181. False statement on or affirmation to public servant or person authorised to administer an oath or affirmation.- Whoever, being legally bound by an oath 1[or affirmation] to state the

truth on any subject to any public servant or other servant or other person as aforesaid, touching the subject, any believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and also be liable to fine.

1. 1. Ins. by Act 10 of 1873, sec. 15.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years and fine -Non- cognizable -Bailable-Triable by and Magistrate -Non- compoundable.

2[182. False information, with intent to cause public servant to use his lawful power to the injury of another person.- Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant-

- (a) to do or omit anything which such public servant ought not to do or omit of the true state of facts respecting which such information is given were known by him, or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustrations

- (a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that such information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

2. Subs. by Act 3 of 1895, sec. 1, for the original section

- (b) A falsely informs a public servant that Z has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.
- (c) A falsely informs a policeman that he has been assaulted and robbed in the neighborhood of a particular village. He does not mention the name of any person as one of his assistants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villages or some of them. A has committed an offence under this section.]

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months, or fine of 1,000 rupees, or both-Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

183. Resistance to the taking of property by the lawful authority of a public servant.-

Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 1 month, or fine of 500 rupees, or both-Non- cognizable – Bailable-Triable by and Magistrate –Non- compoundable.

185. Illegal purchase or bid for property offered for sale by authority of public servant.- Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with which may extend to two hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 month, or fine of 200 rupees, or both-Non- cognizable – Bailable-Triable by and Magistrate –Non- compoundable.

186. Obstructing public servant in discharge functions. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3month, or fine of 500 rupees, or both-Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable

187. Omission to assist public servant when bound by law to give assistance.- Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of justice, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Simple imprisonment for 1 month, or fine of 200 rupees, or both-Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

Para II. Punishment- Simple imprisonment for 6 years, or fine of 500, or both-Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

188. Disobedience to order duly promulgated by public servant.- Whoever, knowing that, by an order promulgated by an order promulgated by a public servant lawfully whoever, knowing that, by an order

promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience cause or tends to cause obstruction, annoyance or injury, or risk or obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to one month or with fine which may extend to two hundred rupees, or with both;

and if such disobedience cause or tends to cause dangers to human life, health or safety, or cause or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.- It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce,

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger or riot. A has committed the offence defined in this section.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Simple imprisonment for 1 month, or fine of 200 rupees, or both-Non-cognizable –Bailable-Triable by and Magistrate –Non-compoundable.

Para II. Punishment- Simple imprisonment for 6 months, or fine of 1,000, or both-Non-cognizable –Bailable-Triable by and Magistrate –Non-compoundable.

189. Threat of injury to public servant.- Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or of 200 rupees, or both-Non- cognizable
–Bailable-Triable by and Magistrate –Non- compoundable.

STATE AMENDMENTS

Andhra Pradesh:

In Andhra Pradesh offence under section 198 is cognizable.

[Vide A.P.G.O MS.No 732, dated 15-12-1991].

190. Threat of injury to induce person to refrain from applying for protection to public servant.- Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one, or with fine, or with both, of either description for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 year, or fine, or both-Non- cognizable –Bailable-
Triable by and Magistrate –Non- compoundable.

CHAPTER XI

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

191. Giving false evidence.- Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation 1. – A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2. – A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believe a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations

- (a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swear on a trail that he heard Z admit the justice of B's claim. A has given false evidence.
- (b) A, being bound by an oath to state that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z Here A state that which he knows to be false, and therefore gives false evidence.
- (c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statements is merely as to his belief it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.
- (d) A, being bound by an oath to state the truth, state that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at the place on the day named or not.
- (e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement of document which he is bound by oath to interpret or translate truly, that which is not and which he dies not believe to be a true **interpretation or translation. A has given false evidence.**

COMMENTS

Giving false information to process recover that he had not heard about notices for last two years and his whereabouts are not known is not a certificate and his whereabouts are not known is not a certificate and therefore section 191 to 199 of Code are not attracted; D. jothi v. K.P Kandagamy; 2000 Cr LJ 292 (Mad).

192. Fabricating false evidence - Whoever causes any circumstance to exist or ¹[makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement], intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said to fabricate false evidence”.

- (a) A, puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of thdft, A has fabricated false evidence false evidence.
- (b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of justice. A has fabricated false evidence.
- (c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

193. Punishment for false evidence.- Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

And whoever intentionally grieves or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

1. Subs. by the Information Technology Act, 2000, sec. 91 and Sch. I , for certain words.

Illustrations

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z out to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has gives false evidence.

Explanation 3. – An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustrations

A, in any enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false, As this enquiry is a stage of a judicial proceeding. A has given false evidence.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 7 years and fine -Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

Para II. Punishment-Imprisonment for 3 years and fine- Non- cognizable –Bailable-Triable by and Magistrate.

194. Giving or fabricating false evidence with intent to procure conviction of capital offence.-

Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital 1[by the law for the time being in force in 2[India]]shall be punished with 3[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine;

if innocent person be thereby convicted and executed.- and if innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for life, or rigorous imprisonment for 10 years and fine -Non- cognizable –Bailable-Triable by Court of Session –Non- compoundable.

Para II. Punishment- Death or as above- Non- cognizable – Non- bailable-Triable by Court of Session- Non- compoundable.

195. Giving or fabricating false evidence with intent to procure conviction of offence

punishable with imprisonment for life or imprisonment.- Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which¹[by the law for the time being in force in ²[India]] is not capital, but punishable with 3[imprisonment for life], or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The Punishment of dacoity is 3[imprisonment for life], or imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to 4[imprisonment for life] or imprisonment, with or without fine.

1. 1. Subs. by the A.O. 1948, for “by the law of British India or England”.
2. 2. Subs. by Act 3 of 1951, sec, 3 and Sch., for “ the States”.
3. 3. Subs. by Act 26 of 1955, sec 117 and Sch., for “transportation for life”(w.e.r.1-1-1956)
4. 4. Subs. by Act 26 of 1955, sec 117 and Sch., for “ suah transportation ”(w.e.r.1-1-1956)

CLASSIFICATION OF OFFENCE

Punishment –The same as for the offence – Non- cognizable – Non – bailable-Triable by Court of Session- Non- compoundable.

197. Issuing or signing false certificate.- Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

CLASSIFICATION OF OFFENCE

Punishment –The same as for the giving or fabricating false evidence– Non- cognizable – Non – Bailable-Triable by Court by which offence of giving false evidence is triable- Non- compoundable.

198. Using as true a certificate known to be false.- Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

CLASSIFICATION OF OFFENCE

Punishment –The same as for the giving or fabricating false evidence– Non- cognizable – Non – Bailable-Triable by Court by which offence of giving false evidence is triable- Non- compoundable.

199. False statement made in declaration which is by law receivable as evidence.- Whoever, in any declaration made or subscribed by him, which declaration any Court of justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

CLASSIFICATION OF OFFENCE

Punishment –The same as for the giving or fabricating false evidence– Non- cognizable – Non – Bailable-Triable by Court by which offence of giving false evidence is triable- Non- compoundable.

COMMENTS

No specific averment in the complaint that certain averments in the affidavit before Rent Control Officer are false complaint cannot be held as maintainable; Chandrpal Singh v. Maharaj Singh, AIR 1982 SC 1236.

200. Using as true such declaration knowing it to be false.- Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.- A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 to 200.

CLASSIFICATION OF OFFENCE

Punishment –The same as for the giving or fabricating false evidence– Non- cognizable – Non – Bailable-Triable by Court by which offence of giving false evidence is triable- Non- compoundable.

201. Causing disappearance of evidence of offence, or giving false information to screen offender.- Whoever, knowing or having reason to believe that an offence has been committed, cause any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believe to be false;

if a capital offence.- shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

if punishable with imprisonment for life.- and if offence is punishable with ¹[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, shall also be liable to fine;

if punishable with less than ten years' imprisonment.- and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

1. Subs. by Act 26 of 1955 .sec. 117 and Sch., for “transportation for life” (w.e.f.1-1-1956)

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 6 months, or fine, or both-Non- cognizable –Bailable-
Triable by and Magistrate –Non- compoundable.

COMMENTS

Assuming that the prosecution has positively proved that the death was homicidal yet from the medical evidence it is clear that it was not a natural death and consequently the death should at least be not as one of suicide. Even in the cause of suicide an offence of abetment punishable under section 306 is inherent. Therefore, even in the case of suicide there is an obligation on the person who knows or has reason to believe that such a suicidal death has occurred, to give information; Bhagwan Swarup v. State of Rajasthan, (1991) Cr LJ 3123 (3133) (SC).

203. Giving false information respecting an offence committed.- Whoever knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

¹[Explanation.- In sections 201 and 202 and in this section the word “ offence”, includes any act committed at any place out of ²[India], which, if committed in ²[India], would be punished under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

1. 1. Added by Act 3 1894, sec.6.

2. 2. The words ”British India“ have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951,sec.3 and Sch. to read as above.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non- cognizable –Bailable-Triable by and Magistrate –Non- compoundable.

204. Destruction of document to prevent its production as evidence.- Whoever secretes or destroys any ³[document or electronic record] which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obligates or renders illegible the whole or any part of such ³[document or electronic record] with the intention of prevention the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine, or both-Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

206. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in exaction.- Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

3. Subs.by the Information and Technology Act, 2000, sec.91 and Sch.I, for"document".

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

207. Fraudulent claim to property to prevent its seizure its seizure as forfeited or in execution.-

Whoever fraudulently accepts, receives or claim any property or any interest therein , knowing that he has no right or rightful claim to such property or interest, or practices any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced ,or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non- cognizable – Bailable-Triable by and Magistrate of the first class –Non- compoundable.

208. Fraudulently suffering decree for sum not due. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for any interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with both.

Illustration

A institutes a suit against Z.Z knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non- cognizable –
Bailable-Triable by and Magistrate of the first class –Non- compoundable.

209. Dishonesty making false claim in Court.- Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

CLASSIFICATION OF OFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non- cognizable –
Bailable-Triable by and Magistrate of the first class –Non- compoundable.

210. Fraudulently obtaining decree for sum not due.- Whoever fraudulently obtains a decree or order against any person for a sum not due or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied for any thing in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non- cognizable –
Bailable-Triable by and Magistrate of the first class –Non- compoundable.

211. False charge of offence made with intent to injure.- Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charge any person with having committed an offence, against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment with imprisonment of

either description for a term which may extend to seven years, and shall also be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 2 year , or fine both-Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

Para II: Punishment -Imprisonment for 7 year and fine -Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable

Para III : Punishment -Imprisonment for 7 year , and fine Non- cognizable –Bailable-Triable by Court of session –Non- compoundable.

212. Harboursing offender.- Whenever an offence has been committed, whoever harbors or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment ;

if a capital offence.- shall, if the offence is punished with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.- and if the offence is punishable with ¹[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with both.

²["Offence" in this section includes any act committed at any place out of ³[India], which, if committed in ³[India], would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in ³[India].]

Exception.- The provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

1. 1. Subs. by Act 26 of 1955, sec. 117 and Sch., for "transportation for life" (w.e.f 1-1-1956)
2. 2. Ins. by Act 3 of 1894, sec.7.
3. 3. 3.The words "British India" have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, sec.3 and Sch. to read as above.

Illustration

A, knowing that B has committed dacoity, knowing conceals B in order to screen him for legal punishment. Here, as B is liable to ¹[imprisonment for life], A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 5 year, or fine both-Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

Para II: Punishment -Imprisonment for 3 year and fine -Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable

Para III : Punishment -Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both -Cognizable –Bailable-Triable by the first class–Non-compoundable.

COMMENTS

To attract the provision of section 212 it is necessary to establish commission of offence, harboring or concealing the person known or believe to be the offender and such concealment must be with the intention of screening him from legal punishment; Sanjeev Kumar v. State of Himachal Pradesh, 1999 AIR (SC) 782: 1994 (2)SCC 288: 1999 (1) JT 116.

213. Taking gift, etc., to screen an offender from punishment.- Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person for the purpose of bringing him to legal punishment,

if a capital offence.- shall, if the offence is punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

1. 1. Subs. by Act 26 of 1955, sec. 117 and Sch, for “transportation for life”(w.e.f.1-1-1956)

if punishment with imprisonment for life, or with imprisonment.- and if the offence is punishable with 1[imprisonment for life], or with imprisonment which may extend to three years, and shall also be liable to fine;

and if the offence is punishable with 1[imprisonment not extending to ten], or with years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 7 Year, or fine both-Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

Para II: Punishment -Imprisonment for 3 year and fine -Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable

Para III : Punishment -Imprisonment for a quarter of the longest term, provided for the offence, or fine, or both -Cognizable –Bailable-Triable by the first class–Non- compoundable.

214. Offering gift or restoration of property in consideration of screening offender.- Whoever gives or cause, or offers or agrees to give or cause, any gratification to any person, or ¹[restores or causes the restoration of] any property to any person, in consideration of that person's concealing an offence, or

of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment;

if a capital offence. – shall, if the offence is punishable with death be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life, or with imprisonment.-and if the offence is punishable with ²[imprisonment for life], or with imprisonment which may

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1. Subs. by Act 42 of 1953 ,sec.4 and Sch.IIIfor “to restore or cause the restoration”
 2. Subs. by Act 26 of 1955,sec.117 and Sch., for “transporation for life”(w.e.f.1-1-1956)

extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and also be liable to fine;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine , or with both.

³[Exception .- The provisions of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded.]

⁴[***]

CLASSIFICATION OF OFENCE

Para I :Punishment- Imprisonment for 7 year , or fine both-Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

Para II: Punishment -Imprisonment for 3 year and fine -Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable

Para III : Punishment -Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both -Cognizable –Bailable-Triable by the first class–Non-compoundable.

215. Taking gift to help to recover stolen property, etc. – Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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3. 3. Subs. by Act 8 of 1882, sec. 6, for the original Exception.
 4. 4. Illustration rep. by Act 10 of 1882, sec. 2 and Sch. I.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non- cognizable –
Bailable-Triable by and Magistrate of the first class –Non- compoundable.

216. Harboring offender who has escaped from custody or whose apprehension has been ordered.- Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody;

or whatever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for apprehension, harbors or conceals that person which the intention of preventing him from being apprehended, shall be punished in the manner following that is to say:-

if a capital offence.- if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

if punishable with imprisonment for life, or with imprisonment.- if the offence is punishable with 1[imprisonment for life], or imprisonment for ten years, he shall be punished

with imprisonment of either description for a term which may extend to three years, with or without fine;

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punishable with imprisonment of the description provided for the offender for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

²["Offence" in this section includes also any act or omission of which a person is alleged to have been guilty out of ²[India], which, if he had been guilty of it in

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1. 1. Subs. by Act 26 of 1955, sec. 117 and Sch., for "transportation for life"(w.e.f.1-1-1956).
 2. 2. Ins. by Act 10 of 1886,sec. 23

³[India], would have been punishable as an offence, and for which he is, under any law relating to extradition, ⁴[***] of otherwise, liable to be apprehended or detained in custody in ³[India]; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in ³[India].]

Exception.- The provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 7 years and fine- Cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

Para II: Punishment -Imprisonment for 3 years with or without fine -Cognizable – Bailable-Triable by and Magistrate of the first class –Non- compoundable

Para III : Punishment -Imprisonment for a quarter of the longest term,provided for the offence, or fine, or both -Cognizable –Bailable-Triable by Magistrate of the first class–Non- compoundable.

⁵[**216A. Penalty for harbouring robbers or dacoits.**- Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Exception .- For the purposes of this section it is immaterial whether the robbery or

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3. 3. The words "British India" have successively been subs. by the A.O. 1948 the A.O. 1950 and Act 3 of 1951, sec.3 and Sch. to read as above.
 4. 4. The words "or under the Fugitive Offenders Act, 1881," omitted by Act 3 of 1951, sec.3 and Sch.
 5. 5. Ins. by Act 3 of 1894, sec. 8.

Dacoity is intended to be committed, or has been committed, within or without ¹[India].

Exception. - This provision does not extend to the case in which the harbour is by the husband or wife of the offender.]

CLASSIFICATION OF OFFENCE

Punishment –Rigorous imprisonment of 7 years and fine- Cognizable – Non – Bailable-Triable by Magistrate of the first class - Non- compoundable.

²[**216B. Definition of "harbour" in sections 212,216 and 216A.**-[Rep. By the Indian Penal Code (Amendment) Act, 1942 ,(8 of 1942), sec. 3.]]

217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.- Whoever, being a public servant, knowing disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending

thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or subject him to a less likely thereby to save, any property with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 2 year, or fine both-Non- cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.- Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which

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1. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transportation for life” (w.e.f.1-1-1956)

it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 years, or fine, or both-Cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

219. Public servant in judicial proceeding corruptly making report, etc., contrary to law.- Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to

law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years, or fine, or both-Cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

220. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.- Whoever, being in any office which gives him legal authority to commit persons for trial or to commitment, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority knowing that in so doing he is acting contrary to law, shall be punished with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years, or fine, or both-Cognizable –Bailable-Triable by and Magistrate of the first class –Non- compoundable.

221. Intentional omission to apprehend on the part of public servant bound to apprehend.- Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:-

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was

charged with, or liable to be apprehended for , an offence punishable with ¹[imprisonment for life] or imprisonment for a term which may extend to ten years; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for , an offence punishable with imprisonment for life for a term less than ten years.

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 7 years with or without fine-According as the offence in relation to which such omission has been made is cognizable or non-cognizable-Bailable-Triable by and Magistrate of the first class –Non-compoundable.

Para II: Punishment -Imprisonment for 3 years with or without fine -Cognizable –Bailable-Triable by and Magistrate of the first class –Non-compoundable.

Para III : Punishment -Imprisonment for 2 years with or without fine -Cognizable –Bailable-Triable by and Magistrate of the first class –Non-compoundable.

1. Subs. by Act 26 of 1955, sec.117 and Sch., for “transportation for life” (w.e.f.1-1-1956)

222. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.- Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of justice for any offence¹[or lawfully committed to custody], intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person, or intentionally suffers such person to escape or intentionally aids such person, or intentionally aids such person in escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:-

with ²[imprisonment for life] or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of justice, or by virtue of a commutation of such sentence, to ²[imprisonment for life]

³[***] ⁴[***] ⁵[***] ⁶[***] or imprisonment for a term of ten years or upwards; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended is subject, by a sentence of a Court of justice, to imprisonment for a term not exceeding to ten years ⁷[or if the person was lawfully committed to custody]

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1. 1. Ins. by Act 27 of 1870, sec.8.
 2. 2. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transpiration for life”(w.e.f.1-1-1956).
 3. 3. 3.The words”or penal servitude for life “omitted by Act 17 of 1949, sec.2 (w.e.f.6-4-1949).
 4. 4. 4. The words” or to” omitted by Act 36 of 1957,sec.3 and Sch. II.
 5. 5. The words” transportation” omitted by Act 26 of 1955,sec .117 and Sch.(w.e.f.1-1-1956).
 6. 6. The words”or penal servitude for life “omitted by Act 17 of 1949, sec.2 (w.e.f.6-4-1949).
 7. 7. Ins. by Act 27 of 1870,sec.8

CLASSIFICATION OF OFENCE

Para I : Punishment- Imprisonment for 14 years, with and without fine- Cognizable –Non-bailable-Triable by Court of session- Non- compoundable.

Para II: Punishment -Imprisonment for 7 years with or without fine -Cognizable – Non-bailable-Triable by Magistrate of the first class Court of session- Non- compoundable

Para III : Punishment -Imprisonment for 3 years, or with or without fine or both -Cognizable – Non-bailable-Triable by Magistrate of the first class Court of session- Non

223. Escape from confinement or custody negligently suffered by public servant.- Whoever being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence [or lawfully committed to custody], negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 2 years, or fine or both-Non- cognizable –Bailable-Triable by Court of session- Non- compoundable.

224. Resistance or obstruction by a person to his lawful apprehension.- Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with fine, or with both.

Explanation.- The punishment in this sections is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 2 years, or fine or both-Non- cognizable –Bailable-Triable by any Magistrate- Non- compoundable.

225. Resistance or obstruction to lawful apprehension of another person.- Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any apprehension of any other person for an offence, or rescues or attempts to rescue any shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both;

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with ¹[imprisonment for life] or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation or such a sentence, to¹[imprisonment for life]²[***]³[***]⁴[***] or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

or, if the person to be apprehended, or rescued, or attempted to be rescued, is under sentence of death, shall be punished with ¹[imprisonment for life] or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

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1. 1. Subs by Act 26 of 1955, sec. 117 and Sch., for "transportation for life" (w.e.f. 1-1-1956).
 2. 2. The words "or to" omitted by Act 36 of 1957, sec. 3 and Sch. II.
 3. 3. The words "transportation" omitted by Act 26 of 1955, sec. 117 and Sch. (w.e.f. 1-1-1956).
 4. 4. The words "penal servitude" omitted by Act 17 of 1949, sec. 2 (w.e.f. 1-1-1949).

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 2 years, or fine or both-Non- cognizable –Bailable-Triable by any Magistrate- Non- compoundable.

Para II: Punishment -Imprisonment for 3 years with or without fine -Cognizable – Non-bailable-Triable by Magistrate of the first class .-Non- compoundable.

Para III & IV: Punishment -Imprisonment for 7 years and fine Cognizable – Non-bailable-Triable by Magistrate of the first class.

Para V : Punishment -Imprisonment for life or imprisonment for 10 years and fine Cognizable – Non-bailable-Triable by Court of Session.

¹**[225A. Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise, provided for.-** Whoever, being a public servant legally bound as such public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not

provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished-

- (a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and
- (b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 3 years, or fine or both-Non- cognizable –Bailable-Triable by any Magistrate of the first class- Non- compoundable.

Para II: Punishment –Simple imprisonment for 2 years, or both -Non -cognizable – Non-Bailable-Triable by Magistrate.

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- 1. 1. Sections 225A 225B subs. by Act 10 of 1886,sec. 24(1) , for section 225 A which had been ins. by Act 27 of 1870,dec.9.

225B. Resistance or obstruction to lawful apprehension , or escape or rescue in cases not otherwise provided for.- Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of him self or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person form any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months, or fine or both-Non- cognizable –Bailable-Triable by any Magistrate- Non- compoundable.

226. Unlawful return from transportation.- [Rep. By the Code of Criminal Procedure (Amendment) Act, 1945 (26 of 1995), sec. 117 and sch. (w.e.f.1-1-1956).]

227. Violation of condition of remission of punishment.-Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

CLASSIFICATION OF OFFENCE

Punishment- Punishment of original sentence, or if part of the punishment has been undergone, the residue- Cognizable - Non-bailable-Triable by the court which the original offence was triable- Non-compoundable.

228. Intentional insult or interruption to public servant sitting in judicial proceeding.- Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding; shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

STATE AMENDMENTS

Andhra Pradesh:

In Andhra Pradesh offence under section 228 is cognizable.

[Vide A.P.G.O Ms. No 732, dated 5-12-1991].

CLASSIFICATION OF OFFENCE

Punishment –Simple imprisonment for 6 months, or fine of 1,000 rupees or both -Non - cognizable – Bailable-Triable by the Court in which the offence is committed, subject to the provisions of chapter XXVI- Non-compoundable.

¹[228A. Disclosure or identity of the victim of certain offences etc.- (1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under section 376, section 376A, section 376B, section 376C or section 376D is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

(2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is-

- (a) by or under the order in writing of the officer – in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purpose of such investigation; or

1. 1. Ins. by Act 43 of 1983, sec. 2.

- (b) by, or with the authorisation in writing of, the victim; or

- (c) where the victim is dead or minor or of unsound mind by, or with the authorization in writing of, the next of kin of the victim:

Provided that no such authorization shall be given by the next of kin to anybody other than the chairman or the secretary, by whatever name called, of any recognized welfare institution or organization.

Explanation. For the purpose of this sub-section, “recognized welfare institution or organization” means a social welfare institution or organization recognized in this behalf by the Central or State Government.

(3) Whoever prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in sub-section (1) without the previous permission of such court shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Explanation.- The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.

CLASSIFICATION OF OFFENCE

Para I :Punishment- Imprisonment for two years, and fine Cognizable –Bailable-Triable by any Magistrate - Non- compoundable.

Para II: Punishment –Imprisonment for two years and fine, -Cognizable-Bailable-Triable by Magistrate- Non-compoundable.

229. Personation of a juror or assessor.- Whoever, by resonation or otherwise shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as a juror or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn contrary to law, shall voluntarily serve on such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFENCE

Punishment- Imprisonment for 2 years, or fine, or both Cognizable –Bailable-Triable by any Magistrate of the first class - Non- compoundable.

CHAPTER XII

OF OFFENCES RELATION TO COINAND GOVERNMENT STAMPS

230. “ Coin” defined.-¹[Coin is metal used for the time being as money, and stamped and issued by the authority of some State of Sovereign Power] in order to be so used.]

Indian coin.-²[Indian coin is metal stamped and issued by the authority of the Government of Indian in order to be used as money ; and metal which has been so stamped and issued shall continue to be Indian coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money .]

Illustrations

- | | | |
|----|----|---|
| a) | a) | Cowries are not coin. |
| b) | b) | Lumps of unstamped copper, thought used as money, are not coin. |
| c) | c) | Medals are not coin, in as much as they are not intended to be used as money. |
| d) | d) | The coin denominated as the Company’s rupees is 3[Indian coin]. |

1. 1. Subs. by Act 19 of 1872, sec.1,or theoriginal first paragraph.

2. 2. Subs. by A.O. 1950, for the former paragraph.
3. 3. 3.Subs. by the A.O. 1950, for "the Queen's coin".

[⁴(e) The "Farukhabad rupee" which was formerly used as money under the authority of the Government of India is ³[Indian coin] although it is not longer so used].

231. Counterfeiting coin.- Whoever counterfeits or knowingly performs any part of any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.- A person commits this offence who intending to practise deception, or knowing it to be likely that deception will thereby be practised, caused a genuine coin to appear like a different coin.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine- Cognizable –Non -bailable-Triable by any Magistrate of the first class - Non- compoundable.

232. Counterfeiting Indian coin.- Whoever counterfeits, or knowingly performs any part of the process of counterfeiting ¹[Indian coin], shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or imprisonment for 10 years and fine- Cognizable –Non -bailable-Triable by Court of Session- - Non- compoundable.

233. Making or selling instrument for counterfeiting coin.- Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or

4. Ins. by Act 6 of 1896, sec.1.

1. Subs. by the A.O 1950, for “ the queen’s coin”
2. Subs by Act 26 of 1955,sec.117 and Sch., for “transportation for life”(w.e.f.1-1-1956).

disposes of , any die or instrument , for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 years and fine- Cognizable –Non -bailable-Triable by any Magistrate of the first class - Non- compoundable.

234. Making or selling instrument for counterfeiting Indian coin.- Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of , any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting ¹[Indian coin], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine- Cognizable –Non -Bailable-Triable by any Magistrate of the first class - Non- compoundable.

235. Possession of instrument or material for the purpose of using the same for counterfeiting coin.- Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

fine Indian coin.- and if the coin to be counterfeited is ²[Indian coin], shall be

1. Subs. by the A.O 1950, for “ the queen’s coin”
2. Subs by Act 26 of 1955,sec.117 and Sch., for “transportation for life”(w.e.f.1-1-1956).

punished with imprisonment of either description for a term which may extend to ten years also be liable to fine;

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 3 years, or fine -Cognizable –Non-bailable-Triable by any Magistrate- Non- compoundable.

Para II: Punishment -Imprisonment for 10 years and fine -Cognizable – Non-bailable-Triable by Court of Session -Non- compoundable.

236. Abetting in India the counterfeiting out of India of coin.- Whoever, being within 1[India], abets the counterfeiting of coin out of 1[India] shall be punished in the same manner as if he abetted the counterfeiting of such coin within 1[India].

CLASSIFICATION OF OFFENCE

Punishment- The punishment provided for abetting the counterfeiting of such coin within India- Cognizable –Non -Bailable-Triable by Court of Session-Non- compoundable.

237. Import or export of counterfeit coin.- Whoever imports into 1[India], or exports there from , any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 years and fine- Cognizable –Non -bailable-Triable by Magistrate of the first class - Non- compoundable.

238. Import or export of counterfeits of the India coin.- Whoever imports into¹[India], or exports there from, any counterfeit coin, which he knows or has reason to believe to be a counterfeit or ²[Indian coin], shall be punished with imprisonment with ³[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life , or imprisonment for 10 years and fine- Cognizable –Non -bailable-Triable by Court of Session - Non- compoundable.

239. Delivery of coin, possessed with knowledge that it is counterfeit.- Whoever, having any counterfeit coin, which at the time when he became possessed of it knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 5 years and fine- Cognizable –Non -bailable-Triable by any Magistrate of the first class - Non- compoundable.

240. Delivery of Indian coin, possessed with knowledge that it is counterfeit.- Whoever, having any counterfeit coin which is a counterfeit of ²[Indian coin], at the time when he became possessed of it, he knew to be a counterfeit of ²[Indian coin], fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it shall be punished with imprisonment of

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1. 1. The words "British Indian" have successively been subs. by the A.O. 1948, the A.O 1950 and Act 3 of 1951, sec 3 and Sch to read as above.
 2. 2. Subs. by the A.O. 1950 or "Queen's coin".
 3. 3. Subs. by Act 26 of 1955, sec.117 and Sch., for "transportation for life"(w.e.f.1-1-1956)

Either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 10 years and fine- Cognizable –Non -bailable-Triable by Court of Session - Non- compoundable.

241. Delivery of coin as genuine, which when first possessed , the deliverer did not know to be counterfeit.- Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustration

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering of uttering them. B sells the rupees for goods to D, who receives them, not knowing them to be counterfeit .D, after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here D is punishable only under this section, but B and C are punishable under section 239 or 240, as the case may be.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 2 years and fine or 10 times the value of the coin counterfeited, or both- Cognizable –Non -bailable-Triable by any Magistrate- Non- compoundable.

242. Possession of counterfeit coin by person who knew it to be counterfeit when he became possessed thereof.- Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 years and fine - Cognizable –Non -bailable-Triable by any Magistrate of the first class - Non- compoundable.

243. Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof .- Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of ¹[Indian coin], having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall be liable to fine

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1. Subs. by the A.O. 1950, for “ the Queen’s coin”.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

244. Person employed in mint causing coin to be of different weight or composition from that fixed by law.- Whoever, being employed in any mint lawfully established in ¹[India]. Does any act, or omits what he is legally bound to do, with the intention of causing any coin issue from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

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1. The words “British India” have successively been subs.by the A.O. 1948, the A.O.1950 and Act 3 of 1951,sec.3 and Sch. to read as above.

245. Unlawfully taking coining instrument from mint.- Whoever, without lawful authority takes out of any mint, lawfully established in ¹[Indian]. Any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

246. Fraudulently or dishonestly diminishing weight or altering composition of coin.- Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation.- A person who scoops out part of the coin and puts anything else into the cavity alters the composition of that coin.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 years and fine- Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

247. Fraudulently or dishonestly diminishing weight or altering composition of Indian coin.- Whoever fraudulently or dishonestly performs on ²[any Indian coin] any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

2. Subs. by the A.O. 1950, for “any of the Queen’s coin”.

248. Altering appearance of coin with intent that it shall pass as coin of different description.- Whoever performs on any coin any operation which alters the appearance of that coin, with the

intention that the said coin shall pass as a coin shall pass as a coin of a which may extend to there years, and shall also be liable to fine.

CLASSIFICATION OF OFENCE

Punishment- Imprisonment for 3 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

249. Altering appearance of Indian coin with intent that it shall pass as coin of different description.-

Whoever performs on 1[any Indian coin] any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall be liable to fine.

CLASSIFICATION OF OFENCE

Punishment- Imprisonment for 7 years and fine Cognizable –Non -bailable-Triable by Magistrate of the first class- Non- compoundable.

250. Delivery of coin, possessed with knowledge that it is altered.- Whoever, having coin in his possession with respect to which the offence defined in section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punishable with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

CLASSIFICATION OF OFENCE

Punishment- Imprisonment for 5 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

251. Delivery of coin, possessed with knowledge that it is altered.- Whoever, having coin in his possession with respect to which the offence defined in section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 10 years and fine Cognizable –Non -bailable-Triable by Court of Session - Non- compoundable.

252. Possession of coin by person who knew it to be altered when he became possessed thereof.

Whoever, fraudulently or with intent that fraud may be committed is in possession of coin with respect to which the offence defined in either of the section 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect with respect to such coin, shall be punished with imprisonment of either description of either description for a term which may extend to three years, and shall, also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

253. Possession of Indian coin by person who knew it to be altered when he became possessed thereof.- Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence define in either of the section 247 or 249 has been committed, having known at the time of becoming possessed thereof, that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 5 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

254. Delivery of coin as genuine, which, when first possessed , the delivered did not know to be altered.- Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in section 246,247,248 or 249 has been performed , but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed , shall be punished with imprisonment of either description for a term which may extend to two years or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 2 years and fine, or 10 times the value of the coin Cognizable – Non -bailable-Triable by any Magistrate - Non- compoundable.

255. Counterfeiting Government stamp.- Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose or revenue shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.- A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination .

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or imprisonment for 10 years and fine Cognizable –Non -bailable-Triable by Court of Session- Non- compoundable.

1. Subs. by Act 26 of 1955, sec.117 and Sch ., for “transportation for life” (w.e.f.1-1-1956).

256. Having possession of instrument or material for counterfeiting Government stamp.- Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose or revenue shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

257. Making or selling instrument for counterfeiting Government stamp.- Whoever makes or performs any part or the process of making, or buying, or sells, or disposes of, any instrument for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

258. Sale of counterfeit Government stamp.- Whoever, sells , or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine Cognizable –Non -bailable-Triable by any Magistrate of the first class- Non- compoundable.

259. Having possession of counterfeit Government stamp.- Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine Cognizable -Bailable-Triable by Magistrate of the first class- Non- compoundable.

260. Using as genuine a Government stamps known to be a counterfeit.- Whoever uses as genuine any stamp, knowing it to be counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may be extend to seven years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 7 years and fine Cognizable -Bailable-Triable by Magistrate of the first class- Non- compoundable.

261. Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.- Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance, being any stamp issued by government for which such stamp has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 years and fine Cognizable -Bailable-Triable by Magistrate of the first class- Non- compoundable.

262. Using Government stamp known to have been before used.- Whoever fraudulently or with intent to cause loss to Government, uses for any purpose a stamp issued by Government for the purpose of

revenue, which he knows to have been before used , shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFENCE

Punishment- Imprisonment for 2 years or fine, or both-Cognizable -Non-bailable-Triable by Magistrate of the first class- Non- compoundable.

263. Erasure of mark denoting that stamp has been used.- Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by the Government for the purpose of revenue, any mark, such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFENCE

Punishment- Imprisonment for 3 years and fine Cognizable -Bailable-Triable by Magistrate of the first class- Non- compoundable.

¹[**263A. Prohibition of fictitious stamps.-** (1) Whoever-

- (a) (a) makes, knowingly utters, deals in or sells any fictitious stamps, or knowingly uses for any postal purpose any fictitious stamps, or
- (b) (b) has in his possession, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamps,
- (c) (c) shall be punished with fine with may extend to two hundred rupees.

1. Ins. by Act 3 of 1895, sec.2.

(2) Any such stamps ,die, plate, instrument or materials in the possession of any person for making any fictitious stamp ¹[may be seized] shall be forfeited.

(3) In this section "fictitious stamp" means any stamp issued by the Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, or any stamp issued by Government for that purpose.

(4) In this section and also in sections 255 to 263, both inclusive, the word "Government", when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding

1. Subs. by Act 42 of 1953, sec. 4 and Sch.III.

any thing in section 17, be deemed to include the person or persons authorized by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country.]

CLASSIFICATION OF OFFENCE

Punishment- Fine of 200 rupees - Cognizable - Non-bailable-Triable by any Magistrate - Non-compoundable.

CHAPTER XIII

OF OFFENCES RELATING TO WEIGHTS AND MEASURES

264. Fraudulent use of false instrument for weighing.- Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 1 year or fine, or both Non- Cognizable -Bailable-Triable by any Magistrate - Non- compoundable.

265. Fraudulent use of false weight or measure.- Whoever fraudulently uses any false weight or false measure or length or capacity, or fraudulently uses any weight or any measure of length or capacity

as a different weight or measure from what it is , shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 1years or fine, or both Non- cognizable -Bailable-Triable by Magistrate - Non- compoundable.

266. Being in possession of false weight or measure.- Whoever is in possession of any instrument for weighing or of any weight, or of any measure of length or capacity, which he knows to be false, ²[***] intending that the same may be fraudulently used, shall be⁴ punished with imprisonment of either description for a term which may

2. The word "and" omitted by Act 42 of 1953, sec 4 and Sch. III.

extend to one year, or with fine , or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 1 years or fine or both -Cognizable -Bailable-Triable by Magistrate- Non- compoundable.

267. Making or selling false weight or measure .- Whoever makes, sells or disposes of any instrument for weight , or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment or either description for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 1 years or fine or both -Cognizable –Non-bailable-Triable by Magistrate - Non- compoundable.

CHAPTER XIV

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY,

CONVENIENCE, DECENCY AND MORALS

268. Punjab nuisance.- A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which cause any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right.

269. Negligent act likely to spread infection of disease dangerous to life.- Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months, or fine or both -Cognizable -Bailable-Triable by any Magistrate - Non- compoundable.

270. Malignant act likely to spread infection of disease.- Whoever maliciously does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 2 years or fine or both -Cognizable -Bailable-Triable by Magistrate - Non- compoundable.

271. Disobedience to quarantine rule. - (1) Whoever knowingly disobeys any rule made and promulgated ¹[by the ²[***] Government ³[***] for putting any vessel into a state of quarantine, or for regulating the intercourse between places where and other places imprisonment of either description for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months, or fine or both –Non-Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

272. Adulteration of food or drink intended for sale.- Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both –Non-Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

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1. Subs. by the A.O. 1937, for “by the “Government of India or by any Government”.
 2. The words “Central or any Provincial” omitted by the A.O. 1950.
 3. The words “or the Crown Representative “ omitted by the A.O. 1948.

STATE AMENDMENTS

State of Uttar Pradesh:

In sections 272, 273, 274, 275 and 276 for the words “ shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both “ the following shall be substituted , namely:-

“shall be punished with imprisonment for life and shall also be liable to fine:

Provided that the court may, for adequate reason to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life”.

[Vide: U.P. Act No. 47 of 1975].

State of West Bengal:

In its application to the State of West Bengal in sections 272,273,274,275 and 276 for the words” of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both” the following shall be substituted, namely:-

“ for life with or without fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment which is less than imprisonment for life”.

[Vide: W.B.Act No. 42 of 1973(w.e.f. 29-4-1973)].

See State amendments under section 272.

273. Sale of noxious food or drink.- Whoever sells, or offers or exposes for sale, as food or drink, any article which has been under or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment or either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months, or fine 1,000 rupees ,or both -cognizable –Bailable-Triable by Magistrate - Non- compoundable.

274. Adulteration of drugs.- Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation , or to make it noxious, intending that it shall be sold or used for , or knowing it to be likely that it will be sold or used for , any medical purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

See State amendments under section 272.

275. State of adulterated drugs.- Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it to be used for medicinal purposes by any person not knowing of

the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-
Triable by Magistrate - Non- compoundable.

See State amendments under section 272.

276. Sale of drug as a different drug or preparation .- Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-
Triable by Magistrate - Non- compoundable.

See State amendments under section 272

277. Fouling water of public spring or reservoir.- Whoever voluntarily corrupts or routs the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, 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.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 months or fine of 500 rupees, or both -Cognizable –Bailable-
Triable by Magistrate - Non- compoundable.

278. Making atmosphere noxious to health.- Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of person is general dwelling or carrying on business in the neighborhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

CLASSIFICATION OF OFFENCE

Punishment- Fine of 500 rupees -Cognizable –Bailable-Triable by Magistrate - Non-compoundable.

279. Rash driving or riding on a public way.- Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

COMMENTS

Where it was not proved that when deceased died and what was nature of injuries and it was also not proved that death was caused due to accident injuries. However accused had faced court proceeding for eight years, therefore, his conviction is liable to be set aside; Sansar Singh v. State of U.T Chandigarh, 2000 Cr LJ 326 (PH).

280. Rash navigation of vessel.- Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

281. Exhibition of false light, mark or buoy.- Whoever exhibits any false light , mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment or either description for a term which may extend to seven years ,or with fine, or with both.

CLASSIFICATION OF OFENCE

Punishment- Imprisonment for 7 years, or fine or both -Cognizable –Bailable-Triable by Magistrate of the first class- Non- compoundable.

282. Conveying person by water for hire in unsafe or overloaded vessel.- Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or as loaded as to endanger the life or that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

283. Danger or obstruction in public way or line of navigation.- Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

CLASSIFICATION OF OFENCE

Punishment- Fine of 200 rupees- Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

284. Negligent conduct with respect to poisonous substance.- Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person.

or knowingly or negligently omits to take such order with any poisonous as is sufficient to guard against any probable danger to human life from such poisonous substance,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

285. Negligent conduct with respect to fire or combustible matter.- Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter,

shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable – Bailable-Triable by Magistrate - Non- compoundable.

286. Negligent conduct with respect to explosive substance. – Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life from that substance,

or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance,

shall be punished with imprisonment of either description for a term which may extend to one thousand rupees ,or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-
Triable by Magistrate - Non- compoundable.

287. Negligent conduct with respect to machinery.- Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person,

or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-
Triable by Magistrate - Non- compoundable.

288. Negligent conduct with respect to pulling down or repairing buildings.- Whoever, in pulling down or repairing any building , knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof , shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-
Triable by Magistrate - Non- compoundable.

289. Negligent conduct with respect to animal.- Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 6 months or fine of 1,000 rupees, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

290. Punishment for public nuisance in case not otherwise provided for.- Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

CLASSIFICATION OF OFFENCE

Punishment- Fine of 200 rupees-Non-cognizable –Bailable-Triable by any Magistrate - Non-compoundable

291. Continuance of nuisance after injunction to discontinue.- Whoever or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment- Simple imprisonment for 6 months or fine, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable

¹**[292. Sale ,etc., or obscene books, etc.-** ²[(1)] For the purpose of sub-section (2), a book, pamphlet, paper, writing drawing, panting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to ten to

deprave and corrupt person , who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it].

³[(2)] Whoever-

- (a) sells, less to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purpose of sale, hire, distribution, public exhibition or circulation, makes , produces or has in his possession any obscene book,pamphlet, paper , drawing, painting, representation or figure or any other obscene object whatsoever, or
- (b) imports, exports or conveys any obscene object for any of the purpose aforesaid, or knowing or having reason to believe that such as to tend to deprave and corrupt person, who are likely , having regard to all relevant circumstance, to read, see or hear the matter contained or emboldened in it].
- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are for any of the purposes aforesaid, made , produced, purched , kept, imported, exported, conveyed, , publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any which is an offence under this section, or that any such obscene object can be procured from or through any person, or

offers or attempts to do any act which is an offence under this section,

shall be punished ⁴[on first conviction with imprisonment or either description for a term

which may extend to two years, and with fine which may extend to two thousand rupees, and ,in the event of a second or subsequent conviction, with imprisonment of either

1. 1.Subs. by Act 8 of 1925, sec. 2, for the original section.
2. 2.Ins. by Act 36 of 1969, sec, 2.
3. 3.Section 292 renumbered as sub-section (2) of that section by Act 3 of 1969, sec,2.
4. Subs. by Act 36 of 1969, sec.2, by certain wirts.

description for a term which may extend to five years, and also with fine which may extend to five thousand rupees].

¹[Exception . – This section does not extend to-

(a) any book, pamphlet, paper, writing , drawing, painting, representation or figure-

the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing , drawing, painting, representation or figure is in the interest of science, literature, art of learning or other objects of general concern, or

(ii) which is kept or used bona fide for religious purposes;

(b) any representation sculptured, engraved, painted or otherwise represented on or in-

any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), or

(ii) any temple , or an any car used for the conveyance of idols, or kept or used for any religious purpose.]]

CLASSIFICATION OF OFFENCE

Punishment- On first conviction, with imprisonment for 2 years, and with fine of 2,000 rupees, and in the event of second or subsequent conviction, with imprisonment for five years and with fine of 5,000 rupees -Cognizable –Bailable-Triable by any Magistrate - Non- compoundable.

STATEMENT AMENDMENTS

State of Orissa:

Same as in Tamil Nadu[Vide Orissa Act No. 13 of 1962].

State of Tamil Nadu:

In section 292 the words “shall be punishable with imprisonment of either

1. Subs. by Act 36 of 1969, sec.2, for Exception.

description for a term which may extend to three months or with fine or with both “substitute the following namely:-

“ shall be punished with imprisonment of either description for a term which may extend to two years or with both:

Provided that for a second or any subsequent offence under this section, he shall be punished with imprisonment of either description for a term which shall not be less than six months and not more than two years and with fine”.

[Vide T.N. Act No. 25 of 1960].

State of Orissa:

Section 292A

Same as in Tamil Nadu [Vide Orissa Act No. 13 of 1962]

State of Tamil Nadu:

Add after section 292 the following new section namely:-

292.A. Printin, etc., of grossly indecent or scurrilous matter or matter intended for blackmail.-
Whoever.-

- (a) (a) print or causes to be printed in any newspaper, periodical or circular, or exhibits or causes to be exhibited, to public view or distributes or cause to be distributed or in any manner puts into circulation any picture or any printed or written document which is grossly indecent, or in scurrilous or intended for blackmail; or
- (b) (b) sells or lets for hire, or for purpose of sale or hire makes, produces or has in his possession any picture or any printed or written document which is grossly indecent or is scurrilous or intended for blackmail; or
- (c) (c) conveys any picture or any printed or written document which is grossly indecent or is scurrilous or intended for blackmail knowing or having reason to believe that such picture or document will be printed, sold, let for hire distributed or publicly exhibited or in any manner put into circulation; or
- (d) (d) takes part in, or receives profits from, any business in the course of which he knows or has reason to believe that any such newspaper, periodical, circular, picture or other

printed or written document is printed, exhibited, distributed, circulated, sold, let for hire, made, produced, kept, conveyed or purchased; or

- (e) (e) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any Act which is an offence under this section, or that any such newspaper, periodical, circular, picture or other printed or written document which is grossly indecent or is scurrilous or intended for blackmail, can be procured from or through any person; or
- (f) (f) offers or attempts to do any act which is an offence under this section *[shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with fine, or with both] :

Provided that for a second or any subsequent offence under this section, he shall be punished with imprisonment of either description for a term which shall not be less than six months *[and not more than two years].

Explanation I .- For the purposes of this section, the word scurrilous shall be deemed to include any matter which is likely to be injurious to morality or is calculated to injure any person:

Provided that it is not scurrilous to express in good faith anything whatever respecting the conduct of-

- (i) a public servant in the discharge of his public functions or respecting or respecting his character so far as his character appears in that conduct and no further; or
- (ii) any person touching any public question, and respecting his character, so far as his character appears in that conduct and no further.

Explanation II.- In deciding whether any person has committed an offence under this section, the court shall have regard inter alia, to the following considerations-

- (a) The general character of the person charged, and where relevant the nature of his business;
- (b) the general character and dominant effect of the matter alleged to be grossly indecent or scurrilous or intended for blackmail;
- (c) any evidence offered or called by or on behalf of the accused person as to his intention in committing any of the acts specified in this section.

[vide T.N.Act No. 25 of 1960].

*Subs, by T.N.Act No. 30 of 1984.

¹[**293. Sale, etc., of obscene objects to young person.**- Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such do , shall be punished ²[on first conviction with imprisonment or either description for a term which may extend to three years and with fine which may extend to two thousand rupees ,and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees].]

CLASSIFICATION OF OFENCE

Punishment- On first conviction , with imprisonment for 3 years , and with fine of 2,000 rupees , and in the event of second of subsequent conviction, with imprisonment for 7 years, and with fine of 5,000 rupees-Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

State of Orissa:

Same as in Tamil Nadu [Vide Orissa Act No. 13 of 1962]

State of Tamil Nadu:

In Section 293-

- (a) for the words “any such obscene object as is referred to in the last preceding section” the words, figures and letter “ any such obscene object as is referred to in section 292-A shall be substituted;
- (b) for the words “ which may extend to six months ‘ the words “which may extend to three years” shall be substituted;
- (c) in the marginal note, after the words “obscene objects” the words “ any grossly indecent or scurrilous matter intended for blackmail shall be inserted”.

[vide T.N. Act No. 25 of 1960].

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1. Subs. by Act 8 of 1925,sec. 2, for the original section.
 2. Subs. by Act 36 of 1969,sec. 2, for certain words.

³[294. Obscene acts and songs.- Whoever, to the annoyance of others-

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months , or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 months or fine, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable

⁴[**294A. Keeping lottery office.**- Whoever keeps any office or place for the purpose of drawing any lottery ⁵[not being ⁶[a State lottery] or lottery authorized by the ⁷[State]

Government] , shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery , shall be punished with fine which may extend to one thousand rupees.]

3. 3. Subs. by Act 3 of 1895,sec .3, for the original section.

4. 4. Ins. by Act 27 of 1870, sec.10.

5. 5. 5.Subs. by the A.O. 1937 for “not authorized by Government”.

6. 6. Subs.by Act 3 of 1951,sec. 3 and Sch., for” a lottery organized by the Central Government or the Government or a Part A State or a Part B State”.

7. 7. Subs. by the A.O. 1950, for “ Provincial”.

8. 8. Government] , shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

STATEMENT AMENDMENTS

State of Andhra Pradesh:

In Andhra Pradesh, section 294-A repealed.

[Vide Andhra Pradesh Act No. 16 of 1986, section 27].

State of Gujarat :

In Andhra Pradesh, section 294-A repealed.

[Vidde Andhra Pradesh Act No. 82 of 1958].

State of Karnataka:

In Karnataka area excepted Bellary District , section 294-A repealed.

[Vide Karnataka Act No. 27 of 1957].

State of Maharashtra:

In Maharashtra ,section 294-A repealed.

[Vide Karnataka Act No. 82 of 1958].

State of Uttar Pradesh:

In Uttar Pradesh ,section 294-A repealed.

[Vide Karnataka Act 24 of 1995, section 11].

CLASSIFICATION OF OFENCE

Para I. Punishment-Imprisonment for 6 months or fine, or both-Non -cognizable –Bailable-Triable by Magistrate - Non- compoundable

Para II. Punishment-Fine 1,000 rupees-Non -Cognizable –Bailable-Triable by Magistrate - Non-compoundable

CHAPTER XV

OF OFFENCES RELATING TO RELIGION

295. Injuring or defiling place of worship with intent to insult the religion of any class.-

Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowing ledge that any class of persons is likely to consider such destruction, damage

or defilement as an insult to their religion, shall be punishable with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years or fine, or both -Cognizable –Non-bailable-Triable by Magistrate - Non- compoundable.

¹[**295A. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.**- Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of ²[citizens of India], ³[by words, either spoken or written, or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to ⁴[three years], or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 year or fine, or both -Cognizable –Non-bailable-Triable by Magistrate of the first class- Non- compoundable.

296. Disturbing religious assembly.- Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 year or fine, or both -Cognizable –Non-bailable-Triable by any Magistrate - Non- compoundable.

297. Trespassing on burial places, etc.- Whoever, with intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

1. 1. Ins. by Act 25 of 1927, sec.2.

2. 2. Subs. by the A.O. 1950, for “ His Majesty’s subjects” .
3. 3. Subs. by Act 41 of 1961, sec.3, for certain words.
4. 4. Subs. by Act 41 of 1961, sec.3, for” two years” .

Commits any trespass in any place of worship or on any place of sculpture, or any place set apart from the performance of funeral rites or as a depository for the remains or the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

Shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 years, or fine, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

298. Uttering, words, etc., with deliberate intent to wound the religious feelings of any person-
Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any words or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places, any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 years or fine, or both –Non-cognizable- Bailable-Triable by Magistrate – Compounded by the person whose religious feelings are intended to be wounded.

STATE AMENDMENTS

State of Andhra Pradesh:

In Andhra Pradesh offence under section 298 is cognizable.

[Vide A.P.G.O. ms. No. 732,dated 5-12-1991].

CHAPTER XVI

OF OFFENCES AFFECTING THE HUMAN BODY

299. Culpable homicide.- Whoever cause death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations

- (a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.
- (b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.
- (c) A, by shooting at a fowl with intent to kill and steal it, kills B who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.- a person who cause bodily injury to another who is laboring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.- Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.- The causing of the death of child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

COMMENTS

- (i) "Culpable homicide" is genus, and "murder" is the specie. All "murder" is culpable homicide but not vice-versa; Narasingh Challan v. State of Orissa,(1997) 2 Crimes 78(Ori).
- (ii) The assault for murder cannot be said to be sudden and without meditation as the deceased was not armed; State of Maharashtra v. Krishana Murti Lazmipatti Naidu, Air 1981 SC 617: (1981) SCC Cr R 398 (1981) Cr LJ 9: (1981) SSC(Cr)354.

300. Murder.- Excepted in the cases hereinafter excepted, culpable homicide is murder, of the act by which the death is caused is done with the intention of causing death, or-

Secondly.- If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused , or-

Thirdly.- If it done with intention of causing such bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or-

Fourthly.- If he person committing the act knows that it is so imminently dangerous that it must, in all probability , cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations

- (a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.
- (b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.
- (c) A intentionally gives Z a sword-cut to club- wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here, A is guilty of murder, although he may not have intended to cause Z's death..

- (d) A without any excuse fires a loaded cannon into a crowd of persons and kill one of them. A is guilty of murder, although he may not have had a premeditated design to kill any Particular individual.

Exception 1.- When culpable homicide is not murder.- Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:-

First.- That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.- That the provocation is not given by any thing done in obedience to the law, or by a public servant.

Thirdly.- That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.- Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations

- (a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, in as much as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.
- (b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to likely to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.
- (c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, in as much as the provocation was given by a thing done by public servant in the exercise of his powers.
- (d) A appears as witness before Z, a Magistrate, Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

- (e) A attempts to push Z's nose, Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and Z. This is murder, in as much as the provocation was given by a thing done in the exercise of the right of private defence.
- (f) Z strikes B, B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.- Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.- Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.- Culpable homicide is not murder if it is committed without premeditating a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Exception .- It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception. 5- Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration

A, by instigation, voluntarily caused Z, a person under eighteen years of age to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

COMMENTS

- (i) In case where there was no intention to cause death, the act was done with knowledge that same is likely to cause death, the guilt of offence comes under part I of sec. 304; S.D.Soni v. State of Gujarat, (1991) CrLJ 330 (SC)
- (ii) In absence of intention to cause particular injury likely to cause death conviction comes under part II of sec. 304; Randhir Singh v. State of Punjab, AIR 1982 SC 55 (1981 Cr LR (SC) 543: (1981) 4 SCC 484.
- (iii) When there was no evidence as to how death came about, evidence relating to charge of murder was held to be insufficient and unacceptable; Kedar Nath v. State of Madhya Pradesh, (1991) Cr LJ 989 (SC).
- (iv) When in case of murder complaint filed after month of incident and with nesses, statement recorded after 9 months, conviction cannot be founded; State of West Bengal v. Shew Mangal Singh, AIR 1981SC 1917:1981) Cr LJ1683: (1981) Cr JR (SC) 501: (1981) 4 SCC 2.
- (v) Circumstance that accused were in possession of buffaloes belonging to deceased cannot lead to hold accused guilty of murder; Joga Gola v. State of Gujarat, AIR 982 SC 1227; (1982) SCC (Cr) 141.
- (vi) When accused had no intention to cause injury on non-vital part of body which was sufficient to cause death in ordinary course of nature, illustration (c) of section 300 is not applicable; Gokul Parashram Patil v. State of Maharashtra, AIR 1981 SC 1441;(1981) Cr LJ 1033.
- (vii) The totality of the injuries caused to the victim clearly supports the finding of both the courts below that the accused/ appellants went on belabouring the deceased till he died on the spot In the circumstances, the contention that the accused did not intend to cause the murder of the deceased cannot be upheld by the Supreme Court; Prabhu v. State of Madhya Pradesh, (1991) Cr LJ 1373 (1373-1374) (SC).

- (viii) Having regard to the number of injuries inflicted on the deceased it was not possible to uphold the contention that there was no intention to kill ; Prabhu v. State of Madhya Pradesh, (1991) Cr LJ 1373 (1373-1374) (SC).
- (ix) The establishment of the involvement of the accused on the incident and misgiving of a Barchhi blow to the grandson of the deceased when he tried to go to the rescue of his grand- father, is sufficient to convict the accused under section 300 read with section 34; Banta Singh v. State of Punjab, (1991) Cr LJ 1342 (SC).
- (x) It is fallacious to contend that when death is caused by a single blow clause thirdly is not attracted and, therefore, it would not amount to murder. The ingredient intention' in that clause gives clue in a given case whether offence involved is murder or not; Jai Prakash v. The State (Delhi Administration), (1991)1 Crimes 474 (SC).
- (xi) The number and nature of injuries may furnish good evidence to consider whether the accused had exceeded the right to private defence; Patori Devi v. Amar Nath, (1988) Cr LJ 836; AIR 1988 SC 560.
- (xii) Circumstantial evidence is not sufficient to convict accused when possibility of deceased receiving fatal injury by fall cannot be ruled out; State of Rajasthan v. Smt. Kmala,(1991) Cr LJ 602 (SC).
- (xiii) In case of murder in which the conclusion of guilt is drawn by prosecution it must be fully established beyond all reasonable doubt and conclusion of guilt is drawn by prosecution it must be fully established beyond all reasonable doubt and consistent with the guilt of the accused ; S.D Soni v. State of Gujarat, (1991) Cr LJ 330 (SC).
- (xiv) Infliction of the injury on the vital part of the body with the agricultural instrument by the enraged accused in a sudden quarrel – Held. Accused did not cause the injury intentionally; Patel Rasikal Becharbhi v. State of Gurjarat, AIR 1992 SC 1150.
- (xv) (1) The test of “grave and sudden” provocation is whether a reasonable man, belonging to the same class of society as the accused , placed in the situation in which the accused was placed would be so provoked as to lose his self- control (2)In India, words and gestures may also , under certain circumstances, cause grave and sudden provocation to an accused so as to bring his act within the First Exception, to Section 300.(3) The mental background created by the previous act of the victim may be taken into consideration in ascertaining whether the subsequent act caused grave and sudden

provocation for committing the offence. Venkatesan v. State of Tamil Nadu, (1997) 3 Crimes 146 (Med).

- (xvi) Mere sudden quarrel would not entitle the accused to seek for Exception 4 to section 300; Samuthram alias Samudra Rajan v. State of Tamil Nadu, (1997) 2 Crimes 185 (Med).
- (xvii) To invoke Exception 4 to section 300, four requirements must be satisfied, namely (i) it was sudden fight; (ii) there was no premeditation; (iii) the act was done in a heat of passion; and (iv) the assailant had not taken any undue advantage or acted in a cruel manner... The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have been acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner. Where, on a sudden quarrel, a person in the heat of the moment picks up a weapon which is handy and causes injuries, one of which proves fatal, he would be entitled to the benefit of this Exception provided he has not acted cruelly; samuthram alias Samudra Rajan v. State of Madhya Pradesh, (1997) 2 Crimes 582 (MP).
- (xviii) Where a mutual conflict develops and there is no reliable and acceptable evidence as to how it started and as to who was the aggressor, it will not be correct to assume private defence for both sides. Such a case will be a case of sudden fight and conflict and has to be dealt with under Exception 4 to section 300 of the Code; Januram v. State of Madhya Pradesh, (1997) 2 Crimes 582 (MP).
- (xix) Where the extra judicial confession made by accused admitting the crime of throwing his three minor children also recovered from well, therefore accused liable for offence of murder punishable under section 302 IPC; Narayana Swamy v. State of Karnataka, 2000 Cr LJ 262 (Karn).
- (xx) Where evidence of both eye witness reliable and well corroborated by medical and other evidence on record inspires confidence that accused had intention to kill deceased then conviction is liable to be sustained; Rabba Ramanna Dora v. State of Pradesh, 2000 Cr LJ 118 (AP).
- (xxi) Where the eye witnesses were close relations of accused and were natural witnesses and their consistent evidence regarding assault by accused with knife to deceased, both of accused which caused his death, corroborated by other witnesses of incident,

therefore guilt of accused proved beyond reasonable doubt; Suaukar Ali v. State of Andhra Pradesh , 2000 Cr LJ 118 (AP).

- (xxii) Where the ocular evidence is explicit and fully supported by medical evidence and evidence of other witnesses who apprehend the accused after some hours of occurrence with blood stained weapon then absence of proof of motive will not render the entire prosecution case unbelievable, therefore , charge of murder against accused proved beyond all reasonable doubt; Ram Nath Novia v. State of Bihar, 2000 Cr LJ 318 (Pat).
- (xxiii) Plea of alibi in murder case, when most of the evidences prove presence of accused on spot of murder, can not be relied upon. It is on accused to prove that he was not present that too by reliable evidence only; Singha Magan Gamit v. State of Gujarat, 1999 Cri LJ 2111 (Guj).
- (xxiv) Pelting stones resulted into rob-fracture. Rupture of pleura is sufficient to cause death. External injury noted by doctors- appellants cannot put under clause 3rd or section 300. Guilty of offence of culpable homicide not amounting to murder; Madan Lal v. State of Uttar Pradesh , 1998 SCC (Cr) 1549.
- (xxv) Chain of evidence must be complete with fully established circumstances not to leave any reasonable ground for a conclusion consistent with the innocence of accused. It should be of conclusive nature: Arvind v. State (Delhi Admn.), 1999 (4) SCC 4861: 1999 (3) JT 554.
- (xxvi) Wrist watch was snatched by accused of deceased . On request called to meet on specified spot. Hot words were exchanged knife blow was given on chest to deceased also to the person who came to rescue him. It cannot be said fatal injuries were without predestination exception cannot be applied ; Mahesh Balmiki v. State of Madhya Pradesh , 1999 AIR (SC) 338:
- (xxvii) Where the evidence of eye witnesses regarding assault to deceased by accused persons was truthful , reliable and clearly corroborated by medical evidence and common intention of accused persons to Commit murder of deceased also proved therefore conviction under section 300/34 is proper ; Ratan Devnath v. State of Tripura, 2000 Cr LJ 237 (Gau).

- (xxix) Where the co accused also shared common intention of committing murder of deceased by exhorting accused to commit crime, then offence punishable under section 302r/ w section 34 IPC was also proved against him; Ravindra Singh v. State of Uttar Pradesh, 2000 Cr LJ 63 (All).
- (xxx) Where evidence of eye witness neither wholly reliable nor wholly unreliable then it can not be inferred that both accused were individually or collectively were responsible for causing death of deceased while injury was grievous in nature , there conviction under section 302 althred to one under section 326 IPC; Shaik Subhani v. State of Andhra Pradesh, 2000 Cr LJ 321 (AP).
- (xxxi) Where no prejudice caused to accuded due to alteration of charge from under sections 302,392 I.P.C to section 396, Therefore trial not vitiated; K.M.Ibrahim v. State of Karnataka, 2000 Cr LJ 197 (Karn).

301. Culpable homicide by causing death of person other than person whose death was intended.- If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been of had caused the death of the person whose death he intended or know himself to be likely to cause.

COMMENTS

Accused is punishable for murder under doctrine of transfer of malice under section 301 of the Code when he aimed at one and killed another person; Jagpal Singh v. State of Punjab,(1991) Cr LJ 579 (SC).

302. Punishment for murder.- Whoever commits murder shall be punished with death, or 1[imprisonment for life], and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Death , or imprisonment for life, and fine-Cognizable –Non-bailable-Triable by Court of Session - Non- compoundable.

COMMENTS

- (i) When ocular evidence in murder case is unreliable benefit of doubt to be given to all accused ;Chansu Bhai Shana Bhai Parmar v. State of Gujarat , AIR 1982 SC 1022: (1981) SCC (Cr) 682.
- (ii) The facts taken cumulatively from a chain so complete that there is no escape from the conclusion that within all human probability the murder was committed by the appellant and none else Daya Ram v. The State (Delhi Administration) , (1988) Cr LJ 865: AIR 1988 SC 615.
- (iii) Provisions of death sentence being an alternative punishment of r murder is not unreasonable' Bachhan Singh v. State of Punjab, AIR 1980 SC 898: (1980) 2 SCC 864: (1980) Cr LJ 636: (1980)(2) SCJ 475.
- (iv) In case where facts and circumstances from which conclusion of guilt was sought to be drawn by prosecution wasnot established beyond reasonable doubt the conviction under section 302 read with section 34 and under section 392 had to be quashed ; Hardyal and Prem v. State of Rajasthan, (1991) Cr LJ 345 (SC).
- (v) Accused committed murder in professional manner with planned motivation, accused deserved no sympathy even when the accused had no personal motive; Kuljeet Singh v. Union of India, AIR 1981 SC 1572: (1981) Cr LJ 1045: (1981) Cr LR (SC) 328.
- (vi) In dowry deaths motive for murder exists and what is required of Courts is to examine as to who translated it into action as motive viz , whether individual or family; Ashok Kumar v. State of Rajasthan, (1991) 1 Crimes 116 (SC).
- (vii) Crime of murder committed against public servant doing official duties must be discouraged and dealt with firm hand: Gayasi v. State of Uttar Pradesh , AIR 1981 SC 1160: (1981) ALJ 441: (1981) Cr LJ 883: (1981) SCC (Cr) 590: (1981)Cr App R (SC) 385: (1981) 2 SCC 713.
- (viii) Fatal injury caused by the accused in broad day light, evidence of the eye witness and medical evidence being corroborative, conviction under section 302, held, sustainable; Wazir Singh v. State of Haryana, AIR 1992 SC 1429.
- (ix) It is well settled that if the evidence of the eye-witness are held to be reliable and inspire confidence then the accused cannot be acquitted solely on the ground that some superficial injuries found on the person of the accused concerned, had not been

explained by the prosecution; A.M. Kunikoya v.State of Kerala, 1993 (1) Crimes 1192 (SC).

- (x) Conviction can be based on testimony of a single eye witness provided his testimony is found reliable and inspires confidence; Anil Phukan v. State of Assam, 1993 (1) Crimes 1180 (SC).
- (xi) When the appellant dealt a severe knife blow on the stomach of deceased without provocation and when deceased was unarmed and had already been injured by co-accused the appellant cannot be held that he had no intention to cause a murderous assault by mere fact that only one blow was inflicted; Nashik v.State of Assam, 1993 (1) Crimes 1197 (SC).
- (xii) In case depending on circumstantial evidence it is true that the chain of events proved by the prosecution must show that within all human probability the offence has been committed by the accused, but the court is expected to consider the total cumulative effect of all the proved facts along with the motive suggested by the prosecution which induced the accused to follow a particular path; Sarbir Singh v. State of Punjab, 1993 (1) Crimes 616 (SC).
- (xiii) Non-explanation of the injuries on the person of the accused by the prosecution may not affect the prosecution case if the injuries sustained by the accused are minor or superficial or where the evidence produced by the prosecution is clear and cogent and is of independent and disinterested persons and is consistent with credit worthiness; Sawei Ram v. State of Rajasthan, (1997) 2 crimes 148 (Raj).
- (xiv) Two offences under section 302 and section 306 of the Indian Penal Code are of distinct and different categories; Sangarbonia sreenu v. State of Andhra Pradesh, (1997) 4 Supreme 214.
- (xv) The basic constituent of an offence under section 302, is homicidal death; Sangarabonia Sreenu v. State of Andhra Pradesh,(1997) 4 Supreme 214.
- (xvi) Testimony of approver is corroborated in petty offence under circumstances involvement of accused by approver can be true; Ramprasad v. State of Maharashtra, 1999 AIR (SC) 1969L 1999 (5) SCC 30.
- (xvii) The wife, children were residing in the room of witness. Appellant accused returned in drunken condition to home, son found crying outside room, wire found dead.

Appellant ran away and traced after 10 days of occurrence. Plea of alibi has no force; Jalasb Shaikh v. State of Goa, 1999 (6) JT 177: 1999 (6) SCC 410.

- (xviii) Prosecution has proved with reasonable certainty the 'B' was holding the legs of deceased when his nephews cut throat and after finishing their work all the three ran away together. In the broad spectrum of the occurrence there is no scope to entertain even a resemblance of doubt that 'B' would have shared the common intention with the other two assailants. Error committed by High Court in absolving 'B' from crime; State of Haryana v. Bhagirath, 1999 AIR (SC) 2005 ; 1999 (2) SCC 96.
- (xix) More variance of prosecution story with the medical evidence, in all cases, should not lead to conclusion inevitably to reject the prosecution story. Court to make out efforts within judicial sphere to know truth; Mohan Singh v. State of Madhya Pradesh 1999 (2) SCC 428.
- (xx) Presence of blood stains on floor of room of house and the shawl by themselves are not such circumstances to establish the guilt of accused, grant of benefit of doubt proper; Ramesh Chandrasao v. State of Bihar. 1999 AIR (SC) 1574.
- (xxi) Where the evidence of eye witness were natural cogent and highly reliable than conviction can be based upon seven evidence; State of Madhya Pradesh v. Rammi, 1999(1) JLU .
- (xxii) Refusal of give tractor, appellant fired a shot and killed him, presence and participation clearly established; Pal Singh v. State of Punjab, 1999 AIR (SC) 2548: 1999 (3) Crimes (196 (SC)).
- (xxiii) Accused charged under section 302/149 can be convicted under section 302/34; State of Orissa v. Arjun Das, 1999 AIR (SC) 3229: 1999 (7) Supreme 60.
- (xxv) Evidence that gun of brother of deceased placed beneath pillow was removed from that place indicate participation in crime. Words uttered just before killing deceased and in manner he was killed immediately thereafter leaving no manner of doubt of murder; State of Haryana v. Pradeep Kumar, 1999 SCC (Cr) 358: 1999 (1) Crime 8 (SC).
- (xxvi) It was held that the statement of accused he buried the dead body in a pit in absence of any material cannot proved; Chhotu Singh v. State of Rajasthan, 1999 SCC (Cr) 461.

(xxvii) Where the accused on spur of moment aimed the dagger at a vital part of body and that one below was inflicted with a level of force inflicting a fatal injury, therefore, inference could be drawn that accused intended to kill the deceased and as such case falls under section 304 Part I IPC; Lokesha v. State of Karnataka, 2000 Cr LJ 194 (Kant).

(xxviii) Accused and wife seen together in the house at the night and accused came out side through the roof leaving the wife and two children. Death resulted not due to burn injuries but strangulation. Held to be preparatory of crime; State of Tamil Nady v. Rajendran, 1999 (8) SCC 679: 1999 (4) Crime 179 (SC).

303. Punishment for murder by life- convict.- Whoever, being under sentence of ¹[imprisonment for life], commits murder, shall be punished with death.

CLASSIFICATION OF OFENCE

Punishment-Death-Cognizable-Non-bailable-Triable by Court of Session- Non- Compoundable.

304. Punishment for culpable homicide not amounting to murder.- Whoever commits culpable homicide not amounting to murder shall be punished with commits culpable homicide not amounting to murder shall be punished with ¹[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death,

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

CLASSIFICATION OF OFENCE

Para I. Punishment-Imprisonment for life, or imprisonment for 10 years and fine-Cognizable –Non-bailable-Triable by Court of Session- Non- compoundable

Para II. Punishment- for 10 years, or fine, or both -Cognizable –Non-bailable-

1. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transport for life”(w.e.f.1-1-1956).

Para II. Punishment- for 10 years, or fine, or both -Cognizable –Non-bailable-

Triable by Court of Session- Non- compoundable.

COMMENTS

- (i) Before an accused is held guilty and punished under first part or second part of section 304 a death must have been caused by the assailant under any of the circumstances mentioned in the five exceptions to section 300; Harendra nath Mandal v. State of Bihar, 1993 (1) Crimes 984 (SC).
- (ii) Out of the three accused persons, one of the accused person gave a fatal blow on the head of the deceased, the other accused person injured the deceased by spear on his knee and arm. First accused person is liable to be convicted under part I of section 304. The other accused person is liable to be convicted under section 324 as section 34 has not been applied after setting aside conviction under section 147 of the Indian Penal Code; Kedar Prasad v. State of Madhya Pradesh v. State of Uttar Pradesh, AIR 1992 SC 1629.
- (iii) Where there was absence of prior enmity with deceased and intention accused was sentenced under section 304, Part II and not under section 302; Rajju v. State of Uttar Pradesh, (1994) Cr LJ 105 (All).
- (iv) Whether the plea of drunkenness can be taken as defence for claiming acquittal or for lessening sentence depends upon 'intention' and 'knowledge' of the accused; Mirza Ghani Baig v. State of Andhra Pradesh, (1997)2 Crimes 19 (AP).
- (v) Where there was contradictions in evidence of prosecution with issues on major issues including location of place of occurrence number of persons participation in commission of offence and non examination of doctor to establish cause of death and also non examination of .I.O., therefore conviction of accused cannot be sustained; Sahdeo Prasad Sao v. State of Bihar, 2000 Cr LJ 242 (Pat).
- (vi) Where the accused, who inflicted fatal injury on head of deceased which caused his death, without intention to kill him is liable to be convicted under section 304 Part II while other accused who inflicted sword injury liable to be convicted under section 325 IPC; Asu v. State of Rajasthan, 2000 Cr LJ 207 (Raj).

- (vii) Where the accused was about 80 years at the time of occurrence and is totally bedridden, therefore sentence reduced to period already under gone for the ends of justice; Dev v. State of Punjab 2000 Cr LJ 347 (Punj).
- (viii) In absence of pre- meditation for committing murder of deceased and accused inflicted single injury by “Chhura” in agitated mental state due to provocation caused to him by verdict of “ Panchayat “ which with in favour of deceased the case falls under section 304 Part II IPC; Paras Kumar v. State of Bihar , 2000 Cr LJ 112 (Pat).
- (ix) Where only single shot fired by accused on victim not on a vital part of body which resulted simple injury to victim without intention to commit homicide. Therefore accused is guilty of offence punishable under section 324 IPC, Rohtas v. State of Uttar Pradesh, 2000 Cr LJ 89 (All).

¹**[304 A. Causing death by negligence.-** Whoever causes the death of any person by during any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

CLASSIFICATION OF OFENCE

Punishment-Imprisonment for 2 years, or fine, or both -Cognizable –Bailable-Triable by Magistrate - Non- compoundable.

COMMENTS

In order to impose criminal liability on the accused , it must be found as a fact that collusion was entirely or mainly due to the rashness or mainly due to the rashness or netligence; Munile Sao v. State of Bihar (1997)³ Crimes 200 (Pat).

²**[304B. Dowry death.-** “(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon be fire her death she was subject to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

1. Ins. by Act 27 of 1870, sec. 12.

2. Ins. by Act 43 of 1986, sec.10 (w.e.f.19-11-1986).

Explanation.- For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961(28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment of not than 7 years but which may extend to imprisonment for life - Cognizable Non-bailable-Triable by Court of Session- Non-compoundable.

COMMENTS

- (i) Section 304B is a substantive provision creating a new offence and not merely a provision effecting a change in procedure for trial of pre-existing substantive offence. As a consequence, accused cannot be tried and punished for the offence of dowry death provided in section 304-B of the Code with the minimum sentence of seven years' imprisonment for an act done by them prior to creation of the new offence of dowry death; *Soni Devrajbhai Babubhi v. State of Gujarat*, 1991 Cr LJ (313)(SC).
- (ii) Where the evidence revealed that accused/ husband killed deceased / wife for not satisfying his dowry demand but nothing on record to show involvement of co-accused in laws with the offence committed by accused, therefore co-accused in laws not guilty of offence under section 304-B. 201 IPC ; *Patil Paresh Kumar Jayanti Lal v. State of Gujarat*, 2000 Cr LJ 223 (Guj).

305. Abetment of suicide of child or insane person.- If any person under eighteen years of age, any insane person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or ¹[imprisonment for life], or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Death, or imprisonment for life, or imprisonment for 10 years, or fine -Cognizable – Non-bailable-Triable by Court of Session- Non-compoundable.

306. abetment of suicide.- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years, or fine, or both -Cognizable –Non-bailable-Triable by Court of Session- Non- compoundable.

COMMENTS

- (i) To attract the ingredients of abetment, the intention of the accused to aid or instigate or abet the deceased to commit suicide is necessary; *Pallem Deniel Victorians Victor Manter & Ors. V. State of Andhra Pradesh, (1997) 1 Crimes 449 (AP)*.
- (ii) Two offences under section 302 and section 306 of the Indian Penal Code are of distinct and different categories; *Sangarabonia Sreenu v. State of Andhra Pradesh (1997) 4 Supreme 214*.

The basic constituents of an offence under section 306, IPC are suicidal death and abetment thereof; *Sangarabonia Sreenu v. State of Andhra Pradesh, (1997) 4 Supreme 214*.

307. Attempt to murder.- Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term any person by such act, the offender shall be liable either to ¹[imprisonment for life], or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.- ²[When any person offending under this section is under sentence of ¹[imprisonment for life], he may, if hurt is caused, be punished with death.]

Illustrations

- (a) A shoots at Z with intention to kill him, under such circumstance that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

- (b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.
- (c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of ¹[the first paragraph of] this section.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 10 years and fine-Cognizable –Non-bailable-Triable by Court of Session- Non- compoundable

Para II. Punishment- for life, or imprisonment for 10 years and fine-Cognizable –Non-bailable-Triable by Court of Session – Non- compoundable.

Para III.- Punishment-Death, or imprisonment for 10 years as fine – Cognizable- Non-bailable- Triable by Court of Session- Non-compoundable.

COMMENTS

- (i) (i) If a person who does an act with intention or knowledge that if act caused death, he will be guilty of murder; Vasant Virhy Jadhv v.State of Maharashtra, (1997) 2 Crimes 539 (Bom).
- (ii) (ii) The question of intention to kill or the knowledge of death in terms of section 307, is a question of fact and not one of law. It would all depend on the facts of a given case; Vasant Virthu jadhav v. State of Maharashtra, (1997)2 Crimes 539 (Bom).
- (iii) (iii) The important thing to be borne in mind in determining the question whether an offence under section 307, is made out is the intention and not the injury(even if simple or minor); Vasant Vasant Virhy Jadhv v.State of Maharashtra, (1997) 2 Crimes 539 (Bom).
- (iv) (iv) It is not necessary that injury, capable of causing death, should have been inflicted. What is material to attract, the provisions of section 307 is the guilty intention or knowledge with which the all was done, irrespective of its result. The intention and knowledge are the matters of inference from totality of circumstances

and cannot be measured merely from the results; *Ansaruddin v. State of Madhya Pradesh*, (1997) 2 Crimes 157 (MP).

- (v) (v) The intention of knowledge of the accused must be such as is necessary to constitute murder; *Hari Kishan and State of Haryana v. Sukhbir Singh*, (1989) Cr LJ 116: AIR 1988 SC 2127.
- (vi) (vi) When in the absence of intention accused fired shot causing simple injury to victim, conviction

1. Ins. by Act 12 of 1891, sec.2 and Sch. II.

- (vii) When only one accused out of six being members of unlawful assembly armed with deadly weapon fired shots causing injuries falling under section 307, conviction under section 307, conviction under section 307 justified; *Tukaram Dayamy Gurav v. State of Maharashtra*, AIR 1982 SC 59: (1982) Cr LJ 199.

308. Attempt to commit culpable homicide.- Whoever does any act with such intention or knowledge and under such circumstances that, of he by that act caused death, he would be guilty of culpable homicide not amounting to murder shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section

CLASSIFICATION OF OFFENCE

Para I : Punishment- Imprisonment for 3 years, or fine or both-Cognizable –Non-bailable-Triable by Court of Session- Non- compoundable.

Para II: Punishment -Imprisonment for 7 years, or both or fine -Cognizable – Non-bailable-Triable by Court of Session-Non- compoundable.

309. Attempt to commit suicide.- Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year ¹[or with fine, or with both].

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for 3 years, or fine, or both-Non- cognizable –Non -bailable-Triable by Court of Session- Non- compoundable.

-
1. Subs.by Act 8 of 1882, sec 7, for” and shall also be liable to fine”.

COMMENTS

The Supreme Court has set aside its earlier judgment in *P. Rathinam Nagbhusan Patnaik v. Union of India*, JT 1994 (3) SC 392, wherein the Court had struck down section 309 as unconstitutional. In a country where one- half of its population still live below the poverty line, the right to die by suicide cannot be granted to any person. Article 21 of the Constitution, which gives right to life and personal liberty, by no stretch of imagination can be said to impliedly include right to death by committing suicide. The section is also not violative of Article 14. There is no requirement of awarding any minimum sentence. The sentence of imprisonment or fine is not compulsory but discretionary, *Gian Kaur (Smt.) v. The State of Punjab*, JT 1996 (3) SC 339.

310. Thug.- Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child- stealing by means of or accompanied with murder, is a thug.

311. Punishment.- Whoever is a thug, shall be punished with ²[imprisonment for life], and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for life and fine- Cognizable –Non-bailable-Triable by Court of Session- Non- compoundable.

Of Causing of Miscarriage, of Injuries to Unborn Children, of the Exposure of Infants, and of the Concealment of Births

312. Causing miscarriage.- Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman be punished with imprisonment of either description for the purpose of saving the life of the woman, be punished with imprisonment of either description which may extend to three years, or with fine, or with both; and, if the woman be quick

2. Subs. by Act 26 of 1955, sec,117 and Sch., for "transportation for life"(w.e.f.1-1-1956)

with child shall be punished imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.- A woman who cause herself to miscarry, is within the meaning of this section.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 3 years, or fine or both Non- cognizable –Non-bailable-Triable by Magistrate of the first class- Non- compoundable

Para II. Punishment-Imprisonment for 7 years and fine - Non- cognizable -Bailable-Triable by Magistrate of the first class- Non- compoundable

313. Causing miscarriage without woman's consent.- Whoever commits to offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

COMMENTS

Para I. Punishment-Imprisonment for life, or imprisonment for 10 years, and fine- Cognizable –Non-bailable-Triable by Court of Session- Non- compoundable.

314. Death caused by act done with intent to cause massacrng .- Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term may extend to ten years, and shall be liable to fine.

If act done without woman's consent.- And if the act is done without the consent of the woman , shall be punished either with ¹[imprisonment for life],or with the punishment above mentioned.

Explanation.- It is not essential to this offence that the offender should know that the act is likely to cause death.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Session - Non- compoundable.

Para II. Punishment-Imprisonment for life ,or as above -Cognizable –Non-bailable-Triable by Court of Session - Non- compoundable.

315. Act done with intent to prevent child being born alive or to cause it to die after birth.- Whoever before the birth of any child does nay act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and dies by such act prevent that child from being born alive, or cause it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may effected to ten years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years, or fine, or both -Cognizable –Non-bailable-Triable by Court of Session - Non- compoundable.

1. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transportation for life”(w.e.f.1-1-1956)

316. Causing death of quick unborn child by act amounting to culpable homicide.- Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustration

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Session - Non- compoundable.

317. Exposure and abandonment of child under twelve years, by parent or person having care of it.- Whoever being the father or mother of a child under the age of twelve years, or having care of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation .- This section is not intended to prevent the trial of the offender for murder of culpable homicide, as the case may be, if the child die in consequence of the exposure.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years, or fine, or both -Cognizable –Bailable-Triable by Magistrate of the first class - Non- compoundable.

318. Concealment of birth by secret disposal of dead body.- Whoever, by secretly burying or otherwise disposing of the body of child whether such child die before or after or during its birth, intentionally conceals or endeavors to conceal the birth, intentionally conceals or endeavors to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both -Cognizable –Bailable-Triable by Magistrate of the first class- Non- compoundable.

Of Hurt

319. Hurt.- Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

320. Grievous hurt.- The following kinds of hurt only are designated as “grievous”:-

First.- Emasculation.

Secondly.- Permanent privation of the sight of either eye.

Thirdly.- Permanent privation of the hearing of either ear,

Fourthly .- Privation of any member or joint.

Fifthly.- Destruction or permanent impairing of the powers of any member or joint.

Sixthly.-Permanent disfiguration of the head or face.

Seventhly. – Fracture or dislocation of a bone or tooth.

Eighthly.- Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to following his ordinary pursuits.

321. Voluntarily causing hurt.- Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, is said” voluntarily to cause hurt.

322. Voluntarily causing grievous hurt.- Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “ voluntarily to cause grievous hurt.”

Explanation.- A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But hw is said

voluntarily to cause grievous hurt, it intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt.

Illustration

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which cause Z to suffer sever bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. Punishment for voluntarily causing hurt.- Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees. or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 years, or fine of 1,000 rupees, or both –Non-cognizable –Bailable-Triable by Magistrate –Compounded by the person to whom the hurt is caused.

324. Voluntarily causing hurt by dangerous weapons or means.- Whoever, excepted in the case provided for by section 334, voluntarily cause hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means or fire or any heated substance ,or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine, or both -Cognizable –Bailable-Triable by Magistrate –Compoundable by the person to whom hurt is caused with the permission of the court.

COMMENTS

- (i) Where conviction of accused is altered from under section 307 to section 324 IPC. Then the sentence of imprisonment is reduced to period already undergone as an under trial and as a convict; Rohtas v. State of Uttar Pradesh, 2000 Cr LJ (All).

- (ii) During 22 years of proceedings the accused were already in custody for a long period taken together, this offence was of causing minor injuries, deceased victim not caused by accused, sentence of period already undergone in jail is sufficient punishment, Ramharakh v. State of Uttar Pradesh, 1999 Cr LJ 30001 (All).

325. Punishment for voluntarily causing grievous hurt.- Whoever, except case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment if either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years, and fine, or both -Cognizable -Bailable-Triable by any Magistrate - Compoundable by the person to whom hurt is caused with the permission of the court.

COMMENTS

The act of squeezing the testicles of a person would be an offence of causing grievous hurt; State of Karnataka v. Shivalingaing, (1998) Cr LJ 394 : AIR 1988 SC 115.

326. Voluntarily causing grievous hurt by dangerous weapons or means.- Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for life, or imprisonment for 10 years, or fine-Cognizable- Non-bailable-Triable by Magistrate of the first class- Non-compoundable.

328. Causing hurt by means of poison ,etc. with intent to commit an offence.- Whoever administer to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years, or fine-Cognizable –Non-bailable-Triable by Court of Session-Non –compoundable .

329. Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.- Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do any thing that is illegal or which may facilitate the commission of an offence, shall be punished with ¹[imprisonment for life], or imprisonment of either description for a term which may extend to ten years. and shall be liable to fine.

1. Subs. by Act 26 of 1955, sec 117 and Sch., for “ transportation for life”(w.e.f..1-1-1956)

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for life, or imprisonment for 10 years and -Cognizable Non–bailable-Triable by Court of Session-Non–Compoundable.

330. Voluntarily causing hurt to extort confession, or to compel restoration of property.- Whoever voluntarily causes hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct , or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to causes the restoration of any property or valuable security or to satisfy any claim or

demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations

- (a) (a) A, a police – officer, tortures Z in order to induce Z to confess that he committed a crime . A is guilty of an offence under this section.
- (b) (b) A, a police- officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.
- (c) (c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.
- (d) (d) A, a zamindar, tortures a raiyat in order to compel him to pay his rent . A is guilty of an offence under this section.

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1. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transpiration for life”(w.e.f.1-1-1956).

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine Cognizable -Bailable-Triable by Magistrate of the first class-Non-Compoundable.

331. Voluntarily causing grievous hurt to extort confession, or to comper restoration of property.-

Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct ,or for the purpose of constraining the sufferer or any property or valuable security, or to satisfy ant claim or demand or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine-Cognizable Non-bailable-Triable by Court of Session-Non-Compoundable.

332. voluntarily, causing hurt to deter public servant from his duty .- Whoever voluntarily causes hurt to any person being a public servant, or with intent to prevent or deter that person or any other public as such public servant from discharging his duty as such public servant , or in consequence of any thing done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years , or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years and fine, or both-Cognizable –Bailable-Triable by Magistrate of the first class-Non–Compoundable.

333. Voluntarily causing grievous hurt to deter public servant from his duty.- Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of duty as such public servant , or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of any thing done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine-Cognizable Non–bailable-Triable by Court of Session-Non–Compoundable.

334. Voluntarily causing hurt on provocation.- Whoever voluntarily caused hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five which may extend to five hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1month, or fine of 500 rupees, or both-Non-cognizable -Bailable-Triable by any Magistrate–Compoundable. By the person to whom the hurt is caused.

335. Voluntarily causing hurt on provocation. Whoever ¹[voluntarily] causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave there provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Explanation.- The last two sections are subject to the same provision as Explanation 1, section 300.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 4 Years, or fine of 2000 rupees, or both-Cognizable -Bailable-Triable by any Magistrate of the first class –Compoundable by the person to whom the hurt is caused with the permission of the court.

336. Act endangering life or personal safety of others.- Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 month, or fine of 250 rupees, or both-Cognizable - Bailable-Triable by any Magistrate–Non-compoundable.

337. Causing hurt by act endangering life or personal safety of others.- Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 6 month, or fine of 500 rupees, or both- Cognizable - Bailable-Triable by any Magistrate–Compoundable. By the person to whom the hurt is caused with the permission of the court.

338. Causing grievous hurt by act endangering life or personal safety of others.- Whoever causes grievous hurt to any person to doing any act so rashly or negligently as to endanger human life ,or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine of 1,000 rupees, or both-Cognizable -Bailable-Triable by any Magistrate-Compoundable by the person to whom the hurt is caused with the permission of the court.

Of Wrongful Restraint and Wrongful Restraint and Wrongful Confinement

339. Wrongful restraint .- Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has right to proceed , is said wrongfully to restrain that person.

Exception.- The obstruction of a private way over land or water over land or water which a person in good faith believes himself to have a lawful right to obstruct , is not an offence within the meaning of the section.

Illustration

A obstructs a path along which Z has a right to pass. A not believing in good faith manner as to prevent that person from proceeding beyond certain circumscribing limits, is said “ wrongfully to confine” that person.

340. Wrongful confinement.- Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said “wrongfully to confine” that person.

Illustration

- (a) A causes A to go within a walled space, and locks Z in thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfullu confines Z.

- (b) A places man with fireman at the outlets of a building , and tells Z that that will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

341. Punishment for wrongful restraint.- Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month , or with fine which may extend to five hundred rupees ,or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1month, or fine of 500 rupees, or both-Cognizable -Bailable-Triable by any Magistrate-Compoundable by the person restrained or confined.

342. Punishment for wrongful confinement.- Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 year, or fine of 1,000 rupees, or both-Cognizable -Bailable-Triable by any Magistrate-Compoundable by the person restrained or confined.

343. Wrongful confinement for three or more days.- Whoever wrongfully confines any person for three days, or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both -Cognizable -Bailable-Triable by any Magistrate-Compoundable by the person confined with the permission of the court.

344. Wrongful confinement for ten or more days.- Whoever wrongfully confines any person for ten days ,or more shall be punished with imprisonment of either description for a term which may extend to three years , and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years and fine-Cognizable -Bailable-Triable by any Magistrate-Compoundable by the person confined with the permission of court.

345. Wrongful confinement of person for whose liberation writ has been issued.- Whoever keeps any person in wrongful confinement knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years in addition to imprisonment under any other section-Cognizable -Bailable-Triable by any Magistrate of the first class-Non-compoundable.

346. Wrongful confinement in secret. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any other punishment to which he may be liable for such wrongful confinement.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years in addition to imprisonment under any other section-Cognizable -Bailable-Triable by any Magistrate of the first class-Compoundable by the person restrained or confined with the permission of the court.

347. Wrongful confinement to extort property, or constrain to illegal act.- Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined or any person interested in such person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead

to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years and fine -Cognizable -Bailable-Triable by any Magistrate-Non-Compoundable.

349. Force. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he cause to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body , or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.

First.- By his own bodily power.

Secondly.- By disposing any substance in such a manner that the motion or change or cession of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.- By inducing any animal to move, to change its motion, or to cease to move.

350. Criminal force.- Whoever intentionally uses force to any prosn, without that parson's consent, in order to the committing of any offence, or intending by the use of such force to cause ,or knowing it to be likely that by he use of such force he eill cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to the other.

(a) (a) Z is sitting in a moored boat on a river. A unfastens the ,orings, and thus intentionally causes the boat to drift down the stream . Here A intentionally cause motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury fear or announce to Z, A has used criminal force to Z.

(b) (b) Z is riding in a chariot. A lashes Z's horse, and thereby causes them to quicken their pace. Here Z has caused change of motion to Z by inducing the animals to change

their motion. A has therefore used force to Z' and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.

- (c) (c) Z is riding in a palanquin. A, intending to rob Z, seized the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence. A has used criminal force to Z.
- (d) (d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.
- (e) (e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes. A has used force to Z; and if he die so without Z's consent, intending thereby to injure, frighten or annoy Z, he has criminal force by Z.
- (f) (f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.
- (g) (g) (g) Z is bathing, A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power caused such motion in the boiling water as brings that water into contact with Z, or with that water so situated that such contact must affect Z's sense of feeling; A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force to Z.
- (h) (h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends cause injury, fear or annoyance to Z, he use criminal force to Z.

351. Assault.- 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.

- (a) (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) (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 A.
- (c) (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.

352. Punishment for assault or criminal force otherwise than on grave provocation.- 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 offence, is a question of fact.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 months, or fine of 500 rupees, or both-Cognizable -Bailable-Triable by any Magistrate-Compoundable by the person assaulted or to whom criminal force is used.

353. Assault or criminal force to deter public servant from discharge of his duty.- Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine ,or both-Cognizable -Bailable-Triable by any Magistrate–
Non-compoundable.

354. Assault or criminal force to woman with intent to outrage her modesty.-Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine ,or both-Cognizable -Bailable-Triable by any
Magistrate–Non-compoundable.

STATE AMENDMENTAS

State of Andhra Pradesh:

In its application to the State of Andhra Pradesh, or section 345 of the Indian Penal Code, 1860 the following section shall be substituted, namely-

354. Assault or criminal force to woman with intent to outrage her modesty.- Whoever assaults or uses criminal force to any woman with intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term which may be less than five years but which shall not be less than two years.

[vide A.P. Act]6 of 1991].

State of Orissa:

In the First Schedule to the said Code in the entry under column 5 relating to section 345 or the Indian Penal Code 1860 for the word” bailable’ the word ‘non bailable’ shall be substituted .

[Vide Orissa Act 6 of 1995, section 3 (w.e.f.10-3-1995)]

355. Assault or criminal force within intent to dishonor person, otherwise than on grave provocation.-

Whoever assaults or uses criminal force to any person, intending thereby to dishonor that 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 two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both Non-Cognizable -Bailable-Triable by any Magistrate-Compounded by the person assaulted or to whom criminal force is used.

STATE AMENDMENTS

State of Andhra Pradesh:

In Andhra Pradesh the offence under Section 355 is non cognizable, bailable and triable by any Magistrate.

[Vide Act 3 of 1992, sec 2 (w.e.f.15-2-1992).

356. Assault or criminal force in attempt to commit theft of property carried by a person.-Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both -Cognizable -Bailable-Triable by any Magistrate-Non-compoundable.

357. Assault or criminal force in attempt wrongfully to confine a person.- Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 year, or fine of 200 rupees ,or both Non-cognizable -Bailable-Triable by any Magistrate—Compounded by the person assaulted or to whom criminal force is used with the permission of the court.

358. Assault or criminal force on grave provocation.- Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Explanation.- The last section is subject to the same Explanation as section 352.

CLASSIFICATION OF OFFENCE

Punishment-Simple imprisonment for one month, or fine of 200 rupees ,or both –Non-cognizable -Bailable-Triable by any Magistrate—Compoundable by the person assaulted or to whom criminal force is used.

Of Kidnapping, Abduction, Slavery and Forced Labour

359. Kidnapping.- Kidnapping is of two kinds: Kidnapping from ¹[India], and kidnapping from lawful guardianship.

360. Kidnapping from India.- Whoever conveys any person beyond the limits of ¹[India] without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from ¹[India].

361. Kidnapping from lawful guardianship .- Whoever takes or entices any minor under ²[Sixteen] years or age if a male, or under ³[eighteen] years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without

the consent of such guardian, is said to kidnap such minor or person from lawful guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.- The words "lawful guardian" in this section include any person lawfully entrusted with the care of custody of such minor or other person.

Exception.- This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

STATE AMENDMENTS

Union of Territory of Manipur :

In its application to Union Territory of Manipur, in section 361 for the

Words 'eighteen' substitute the word 'fifteen'.

[Vide Act No. 30 of 1950].

362. Abduction.- Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

COMMENTS

It is well known that the ingredients of the two offences—"kidnapping" and 'abduction'—are entirely different. These are two distinct offences; *Abhaya jena v. State of Orissa*, (1997) Crimes 531 (Ori).

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1. The words "British India" have successively been subs. by the A.O 1948, the A.O 1950 and Act 3 of 1951, sec. 3 and Sch. to read as above.
 2. Subs by Act 42 of 1949, sec.2, for "fourteen".
 3. Subs. by Act 42 of 1949, sec.2, for "sixteen".

COMMENTS

It is well known that the ingredients of the two offences-‘kidnapping’ and ‘abduction’ –are entirely different. These are two distinct offences; *Abhaya jena v. State of Orissa*, (1997) Crimes 531 (Ori).

363. Punishment for kidnapping.- Whoever kidnaps any person from ¹[India] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine -Cognizable -Bailable-Triable by any Magistrate of the first class–Non-compoundable.

STATE AMENDMENTS

State of Uttar Pradesh:

In Uttar Pradesh the offence under section 363, I.P.C. is non bailable .

[Vide U.P. Act 1 of 1984, sec. 12.(w.e.f.1-5-1984)].

²**[363A. Kidnapping or maiming a minor for purposes of begging.**- (1) Whoever kidnaps any minor or, not being the lawful guardian of minor, obtains the custody of the minor, in order that such minor may be employed or used for the purpose of begging shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever maims any minor in order that such minor can be employed or used for the purpose of begging shall be punished with imprisonment for life, and shall also be liable to fine.

(3) Where any person, not being the lawful guardian of a minor, employs or uses such minor for the purposes of begging, it shall be presumed, unless the contrary is proved, that he kidnapped or otherwise obtained the custody of that minor in order that the minor might be employed or used for the purpose of begging.

1. The words “British India” have successively been subs. by the A.O. 1950 and Act 3 of 1951, sec. 3 and Sch. to read as above.

2. 2.Ins. by Act 52 of 1959, sec.2 (w.e.f. 15-1-1960)

(4) In this section,-

(a) 'begging' means-

(i) soliciting or receiving alms in a public place, whether under the pretence of singing , dancing , for tune –telling, performing tricks or selling articles or otherwise;

(ii) entering on any private premises for the purpose of soliciting or receiving alms;

(iii) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(iv) using a minor as an exhibit for the purpose of soliciting or receiving alms;

(b) 'minor' means-

(i) in the case of male, a person under sixteen years or age; and

(ii) in the case of a female, a person under eighteen years or age.]

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 10 years and fine-Cognizable –Non-bailable-Triable by any Magistrate of the first class –Non-compoundable.

Para II. Punishment-Imprisonment for and fine-Cognizable –Non-bailable-Triable by Court of Session –Non-compoundable.

364. Kidnapping or abducting in order to murder.-Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered , shall be punished with ¹[imprisonment for life] or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations

(a) A kidnaps Z from ²[India], intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

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1. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transportation for life”(w.e.f.1-1-1956)
 2. The words”British India” have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951,sec.3 and Sch. to read as above.

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for life, or rigorous imprisonment for 10 years and fine -Cognizable – Non-bailable-Triable by Court of Session –Non-compoundable.

³**[364A. Kidnapping for ransom, etc.-** Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction and threatens to cause death or hurt to such person , or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or death to such person in order to compel the Government or ⁴[any foreign State or international inter governmental organization or any other person] to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or imprisonment for life ,and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Punishment-Death, or imprisonment for 7 years and fine -Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

365. Kidnapping or abduction with intent secretly and wrongfully to confine person.- Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine -Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

COMMENTS

Where sufficient evidences prove that the victim was above 18 years of age the convictions of accused can not be done under section 336-A, section 372 of IPC but for an offence of punishment under section 365 IPC is liable to be prosecuted ; Shaikh Ramjan v. State, 1999 Cr LJ 2161 (AP).

1. Ins . by Act 42 of 1993, sec. 2 (w.e.f.22-5-1993).
2. 4.Subs. by Act 24 of 1995 , for “ any other person” (w.e.f.26-5-1995).

366. Kidnapping, abducting or inducting woman to compel her marriage, etc.- Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled , to illicit intercourse , shall be punished with likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment or either description for a term which may extend to ten years, and shall also be liable to fine; ¹[and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punished as aforesaid].

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by any Session–Non-compoundable.

²[**366A. Procurement of minor girl**] Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be , forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years , and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Session –Non-compoundable.

²[**366B. Importation of girl from foreign country.-** Whoever imports into ³[India] from any country outside India

1. 1. 1.Added by Act 20 of 1923, sec 2.
2. 2. 2.Ins. by Act 20 of 1923, sec.3.
3. 3. 3.The words “ British India” have successively been subs. by the A.O. 1950, the A.O. 1950 and Act 3 of 1951 , sec. 3 and Sch. to read as above.

⁴[or form the State of Jammu and Kashmir] any girl under the age of twenty –on years with intent that she may be. Or knowing it to be

likely that she will be , forced or seduced to illicit intercourse with another person, ⁵[***] shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine].

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Session –Non-compoundable.

COMMENTS

Where the age of prosecutrix was 14 years at the time at the time of incident not proved while ossification test report suggested her age about 40 years and further she willingly gone with accused without making complaints to any body on way thus no offence is made out and as such accused without making complaints to any body on way thus no offence is made out and as such accused without making complaints to any body on way thus no offence is made out and as such conviction is liable to set aside; Shakeel alias Pappoo v. State of Uttar Pradesh, 2000 Cr LJ 153 (All).

4. Ins. by Act 3 of 1951, sec. 3 and Sch .
5. Certain words omitted by Act 3 of 1951, sec.3 and Sch.

(ii) Consent of a minor prosecutrix does not matter she was taken to separte places for making sexual intercourse away form her lawful guardians , here came as different in FIR dies not matter as it was hr pet name, under such circumstances accused is guilty of knidnapping and raping a minor for days long; Mohandas Suryavanshi v. State of Madhya Pradesh, 1999 Cr LJ 3451 (MP).

367. kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.-Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed or as

to be put in danger of being subject to grievous hurt, or slavery, or to the unnatural lust of , shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Session –Non-compoundable.

368. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.- Whoever, knowing that any person has been kidnapped or has been abducted wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement,

CLASSIFICATION OF OFFENCE

Punishment-Punishment for kidnapping or abduction-Cognizable –Non-bailable-Triable by court by which the kidnapping or abduction is triable –Non-compoundable.

369. Kidnapping or abducting child under ten years with intent to steal from its person.- Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine -Cognizable –Non-bailable-Triable by Magistrate of the first class –Non-compoundable.

370. Buying or disposing of any person as a slave.- Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine -Cognizable –Non-bailable-Triable by Magistrate of the first class –Non-compoundable.

371. Habitual dealing in slaves.- Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for life ,or imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Session –Non-compoundable.

372. Selling minor for purposes or prostitution , etc.- Whoever sells, lets to hire, or otherwise disposes of any ¹[person under the age of eighteen years with intent that such person shall at any age be] employed or used for any such propose , or knowing to be likely that such parson will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall be liable to fine.

²[Explanation I.-When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall , until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation II. For the purposed of this section” illicit intercourse” means sexual intercourse between parsons not united by marriage or by any union or tie which, though to amounting to a marriage, is recognized by the personal law or custom of the community to which they belong or , where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation.

1. 1. Subs. by Act 26 of 1955, sec 117 and Sch., for “transportation for life” (w.e.f.-1-1956).

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Sessioin–Non-compoundable.

COMMENTS

When the offence under section 372 and 366-A is not proved due to age of victim the conviction under lesser offence and lesser punishment is applicable .The legislature is advised by Court to consider this legal flaw; Shaikh Ramjan v. State, 1999 Cr LJ 2161 (AP).

373. Buying minor for purposes of prostitution ,etc.- Whoever buys, hires or otherwise obtains possession of any ¹[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, of knowing

It to be likely that such person will at any age be] employed or used for any purpose, shall , punished with imprisonment of either description for a tem which may extend to ten years, and shall also be liable to fine.

³[Explanation I.- Any prostitute or any person keeping or managing a brothel, who buys , hires or otherwise obtains possession of a female under the age of eighteen years shall , until the contrary is proved, be presumed to have obtained possession of such female with he intent that she shall be used for the purpose of prostitution.

Explanation II.- “ Illicit intercourse” has the same meaning as in section 372.]

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1. 1. Subs. by Act 18 of 1924, sec.2 , fro certain words.
 2. 2. Ins. by Act 18 of 1924, sec.3.
 3. 3. Ins. by act 18 of 1924, sec.4.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Sessioin–Non-compoundable.

374. Unlawful compulsory lab our.-Whoever unlawfully compels any person to lab our against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1years, or fine, or both -Cognizable –Bailable-Triable by any Magistrate–Non-compoundable.

¹[Sexual offences]

²[**375. Rape.**- A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:-

First.- Against her will.

Secondly.- Without her consent.

Thirdly.- With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

Fourthly.- With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.- With her consent, when at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent

Sixthly.- With or without her consent, when she is under sixteen years of age .

-
1. 1. Subs. by Act 43 of 1983, sec.3, for the heading “ Of rape”
 2. 2. 2.Subs. by Act 43 of 1983, sec.3, for sections 375 and 376.

Explanation. Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.- Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.]

STATE AMENDMENT

Union Territory of Manipur:

(a) in clause sixthly, for the word “ sixteen” substitute the word” fourteen “; and

(b) in the Exceptionoin , for the word: “ sixteen” substitute the word” thirteen”.

[Vide Act 30 of 1950.]

COMMENTS

Mere absence of spermatozoa cannot cast a doubt on the correctness of the prosecution case ; Prithi Chand v. State of Himachal Pradesh, (1989)Cr LJ 481:AIR 1989 SC 702.

(ii) Where a prosecutrix is a minor girl suffering from pain due to ruptured hymen

and bleeding vagina depicts same, minor contradictions in her statements that are not of much value, also absence of any injury on kale organ or accused is no valid ground for innocence of accused, conviction and section 375I.P.C proper; Mohd. Zuber Noor Mohammed Changwldia v.State of Gujarat, 1999 Cr LJ 3419 (Guj).

²[**376.Punishment for rape**].- (1) Whoever, excepted in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the women rape is his own wife an is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a tem which may extend to two years or with fine or with both:

provided that the court may, for adequate and special reasons to be mentioned in the judgment impose a sentence of imprisonment for a term of less than seven years.

(2) Whoever,-

(a) being a police officer commits rape-

2. Subs. by Act 43 of 1983, sec.3, for sections 375 and 376.

- (i) within the limits of the police station to which he is appointed; or
- (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or
- (iii) on a woman in his custody or in the custody of a police officer subordinate to him; or
- (b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public station subordinate to him; or
- (c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a woman's or children's institution takes advantage of his official position and commits rape any inmate of such jail, remand home, place or institution; or
- (d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or
- (e) commits rape on a woman knowing her to be pregnant; or

shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

Explanation 1.- Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

Explanation 2.- "Women's or children's institution" means an institution, whether called an orphanage or a home for neglected woman or children or a widows, home or by any other name, which is established and maintained for the reception and care of woman or children.

Explanation 3.- "Hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of person during convalescence or of persons requiring medical attention or rehabilitation.]

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for life or imprisonment for ten years and fine -Cognizable – Non-bailable-Triable by Court of Session–Non-compoundable.

Para II. Punishment-Imprisonment for two years and fine or both –Non-Cognizable –Bailable-Triable by Court of Session–Non-compoundable.

COMMENTES

- (i) (i) Corroborative evidence is not an imperative component of judicial credence in every case of rape; State of Maharashtra v. State Maharashtra v. Suresh Nivruthi Bhusare, (1997) 2 Crimes 257 (Bom).
- (ii) (ii) If a woman meekly submits to sexual intercourse it would be a cause of consent; State of Maharashtra v. Suresh Nivruthi Bhusare, (1997)2 Crimes 257 (Bom).
- (iii) (iii) Normally a woman would not falsely implicate for the offence of rape at the cost of her character. In Indian society, it is very unusual that a lady with a view to implicate a person would go to the extent of saying that she was raped; Mohan Lal v. State of Madhya Pradesh, (1977) 2 Crimes 210 (MP).
- (iv) (iv) When the prosecutrix is a minor aged below 16 years, the question of her being a consenting party to the sexual intercourse does not arise or is or no consequence; Naresh v. State of Haryana, (1997)2 Crimes 587 (P&H).
- (v) (v) The delay in hearing of appeal for long period is no cause for not interfering with an order of acquittal which was based on conjectures and surmises, resulting in gross failure of justice State of Rajasthan v. Shanker, 2000 Cr LJ266 (Raj).
- (vi) (vi) Where in innocent girl of just 9 years of age raped by accused, and FIR is lodged well in time evidence of her testimony also corroborated by medical evidence, no evidence for false implication, failure on part of investigation are not enough to deny version of prosecutrix and other corroborative evidences; Najoor Ahmad v. State of Bihar, 1999 Cr LJ 2550 (Pat).
- (vii) (vii) Medical evidence corroborated by version of prosecutrix independent witness also in favour of the victim. No evidence of causing an unknown person a false

implication at cost of a family name, conviction based on her evidence upheld; Lakha v. State of Rajasthan, 1999 Cr LJ 3418 (Raj).

- (viii) (viii) Where a minor girl just 10 years of age raped by accused, a minor of 16 years on the date of incident, convicted and sentenced to 3 years R.I., therefore, since then many years added to his age, he cannot even be sent to an approved school under the Act and as such his conviction is but sentence set aside; Bire Alias Bir Bahadur Singh v. State of Uttar Pradesh, 2000 Cr LJ 87 (All).
- (ix) (ix) In absence of any sign of forcible intercourse during medical examination and delay in lodging FIR not explained, accused entitled to acquittal; Babu Dey v. State of West Bengal, 2000 Cr LJ 329 (Cal).
- (x) (x) Where the evidences of Witnesses are fully corroborated by medical evidence other material evidences active role of all of accused is not doubted then conviction under section 376 (2)(g) and 302/34 is fully justified; State of Madhya Pradesh v. Mohai, 1999 Cr LJ 2698 (MP).

¹**[376 A. Intercourse by a man his wife during separation.-** Whoever has sexual intercourse with his own wife, who is living separately from him under a decree of separation or under any custom or usage without her consent shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for two years, or fine-Non-cognizable –Bailable-Triable by Court of Session.–Non-compoundable.

376B. Intercourse by public servant with woman in his custody.- Whoever, being a public servant, takes advantage of his official position and induces or seduces, any woman, who is in his custody as such public servant or in the custody of a public servant subordinate to him, to have sexual intercourse with him, such sexual intercourse

1. Subs. by Act 43 of 1983, sec.3, for sections 375 and 375.

Not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for five years and fine-Cognizable(but no arrest shall be made without a warrant or without an order of a Magistrate) –Bailable-Triable by any Court of Session–Non-compoundable.

¹**[376C. Intercourse by superintendent of jail, remand home, etc.-** Whoever, being the superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force or of a woman's or children's institution takes advantage of his official position and induces or seduces any female inmate of such jail, remand home, place or institution to the sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

Explanation 1.- "Superintendent" in relation to jail, remand home or other place of custody or a women's or children's institution includes a person holding any other office in such jail, remand home. Place or institution by virtue of which he can exercise any authority or control over its inmates.

*Explanation 2.-*The expression " women's or children's institution" shall have the same meaning as in Explanation 2 to sub-section (2) of section 376.]

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for five years and fine-Cognizable(but no arrest shall be made without a warrant or without an order of a Magistrate) –Bailable-Triable by any Court of Session–Non-compoundable.

¹**[376 D. Intercourse by any member of the management or staff of a hospital with any woman in that hospital.-**Whoever, being on the management of a hospital or being on the staff of a hospital takes advantage of his position and has sexual intercourse with any woman in that hospital, such sexual intercourse not amounting to the offence of

1. Subs. by Act 43 of 1983, sec.3, for sections 375 and 376

rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

Explanation.- The expression “hospital” shall have the same meaning as in Explanation 3 to sub-section (2) of section 376.]

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for five years and fine-Cognizable(but no arrest shall be made without a warrant or without an order of a Magistrate) –Bailable-Triable by any Court of Session–Non-compoundable.

Of Unnatural Offences

377. Unnatural offences. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with ²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Explanation.- Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for life, or imprisonment for 10 years and fine-Cognizable-Non – Bailable-Triable by Magistrate of the first class.–Non-compoundable.

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

Of Theft

378. Theft.- Whoever, intending to take dishonestly any movable property out of the possession of any person without that person’s consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.- A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

1. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transportation for life” (w.e.f.1.1.1956)

Explanation 2.- A moving effected by the same act which affects the severance may be a theft.

Explanation 3.- A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from ant other thing, as well as by actually moving it.

Explanation 4. A person, who by any means causes an animal to move is said to move that animal , and to move everything which, in consequence of the ,motion so caused, is moved by that animal.

Explanation 5. The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for the purpose authority either express or implied.

Illustrations

A cuts down a tree on Z's ground , with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has served the tree in order to such taking, he has committed theft.

A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it Here, if A's intention be dishonestly to take the dog out of A's possession without Z's consent. A has committed theft as soon as Z's dog has begun to follow A.

A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock beings to move, A has committed theft of the treasure.

A, being Z's servant and entrusted by Z with the care of Z's with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft of the treasure.

Z, going on a journey, entrusts his plate to A, the keeper of the warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z'x possession, and A has not committed theft, though he may have committed criminal breach of trust.

A find a ring belonging to Z on a table in the house which Z occupies, Here the ring is in A's possession , and if A dishonestly removes it, A commits theft.

A finds a ring lying on the highroad. Not in the possession of any person. A by taking it, commits no theft, though he may commit criminal misappropriation of property.

A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

A delivers his watch to Z, a jeweler, to be regulated. Z carries it to his shop. A, not owing to the jeweler any debt for which the jeweler might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, in as much as what he did was not done dishonestly.

If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of property as a security for his debt, he commits theft, though the watch is his own property as a security for his debt, he commits theft, in as much as he takes it dishonestly.

Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property in as much as he takes it dishonestly.

A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

A is the paramour of Z's wife and to be such property, which A knows to belong to her husband Z, and to be such property as she has no authority from Z to give. If A takes the property dishonestly, he commits theft.

A, in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

COMMENTS

The delay in hearing of appeal for long period is no cause for not interfering with an order of acquittal which was based on conjectures and surmises, resulting in gross failure of justice; State of Rajasthan v. Shanker, 2000 Cr LJ 266 (Raj) .

379. Punishment for theft.- Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine, or both-Cognizable – Non-bailable-Triable by any Magistrate- Compoundable by the owner of the property stolen with the permission of court.

380. Theft in dwelling house, etc.- Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description in for a term, which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine-Cognizable –Non-bailable-Triable by Magistrate –Non-compoundable.

STATE AMENDMENTS

State of Tamil Nadu:

Section 380 of the Indian Penal Code (Central Act XLV of 1860)(hereinafter in this part referred to as the principal Act), shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-

“(2) Whoever commits theft in respect of any idol or icon in any building used as a place of worship shall be punished with rigorous imprisonment for a term which shall not be less than two years but which may extend to three years and with fine which shall not be less than two thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment impose a sentences of imprisonment for a term of less than two years.”

[Vide Tamil Nadu Act 28 of 1993, sec.2].

381. Theft by clerk or servant of property in possession of master.- Whoever , being a clerk or servant , or , or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years, or fine-Cognizable – Non-bailable-Triable by any Magistrate- Compoundable by the owner of the property stolen with the permission of court.

382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft.- Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations

A commits theft on property in Z’s possession; and , while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this section.

A picks Z’s pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A.A has committed the offence defined in this section.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

Of Extortion

383. Extortion.- Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces that person so put in fear to deliver to any person any property or valuable security, or any thing signed or sealed which may be converted into a valuable security, commits "extortion"

Illustrations

A threatens to publish a defamatory libel concerning A unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers to A a promissory note binding to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

A threatens to send club-men to plough up Z's field unless Z will sign and deliver to a bond. A has committed extortion.

A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers that paper to A. Here, as the paper so signed may be converted into a valuable security. A has committed extortion.

384. Punishment for extortion.- Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine, or both-Cognizable –Non-bailable-Triable by any Magistrate–Non-compoundable.

385. Putting person in fear of injury in order to commit extortion.- Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Cognizable –Bailable-Triable by Magistrate –Non-compoundable.

386. Extortion by putting a person in fear of death or grievous hurt to.- Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other , shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

387. Putting person in fear of death or of grievous hurt, in order to commit extortion.- Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other , shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.-Whoever commits extortion by putting any person or any other , or having committed or attempted to commit any offence punishable with death, or with ¹[imprisonment for life], or with imprisonment for a term which may extend to ten years, shall be punished with also be liable to fine; and , if the offence be punishable under section 377 of his Code, may be punished with ¹[imprisonment for life].

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 10 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

389. Putting person in fear of accusation of offence, in order to commit extortion,- Whoever, in order to committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other , of having committed, or attempted to commit an offence punishable with death or with ¹[imprisonment of relief], or with imprisonment of e a term which ,ay extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years , shall be

punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fined; and , if the offence be punished under section 377 of this Code, may be punished with ¹[imprisonment of relief].

CLASSIFICATION OF OFFENCE

Para I : Punishment-Imprisonment for 10 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

Para II: Punishment-Imprisonment for life -Cognizable –Bailable-Triable by Magistrate of the first class–Non-compoundable.

Of Robbery and Dacoity

390. Robbery. –In all robbery there is either theft or extortion.

When theft is robbery.- Theft is “ robbery” if , in order to the committing if the theft ,or in committing the theft, or in carving away or attempting to carry away property obtained by the theft, the offender, for that end , voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint , or fear of instant death or of instant hurt, or of instant wrongful restraint death or of instant hurt, or of instant wrongful restraint.

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1. Subs. by Act 26 of 1955, sec.117 and Sch., for “transportation for life” (w.e.f.1-1-1956).

When extortion is robbery.- Extortion is “robbery” if the offender, at the time of committing the extortion, if in the presence of the person but in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear includes the person so put in fear then and there to deliver up the thing extirpated.

Explanation.- The offender is said to be present of he is sufficiently near to put the other person in fear of instant death, of instant hurt ,or of instant wrongful restraint.

Illustrations

- (a) A holds Z down and fraudulently takes Z's money and jewels from Z's clothes without Z's consent. Here A has committed theft, and in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.
- (b) A meets Z on the high roads, shows a pistol, and demands Z's purse. A in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.
- (c) A meets Z and Z's child on the high road. A takes the child and threatens to fling it down a precipice, unless Z delivers his purse. Z in consequence delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.
- (d) A obtains property from Z by saying- "Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees". This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

COMMENTS

In order that theft may constitute robbery, prosecution has to establish-

if in order to the committing of theft; or

in committing the theft, or

in carrying away or attempting to carry away property obtained by theft;

the offender for that end i.e. any of the ends contemplated by (a) to (c).

voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant wrongful restraint

In other words, theft would only be robbery if for any of the ends mentioned in (a) to (c) the offender voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant wrongful restraint. If the ends does not fall within (a) or (c) but, the offender still causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt or instant hurt or instant wrongful restraint, the offence would not be robbery. That (a) or (b) or (c) have to be read conjunctively with (d) and (e). It is only when (a) or (b) or (c) co-

exist with (d) and (e) or there is a nexus between any of them and (d), (e) would amount to robbery; State of Maharashtra v. Joseph Mingel Koli, (1997) 2 Crimes 228 (Bom).

391. Decoity.- When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity".

COMMENTS

When robbery is either committed or an attempt to commit it is made by five or more persons then all such, who are present or aiding in its commission or in an attempt to commit it, would commit the offence of dacoity; State of Maharashtra v. Joseph Mingel Koli, (1997) 2 Crime 228 (Bom).

392. Punishment for robbery.- Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

CLASSIFICATION OF OFFENCE

Para I: Punishment-Rigorous imprisonment for 10 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

Para II: Punishment- Rigorous imprisonment for 14 years, and fine -Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

393. Attempt to commit robbery.- Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine..

CLASSIFICATION OF OFFENCE

Punishment-Rigorous imprisonment for 7 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

394. voluntarily causing hurt in committing robbery.- If any person, in committing or in attempting to committing robbery, voluntarily cause hurt , such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with ¹[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or rigorous imprisonment for 10 years and fine- Cognizable- Non-bailable-Triable by Magistrate of the first class-Non-compoundable.

COMMENTS

- (i) Not only the person who actually cause hurt by but an associate of his/ her would equally be liable for the mischief contemplated by this section; Shraavan Dashrath Darange v. State of Maharashtra, (1997) 2 Crime 47 (Bom).
- (ii) When it is proved that assault was made with motive to successfully rob the persons the conviction under section 304 IPC against both person; Rajjo v. State, 1999 Cr LJ 2996 (All).

395. Punishment for dacoity.- Whoever commits dacoity shall be punished with ¹[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or rigorous imprisonment for 10 years and fine- Cognizable- Non-bailable-Triable by Court of Session -Non-compoundable.

1. Subs. by Act 26 of 1955 , sec.117 and Sch., for “transportation for life”(w.e.f.1-1-1956).

COMMENTS

Where the presence of informant and other witnesses at the time and place of incident was established and their positive evidence regarding the way in which the dacoity was committed found reliable having no previous enmity with accused, no case of false implication established therefore, conviction of accused under section 395 was just and proper; Chhedu v. State of Uttar Pradesh, 2000 Cr LJ 78 (All).

396. Dacoity with murder.- If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or ¹[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, and shall be also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Death, imprisonment for life, or rigorous imprisonment for 10 years and fine- Cognizable- Non-bailable-Triable by Court of Session -Non-compoundable.

COMMENTS

- (i) when prosecution failed to establish any nexus between death and commission of dacoity charge under section 396 will fail; Wakil Singh v.State of Bihar, (1981) BLJ 462.
- (ii) When the presence of accused persons recoveries of different items of an incriminating nature from each of them are sufficient to establish that all of them conjointly participated in the offence of dacoity with murder, therefore their conviction under section 396 is liable to be confirmed; K.M.Ibrahim alias Bava v. State of Karnataka, 2000 Cr LJ 197 (Karn).
- (iii) On considering special facts of the case. i.e. the age of accused and their status in life as also their antecedents, Sentence of 10 years R.I in place of sentence of life imprisonment would meet the ends of justice; K.M. Ibrahim alias Bava v. State Lakshimsher Das. 1999 Cr LJ 197 (Karn)

1. Subs. by Act 26 of 1955 , sec.117 and Sch., for “transportation for life”(w.e.f.1-1-1956).

- (iv) In circumstantial evidences utter importance is of linking of chain, as soon as th chain of link is broken the value of circumstantial evidence gets reduced; State v. Lakshimsher Das, 1999 Cr LJ 2893 (Karn).
- (v) When it is evidentially proved that accused were participating in loot and murder during transaction of offence, each of them is liable to be punished under punish ability vide section 396 IPC; Kunwar Lal v. State of Madhya Pradesh, 199 Cr LJ 3632 (MP).

397. Robbery, or dacoity , with attempt to cause death or grievous hurt.- If ,a t the time of committing robbery or dacoity, the offender uses any deadly weapon, or the time of committing robbery or dacoity, the offender uses any deadly weapon, or cause grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punishable shall not be less than seven years.

CLASSIFICATION OF OFFENCE

Punishment-Rigorous imprisonment for not less than 7 years -Cognizable –Non-bailable-Triable by Magistrate of the first class–Non-compoundable.

COMMENTS

- (i) An act would only fall within the mischief of this section if at the time of committing robbery or dacoity the offender-

uses any deadly weapon; or

causes grievous hurt to any person; or

attempts to cause death or grievous hurt to any person; *Shravan Dashrath Dartange v. State of Maharashtra*, (1997)2 Crimes 47 (Bom).
- (ii) There can be no quarrel that knife is a deadly weapon within the meaning of section 397; *State of Maharashtra v. Vinayak Tukaram Utekar*, (1997) 2 Crimes 615 (Bom).
- (iii) When identification of articles alleged to have been recovered from accused is not properly proved nor victim could identify accused in identification parade or in court accused cannot be convicted under section 397; *Bhurekhan v.State of Madhya Pradesh* , AIR 1982 SC 984: (1982) CR LJ 818: (1982) SCC (Cr) 128.

398. Attempt to commit robbery or dacoity when armed with deadly weapon.- If , at the time of attempting to commit robbery or dacoity , the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

399. Making preparation to commit dacoits.- Whoever makes , any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Rigorous imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Session –Non-compoundable

400. Punishment for belonging to gang of dacoits .- Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity , shall be punished with ¹[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years , and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment- Imprisonment for life, or 10 years and fine -Cognizable –Non-bailable-Triable by Court of Session –Non-compoundable.

401. Punishment for belonging to gang of thieves.- Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity ,shall be punished with rigorous imprisonment for a tem which may extend to seven years ,and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Rigorous imprisonment for 7Years and fine -Cognizable –Non-bailable-Triable by Magistrate of the first class –Non-compoundable.

402. Assembling for purpose of committing dacoity.- Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled or the purpose of committing dacoity , shall be punished with rigorous imprisonment for a term which may extend to seven years , and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Rigorous imprisonment for7 years and fine -Cognizable –Non-bailable-Triable by Court of Session –Non-compoundable

403. Dishonest misappropriation of property.- Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations

- (a) A takes property belonging to Z out of Z's possession, in good faith, believing, at any time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.
- (b) A, being on friendly Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take for the purpose of reading it, A has not committed theft, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.
- (c) A and B, being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he is guilty of an offence under this section.

Explanation 1.- A dishonest misappropriation for a time only is a misappropriation with the meaning of this section.

Illustration

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Explanation 2.- A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and gives notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believing that the real owner cannot be found.

Illustrations

- (a) A finds a rupee on the high road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has not committed the offence defined in this section.
- (b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.
- (c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favor the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.
- (d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to own use. A has committed an offence under this section.
- (e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner, A is guilty of an offence under this section.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non-cognizable –Bailable-Triable by Magistrate –Compoundable by the owner of the property misappropriated with the permission of the court.

404. Dishonest misappropriation of property possessed by deceased person at the time of his death.-

Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's death, and has not

since been in the possession of any person legally entitled to such possession , shall be punished with imprisonment of either description for a term which may extend to seven years .

Illustration

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years and fine Non-Cognizable –Bailable-Triable by Magistrate of the first class –Non-compoundable.

If by clerk or person employed by deceased:

Punishment-Imprisonment for 7 years ,or fine, or both-Cognizable –Bailable-Triable by Magistrate of the first class –Non-compoundable.

Of Criminal Breach of Trust

405. Criminal breach of trust.- Whoever, being in any manner entrusted with property , or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or willfully suffers any other person so to do , commits “criminal breach of trust”.

¹[Explanation ² [1]. –A person, being an employer ³[of an establishment whether exempted under section 17 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), or not] who deducts the employee’s contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have

1. 1. Ins. by Act 40 of 1973, sec. (w.e.f.1-11-1973).

2. 2. Explanation renumbered as Explanation 1 by Act 38 of 1975,sec .9 (w.e.f.1-9-1975) .

3. 3. Ins. by Act 33 of 1988 , see. 27 (w.e.f.1-8-1988).

been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.]

¹[Explanation 2.-A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948 (34 of 1948), shall be deemed to have been entrusted with the amount of the contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used to amount of the said contribution in violation of a direction of law as aforesaid.]

Illustrations

- (a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to will, and appropriate them to his own use. A has committed criminal breach of trust.
- (b) A is warehouse-keeper. Z going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.]
- (c) A, residing in Calcutta, is agent for Z, resident at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be investment by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the direction and employs the money in his own business. A has committed criminal breach of trust.
- (d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.
- (e) A, a revenue-officer, is entrusted with public money and is either directed by law or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal branch of trust.

A, a carrier, is entrusted by Z with property to be carried by land or by water.

1. 1. 1.Ins. by Act 38 of 1975, sec 9 (w.e.f.1-2-1975).

A dishonestly misappropriates the property. A has committed criminal breach of trust.

406. Punishment for criminal breach of trust.- Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years and fine, or both-Non-cognizable –Bailable-Triable by Magistrate of the first class –Compoundable by the owner of the property in respect of which breach of trust has been committed, with the permission of the court.

COMMENTS

Sanction for prosecution is not necessary if a public servant is charged for offence of entering into a criminal conspiracy for committing breach of trust; State or Kerala v. Padmanabham Nair, 1999 Cr LJ 3696 (SC).

407. Criminal breach of trust by carrier , etc.- Whoever, being entrusted with property a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class –Compoundable by the owner of the property in respect of which the breach of trust has been committed with the permission of the court.

408. Criminal breach of trust by clerk or servant.- Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property , shall be

punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class –Compoundable by the owner of the property in respect of which the breach of trust has been committed with the permission of the court.

409. Criminal breach of trust by public servant, or by banker, merchant or agent.- Whoever, being in any manner entrusted with property, or servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years. and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for life ,or imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Magistrate of the class –Non-compoundable.

Of the Receiving of Stolen Property

410. Stolen Property.- Property, the possession whereof has been transferred by theft, or by extortion, or extortion, or by robbery, and property which has been criminally misappropriated or in respect of which ²[***] criminal breach of trust has been committed, is designed as “stolen property”, ³[whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without ⁴[India]]. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, to then cases to be stolen property.

411. Dishonestly receiving stolen property.- Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years or fine, or both -Cognizable –Non-bailable-Triable by Magistrate- Compoundable by the owner of the property stolen with the permission of the court .

1. 1. Subs. by Act 26 of 1955, sec. 117 and Sch., for “transportation for life” (w.e.f.1-1-1956)
2. 2. The words “the “ and “ offence of ‘rep. By Act 12 of 1891 , sec. 2 and Sch. I and Act 8 of 1882, sec.9 respectively.
3. 3. Ins. by Act 8 of 1882, sec.9.
4. 4. The words “British India” have successively been subs. by the A.O. 1948, the A.O. 1950 and Act 3 of 1951, sec.3 and Sch. to read as above.
5. 5. permission of the court .

STATE AMENDMENT

State of Tamil Nadu:

Section 411 of principal Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-

“(2) Whoever dishonestly receives or retains any idol or icon stolen from any building used as a place of worship knowing or having reason to believe the same to be stolen property shall, notwithstanding anything contained in sub-section (1), be punished with rigorous imprisonment which shall not be less than two years but which shall be less than two thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than two years”.

[Vide Tamil Nadu Act 28 of 1993, section 3].

412.Dishonestly receiving property stolen in the commission of a dacoity .- Whoever dishonestly receives or retains any stolen property, the possession where of he knows or has reason to believe to have been transferred by the commission of dacoity , or dishonestly receives from a person, whom he knows has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with ¹[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for life, or rigorous imprisonment for 10 years and fine-Cognizable – Non-bailable-Triable by Court of Session–Non-compoundable.

COMMENTS

- (i) When articles were received soon after dacoity and proved to have been stolen in dacoity, offence falls under section 412 and not under section 395; *Amar Singh v. State v. Madhya Pradesh*, AIR 1982 SC 129 : (1982) Cr LJ 610.
- (ii) When no part of prosecution case is found reliable including the alleged recovery of stolen property at the instance of accused it seems to be on effort by police to involve the accused persons by hook or by crook therefore conviction of co-accused is also liable to be set aside; *State v. Chhotey Lal*, 1999 Cr LJ 3411 (Del).

413. Habitually dealing in stolen property.- Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

-
1. Subs. by Act 26 of 1955, sec. 117 and Sch. for "transportation for life" (w.e. f. 1-1-1950)

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for life, or imprisonment for 10 years and fine -Cognizable –Non-bailable-Triable by Court of Session - Non- compoundable.

414. Assisting in concealment of stolen property.- Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine, or both -Cognizable –Non-bailable-Triable by Magistrate –Compounded by the owner of the property stolen with the permission of the court .

Of Cheating

415. cheating.-Whoever , by deceiving any person, fraudulently or dishonestly induce the person so deceived to deliver any property to any person, or to consent that any person shall retain any property ,or intentionally induces the person so deceived to do which act or omission cause or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.

Explanation.- A dishonest concealment of facts is a deception within the meaning of this section.

Illustration

- (a) A ,by falsely pretending to be in the Civil Service , intentionally deceives Z ,and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.
- (b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.
- (c) A. by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby, dishonestly induces Z to buy and pay for the article. A cheats.
- (d) A, by tendering in payment for an article a bill on a house with which A keeps on money , and by which A expects that the bill will be dishonored, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.
- (e) A, by pledging as diamonds article which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

- (f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money. A not intending to repay it .A cheats.
- (g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver . and thereby dishonestly induces Z to advance money upon the faith of such delivery, A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.
- (h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has outperformed, and thereby dishonestly induces Z to pay money . A cheats.
- (i) A sells and conveys an estate to B.A, knowing that in consequence of such sale he has no right to the property , sells or ,mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or ,mortgage money for Z.A cheats.

416. Cheating by personating.- A person is said to “cheat by personation” if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

*Explanation-*The offence is committed whether the individual personated is a real or imaginary person.

Illustration

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personating.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation

417. Punishment for cheating.- Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 1 years or fine, or both-Non-cognizable –Bailable-Triable by Magistrate –Compoundable by the person cheated with the permission of the court.

418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.- Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years ,or with fine ,or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years or fine, or both-Non-cognizable –Bailable-Triable by Magistrate –Compoundable by the person cheated with the permission of the court.

419. Punishment for cheating by personation .- Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years or fine, or both-Non-cognizable –Bailable-Triable by Magistrate –Compoundable by the person cheated with the permission of the court.

420. Cheating and dishonestly inducing delivery of property. – Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person , or to make, alter or destroy the whole or any part of a valuable security , or anything which is signed or sealed, and which is capable of being converted into a valuable security , shall be punished with imprisonment for either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 7 years and fine-Cognizable –Non-bailable-Triable by Magistrate of the first class –Compoundable by the person cheated with the permission of the court.

Of **Fraudulent** Deeds and Disposition of Property

421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.- Whoever dishonestly or fraudulently removes, conceals or delivers to any person to transfer or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non-cognizable –Bailable-Triable by Magistrate –Compoundable by the creditor who are affected thereby with the permission of the court.

422. Dishonestly or fraudulently preventing debt being available for creditors.- Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law or payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non-cognizable –Bailable-Triable by Magistrate –Compoundable by the creditor who are affected thereby with the permission of the court.

423. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.- Whoever dishonestly or fraudulently signs, executes or become a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer for charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non-cognizable –Bailable-Triable by Magistrate –Compoundable by the creditor who are affected thereby with the permission of the court.

424. Dishonest or fraudulent removal or concealment of property .- Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal therefore, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine, or both-Non-cognizable –Bailable-Triable by Magistrate –Compoundable by the person affected thereby with the permission of the court.

Of Mischief

425. Mischief .- Whoever with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, cause the destruction of any property, or any such change in any property or in the situation thereof as desirous or diminishes its value or utility, or affects it injuring , commits “mischief “.

Explanation 1. –It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner or the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property , whether it belongs to the person or not.

Explanation 2.- Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations

- (a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief .
- (b) A introduces water into an ice- house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z.A has committed mischief.
- © A voluntarily throws into a river a ring belonging to Z , with the intention of thereby causing wrongful loss to Z. A has committed mischief.

- (d) A, knowing the his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.
- (e) A, having insured a ship to be cast away , with the intention of causing damage to the under-writers . A has committed mischief .
- (f) A causes a ship to be cast away, intending thereby to causes damage to Z who has lent money on bottomry on the ship. A has committed mischief .
- (g) A, having joint property with Z in a hoarse, shoots the horse ,intending to thereby to cause wrongful loss to Z. A has committed mischief.
- (h) A cause cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief

426. Punishment for mischief.- Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for months, or fine, or both-Non-cognizable –Bailable-Triable by Magistrate –Compoundable by person to whom the loss or damage is cause.

427. Mischief causing damage to the amount of fifty rupees.—Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—Triable by any Magistrate—Compoundable by the person to whom the loss or damage is caused.

428. Mischief by killing or maiming animal of the value of ten rupees.—Whoever commits mischief by killing, poisoning, maiming, or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Cognizable—Bailable—
Triable by any Magistrate—Compoundable by the owner of the animal with the permission of the court.

429. Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees.—Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may be extend to five years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 5 years, or fine, or both—Cognizable—Bailable—
Triable by any Magistrate—Compoundable by the owner of the cattle or animal with the permission of the court.

430. Mischief by injury to works of irrigation or by wrongfully diverting water.—Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human

beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 5 years, or fine, or both—Cognizable—Bailable—Triable by Magistrate of the first class—Compoundable by the person to whom the loss or damage is caused with the permission of the court.

431. Mischief by injury to public road, bridge, river or channel.—Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for traveling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 5 years, or fine, or both—Cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

432. Mischief by causing inundation or obstruction to public drainage attended with damage.—Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 5 years, or fine, or both—Cognizable—Bailable—
Triable by Magistrate of the first class—Non-compoundable.

433. Mischief by destroying, moving or rendering less useful a light-house or sea-mark.—

Whoever commits mischief by destroying or moving any light-house or other light used as sea-mark or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years, or fine, or both—Cognizable—Bailable—
Triable by Magistrate of the first class—Non-compoundable.

434. Mischief by destroying or moving, etc., a land-mark fixed by public authority.—

Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark fixed useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 1 year, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Non-compoundable.

435. Mischief by fire or explosive substance with intent to cause damage to amount of one

hundred or (in case of agricultural produce) ten rupees.—Whoever commits mischief by fire or any explosive substance intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards ¹[or (where the

property is agricultural produce) ten rupees or upwards], shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

1. 1. Ins. By Act 8 of 1882, sec.10.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

436. Mischief by fire or explosive substance with intent to destroy house, etc.—Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

437. Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden.—Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

438. Punishment for the mischief described in section 437 committed by fire or explosive substance.—Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with ¹[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

1. Subs., By Act 26 of 1955, sec. 117 and Sch., for “transportation for life” (w.e.f. 1/1/1956)

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

439. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.—Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

440. Mischief committed after preparation made for causing death or hurt.—Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 5 years and fine—Cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

Of Criminal Trespass

441. Criminal trespass.—Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit “criminal trespass”.

STATE AMENDMENT

State of Uttar Pradesh:

For section 441, substitute the following :--

“441. Criminal trespass.—Whoever enters into or upon property in possession of another with intent to commit an offence or to intimidate, insult or annoy and person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains therewith intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

or, having entered into or upon such property, whether before or after the coming into force of the Criminal Law (U.P. Amendment) Act, 1961, with the intention of taking unauthorised possession or making unauthorised use of such property fails to withdraw from such property or its possession or use, when called upon to do so by that another person by notice in writing, duly served upon him, by the date specified in the notice, is said to commit “criminal trespass”.

[Vide U.P. Act No.31 of 1961, section 2].

442. House trespass.—Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit “house-trespass”.

Explanation.—The introduction of any part of the criminal trespasser’s body is entering sufficient to constitute house-trespass.

443. Lurking house-trespass.—Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit “lurking house-trespass”.

444. Lurking house-trespass by night.—Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit “lurking house-trespass by night”.

445. House breaking.—A person is said to commit “house-breaking” who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:--

First.—If he enters or quits through a passage by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

- (a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.
- (b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.
- (c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

- (d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.
- (e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.
- (f) A finds the key of Z's house door, which Z has lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.
- (g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.
- (h) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

446. House-breaking by night.—Whoever commits house-breaking after sunset and before sunrise, is said to commit “house-breaking by night”.

447. Punishment for criminal trespass.—Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, with fine or which may extend to five hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 months, or fine of 500 rupees, or both—Cognizable—
Bailable—Triable by any Magistrate—Compoundable by the person in possession of the
property trespassed upon.

COMMENTS

Mere vague allegations are not sufficient for conviction under section 498 for criminal trespass; Bhaskar Chatteraj v. State of west Bengal, 91991) Cr LJ 429 (SC).

448. Punishment for house-trespass.—Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or which may extend to one thousand rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for one year, or fine of 1000 rupees, or both—Cognizable—Bailable—Triable by any Magistrate—Compoundable by the person in possession of the property trespassed upon.

449. House-trespass in order to commit offence punishable with death.—Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punishable with [imprisonment for life], or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or rigorous imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session— Non-compoundable.

450. House-trespass in order to commit offence punishable with imprisonment for life.—Whoever commits house-trespass in order to the committing of any offence punishable with [imprisonment for life], shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session— Non-compoundable.

451. House-trespass in order to commit offence punishable with imprisonment.—Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for 2 years and fine—Cognizable—Bailable—Triable by any Magistrate.

Para II: Punishment—Imprisonment for 7 years and fine—Cognizable—Non-bailable—Triable by any Magistrate—Compoundable by the person in possession of the house trespassed upon with the permission of the court.

452. House-trespass after preparation for hurt, assault or wrongful restraint.—Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Cognizable—Non-bailable—Triable by any Magistrate—Non-compoundable.

453. Punishment for lurking house-trespass or house-breaking.—Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years and fine—Cognizable—Non-bailable—Triable by any Magistrate—Non-compoundable.

454. Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment.—Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for 3 years and fine—Cognizable—Non-bailable—Triable by any Magistrate—Non-compoundable.

Para II: Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compounded.

STATE AMENDMENT

State of Tamil Nadu:

Section 454 of the principal Act shall be renumbered as sub-section(1) of that section and after sub-section(1) as so renumbered, the following sub-section shall be added, namely:--

“(2) Whoever commits lurking house-trespass or house-breaking in any building used as a place of worship, in order to the committing of the offence of theft of any idol or icon from such building, shall notwithstanding anything contained in sub-section (1), be punished with rigorous imprisonment which shall not be less than three years but which may extend to ten years and with fine which shall not be less than five thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years”.

[*Vide* Tamil Nadu Act No.28 of 1993, section 4].

455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.—Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

456. Punishment for lurking house-trespass or house-breaking by night.—Whoever commits lurking house trespass by night, or house-breaking by night, shall be punished with

imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years and fine—Cognizable—Non-bailable—Triable by any Magistrate—Non-compoundable.

457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.—Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for 5 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Para II: Punishment—Imprisonment for 14 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class.

STATE AMENDMENT

State of Tamil Nadu:

Section 454 of the principal Act shall be renumbered as sub-section(1) of that section and after sub-section(1) as so renumbered, the following sub-section shall be added, namely:--

“(2) Whoever commits lurking house-trespass or house-breaking in any building used as a place of worship, in order to the committing of the offence of theft of any idol or icon from such building, shall notwithstanding anything contained in sub-section (1), be punished with

rigorous imprisonment which shall not be less than less than three years but which may extend to ten years and with fine which shall not be less than five thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years”.

[*Vide* Tamil Nadu Act No.28 of 1993, section 4].

455. Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.—Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

456. Punishment for lurking house-trespass or house-breaking by night.—Whoever commits lurking house trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years and fine—Cognizable—Non-bailable—Triable by any Magistrate—Non-compoundable.

457. Lurking house-trespass or house-breaking by night in order to commit offence punishable with imprisonment.—Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for 5 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Para II: Punishment—Imprisonment for 14 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class.

STATE AMENDMENT

State of Tamil Nadu:

Section 457 of the principal Act shall be renumbered as sub-section(1) of that section and after sub-section(1) as so renumbered, the following sub-section shall be added, namely:--

“(2)Whoever commits lurking house-trespass by night or house-breaking by night in any building used as a place of worship, in order to the committing of the offence of theft of any idol or icon from such building, shall, notwithstanding anything contained in sub-section (1), be punished with rigorous imprisonment which shall not be less than less than three years but which may extend to fourteen years and with fine which shall not be less than five thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years”.

[*Vide* Tamil Nadu Act No.28 of 1993, section 5].

State of Uttar Pradesh:

Amendment of section 457 - section 457 of the principal Act shall be renumbered as sub-section(1) of that section and after sub-section(1) as so renumbered, the following sub-section shall be added, namely:--

(2) Whoever commits lurking house-trespass by night or house-breaking by night in any building used as a place of worship, in order to the committing of the offence of theft of any idol or icon from such building, shall, notwithstanding anything contained in sub-section (1), be punished with rigorous imprisonment which shall not be less than less than three years but which may extend to fourteen years and with fine which shall not be less than five thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years.

[*Vide* U.P. Act No.24 of 1995, sec. 11].

458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint.—Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 14 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

459. Grievous hurt caused whilst committing lurking house trespass or house-breaking.—

Whoever, whilst committing lurking house—breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with [imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session – Non-compoundable.

460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.—If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session – Non-compoundable.

461. Dishonestly breaking open receptacle containing property.—Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Cognizable—Bailable—
Triable by any Magistrate—Non-compoundable.

462. Punishment for same offence when committed by person entrusted with custody.—

Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years, or fine, or both—Cognizable—Bailable—
Triable by any Magistrate—Non-compoundable.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS

AND TO [*] PROPERTY MARKS**

463. Forgery.—[Whoever makes any false documents or false electronic record or part of a document or electronic record with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.]

464. Making a false document.—[A person is said to make a false document or electronic record—

First.—Who dishonestly or fraudulently

- (a) (a) makes, signs, seals or executes a documents or part of a document;
- (b) (b) makes or transmits any electronic record or part of any electronic record;
- (c) (c) affixes any digital signature on any electronic record;
- (d) (d) makes any mark denoting the execution or the authenticity of the digital signature,

with the intention of causing it to be believed that such document or part of document, electronic record or digital signature was made, signed, sealed executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly.—Who without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his digital signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practiced upon him, he does not know the contents of the document or electronic record or the nature of the alteration.]

Illustrations

- (a) A has a letter of credit upon B for rupees 10,000 written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000 intending that it may be delivered by B that Z so wrote the letter. A has committed forgery.
- (b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention to selling the estate to B, and thereby of obtaining from B the purchase-money. A has committed forgery.

- (c) A pick up a cheque on a banker-signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.
- (d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payment. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.
- (e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.
- (f) Z's will contains these words –“ I direct that all my remaining property be equally divided between A, B and C ”. A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.
- (g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words “Pay to Z or his order” and signing the endorsement. B dishonestly erases the words “Pay to Z or his order”, and thereby converts the special endorsement into a blank endorsement into a blank endorsement. B commits forgery.
- (h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.
- (i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

- (j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and is distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property. A has committed forgery.
- (k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery in as much as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations

- (a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.
- (b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.
- (c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person whose order it was payable; here A has committed forgery.
- (d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate of Z at a nominal rent and for a long period and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

- (e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before. A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

[*Explanation 3.*—For the purpose of this section, the expression “affixing digital signature” shall have the meaning assigned to it in clause (d) of sub-section (1) of section 2 of the Information Technology Act, 2000.]

465. Punishment for forgery.—Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

COMMENTS

In matters of allegations for manufacturing false documents to be presented before court, a joint complaint is filed against all three accused without specifically mentioning offences against each one of them legally other two against when no offences made are liable to be freed.

Proceedings against them are liable to be quashed; C.R. *Alimchandani v. I.K Shah*, 1999 Cr LJ 2416 (Bom).

466. Forgery of record of Court or of public register, etc.—Whoever forges a document or an electronic record], purporting to be record or proceeding of or in a Court of Justice, or a register of birth, baptism, Marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

[*Explanation.*—For the purposes of this section, “register” includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

467. Forgery of valuable security, will, etc.—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Non-cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Para II: Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

468. Forgery for purpose of cheating.—Whoever commits forgery, intending that the [document or electronic record forged] shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Cognizable—Non-bailable—Triable
by Magistrate of the first class—Non-compoundable.

469. Forgery for purpose of harming reputation.—Whoever commits forgery, [intending that the document or electronic record forged] shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years and fine—Cognizable—Bailable—Triable by
Magistrate of the first class—Non-compoundable.

470. Forged [document or electronic record].—A false [document or electronic record made wholly or in part by forgery is designated “a forged [document or electronic record]”.

471. Using as genuine a forged [document or electronic record].—Whoever fraudulently or dishonestly uses as genuine any [document or electronic record] which he knows or has reason to believe to be forged [document or electronic record], shall be punished in the same manner as if he had forged such document.

CLASSIFICATION OF OFFENCE

Punishment—Punishment for forgery of such document—Cognizable—Bailable—
Triable by Magistrate of the first class—Non-compoundable.

472. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.—Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 467 of this Code, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 7 years and fine—
Cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

473. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise.—Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 467, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to

be counterfeit, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

474. Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine.—[Whoever has in his possession any document or electronic record, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document or electronic record is one of the description mentioned in section 466 of this Code], be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with [imprisonment for life], or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for 7 years and fine—Cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

Para II: Punishment—Imprisonment for life, or imprisonment for 7 years and fine—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

475. Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.—Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall

be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 7 years and fine—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

476. Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.— Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating [any document or electronic record] other than the documents described in section 467 of this Code, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Non-cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

477. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.—Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect of such documents, shall be

punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 7 years and fine—Non-cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

[477 A. Falsification of accounts.—Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, willfully, and with intent to defraud, destroys, alters, mutilates or falsifies any [book, electronic record, paper, writing], valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or willfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years, or fine, or both—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

[Of] [***] Property and Other Marks

478. Trade marks.—[Rep. By the Trade and Merchandise Marks Act, 1958 (43 of 1958, sec. 135 and Sch. (w.e.f. 25-11-1959).]

479. Property mark.—A mark used for denoting that movable property belongs to a particular person is called a property mark.

480. Using a false trade mark.—[Rep. By the Trade and Merchandise Marks Act, 1958 (43 of 1958, sec. 135 and Sch. (w.e.f. 25-11-1959).]

481. Using a false property mark.—Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods, or uses any case, package or other receptacle having any marks thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

482. Punishment for using a false property mark.—Whoever uses [***] any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 1 year, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Compoundable by the person to whom loss or injury is caused by
such use with the permission of the court.

483. Counterfeiting a property mark used by another.—Whoever counterfeits any [***] property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—Triable by any Magistrate—Compoundable by the person whose trade or property mark is counterfeited with the permission of the court.

[484. Counterfeiting a mark used by a public servant.—Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeited, shall be punished with imprisonment of either description for a term which may extend to three which may extend to three years, and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years and fine—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

[485. Making or possession of any instrument for counterfeiting a property mark.—Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a property mark, or has in his possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years, or fine, or both—Non-cognizable—Bailable—
Triable by Magistrate of the first class—Non-compoundable.

[486. Selling goods marked with a counterfeit property mark.—[Whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property mark] affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

- (a) (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) (c) that otherwise he had acted innocently.

Be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 1 year, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Compoundable by the person whose trade or property mark is counterfeited with the permission of the court.

[487. Making a false mark upon any receptacle containing goods.—Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle

contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Non-compoundable.

[488. Punishment for making use of any such false mark.—Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that section.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Non-compoundable.

[489. Tampering with property mark with intent to cause injury.—Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 1 year, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Non-compoundable.

[Of Currency-Notes and Bank-Notes]

[489A. Counterfeiting currency-notes or bank-notes.]—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank, note, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—For the purpose of this section and of sections 489B, [489C, 489D and 489E], the expression “bank-note”, means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for money.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

[489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.]—Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

[489C. Possession of forged or counterfeit currency-notes or bank-notes.—Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years, or fine, or both—Cognizable—Bailable—
Triable by Court of Session—Non-compoundable.

[489D.—Making or possession instruments or materials for forging or counterfeiting currency-notes or bank-notes.—Whoever makes, or performs, any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

[489. Tampering with property mark with intent to cause injury.—Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may

thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 1 year, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Non-compoundable.

[Of Currency-Notes and Bank-Notes]

[489A. Counterfeiting currency-notes or bank-notes.—Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank, note, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—For the purpose of this section and of sections 489B, [489C, 489D and 489E], the expression “bank-note”, means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for money.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

[489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.—Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine,

any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

[489C. Possession of forged or counterfeit currency-notes or bank-notes.—Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years, or fine, or both—Cognizable—Bailable—
Triable by Court of Session—Non-compoundable.

[489D.—Making or possession instruments or materials for forging or counterfeiting currency-notes or bank-notes.—Whoever makes, or performs, any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

[489E. Making or using documents resembling currency-notes or bank-notes.—(1)

Whoever makes, or causes to be made, or uses for any purpose whatsoever, or delivers to any person, any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive any currency-note or bank-note shall be punished with fine which may extend to one hundred rupees.

(2) If any person, whose name appears on a document the making of which is an offence under sub-section (1). Refuses, without lawful excuse, to disclose to a police-officer on being so required the name and address of the person by whom it was printed or otherwise made, he shall be punished with fine which may extend to two hundred rupees.

(3) Where the name of any person appears on any document in respect of which any person is charged with an offence under sub-section (1) or on any other document used or distributed in connection with that document it any, until the contrary is proved, be presumed that person caused the document to be made.]

CLASSIFICATION OF OFFENCE

Punishment—Fine of 100 rupees—Non-Cognizable—Bailable—Triable by any
Magistrate—Non-compoundable.

CHAPTER XIX

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE

490. Breach of contract of service during voyage or journey.—[Rep. by the Workmen's breach of Contract(Repealing) Act, 1925 (3 of 1925), sec. 2 and Sch.]

491. Breach of contract to attend on and supply wants of helpless person.—Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 months, or fine of 200 rupees, or both—Non-cognizable—Bailable—Triable by any Magistrate—Compoundable by the person with whom the offender has contracted.

492. Breach of contract to serve at distant place to which servant is conveyed at master's expense: [Rep. by the Workmen's Breach of Contract (Repealing) act, 1925 (3 of 1925), sec. 2 and Sch.]

CHAPTER XX

OF OFFENCES RELATING TO MARRIAGE

493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.—Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 10 years and fine—Non-cognizable—Non-bailable—
Triable by Magistrate of the first class—Non-compoundable.

494. Marrying again during lifetime of husband or wife.—Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This section does not extend to any person whose marriage with such husband or wife has been declared void by a court of competent jurisdiction,

Nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Non-cognizable—Bailable—Triable by Magistrate of the first class—Compoundable by the husband or wife of the person so marrying with the permission of the court.

STATE AMENDMENT

State of Andhra Pradesh:

Punishment—Imprisonment for 10 years and fine—Non-cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

[*Vide* A.P. Act 3 of 1992, section 2 (w.e.f. 15-2-1992)].

495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.—Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 10 years and fine—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

STATE AMENDMENT

State of Andhra Pradesh:

Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

[*Vide* A.P. Act 3 of 1992, section 2 (w.e.f. 15-2-1992)].

496. Marriage ceremony fraudulently gone through without lawful marriage.—Whoever, dishonestly or with fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

STATE AMENDMENT

State of Andhra Pradesh:

Punishment—Imprisonment for 7 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

[*Vide* A.P. Act 3 of 1992, section 2 (w.e.f. 15-2-1992)].

497. Adultery.—Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall be punishable as an abettor.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 5 years, or fine, or both—Non-cognizable—Bailable—
Triable by Magistrate of the first class—Non-compoundable.

STATE AMENDMENT

State of Andhra Pradesh:

Punishment—Imprisonment for 5 years, or fine, or both—Cognizable—Bailable—
Triable by Magistrate of the first class—Non-compoundable.

[*Vide* A.P. Act 3 of 1992, section 2 (w.e.f. 15-2-1992)].

498. Enticing or taking away or detaining with criminal intent a married woman.—

Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Compoundable by the person with whom the offender has
contracted.

CHAPTER XXA

OF CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND

498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purpose of this section, “cruelty” means—

- (a) (a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
- (b) (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years and fine—Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or if there is no relative, by any police servant belonging to such class or category as may be notified by the State Government in his behalf—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

COMMENTS

- (i) Mere saying to a person that she is not beautiful is not so provocative that the person is driven to such a step that takes away his life. Conviction of accused on such comment is not sufficiently proved; *Annapuranabai v. State of Madhya Pradesh*, 1999 Cr LJ 2696 (MP).
- (ii) For co-accused in absence of evidence that, they had also caused harassment based on dowry demand, only because they sympathized with main accused does not make them liable to be convicted under section 498-A IPC; *Kondam Gangaram v. State of Andhra Pradesh*, 1999 Cr LJ 2181 (AP).
- (iii) Demand for money after four years of marriage for a specific purpose, no where related to marriage demand but causing of harassment to deceased wife so much so that she was bound to end her life is sufficient for conviction under section 498-A IPC; *State of Punjab v. Daljit Singh*, 1999 Cr LJ 2723 (PH).
- (iv) Reduction in sentence on grounds of old age and poor health sentence against section 498-A to be borne by father of husband but due to his poor health and old age the sentence reduced to the period already undergone in custody during proceedings; *State of Karnataka v. Balappa*, 1999 Cr LJ 3064 (Karn).
- (v) In offences under section 498-A when a wife is subjected to mental cruelty it can not be argued that she does not have right to move the court but in other cases of Criminal nature State being custodian of its people is entitled to face the court; *M. Balakrishna Reddy v. Principal Secretary Govt. of Home Department*, 1999 Cr LJ 3566 (AP).
- (vi) Where the prosecution relied only on incident of unhappiness of deceased with her husband and the allegation was only in form of suggestion, therefore, it does not establish criminal offence under either or both of the charges the incidence, hence conviction improper; *State v. K. Sridhar*, 2000 Cr LJ 328 (Kant).

CHAPTER XXI

OF DEFAMATION

499. Defamation.—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations

- (a) A says—"Z is an honest man; he never stole B's watch"; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

- (b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation unless it fall within one of the exceptions.
- (c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception.—**Imputation of truth which public good requires to be made or published.**—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Second Exception.—**Public conduct of public servants.**—It is not defamation to express in a good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception.—**Conduct of any person touching any public question.**—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Illustration

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on public question, in signing a requisition for a meeting on a public question, in presiding or attending a such meeting, in forming or joining any society

which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharges of the duties of which the public is interested.

Fourth Exception.—**Publication of reports of proceedings of courts.**—It is not defamation to publish substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A justice of the Peace or other officer holding an inquiry in open Court preliminary to a trial in a Court of Justice, is a court within the meaning of the above section.

Fifth Exception.—**Merits of case decided in Court or conduct of witness and others concerned.**—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Illustrations

- (a) A says—“ I think Z’s evidence on that trial is so contradictory that he must be stupid or dishonest”. A is within this exception if he says this is in good faith, in as much as the opinion which he expresses respects Z’s character as it appears in Z’s conduct as a witness, and no further.
- (b) but if A says—“I do not believe what Z asserted at that trial because I know him to be a man without veracity”; A is not within this exception, in as much as the opinion which he express of Z’s character, is an opinion not founded on Z’s conduct as a witness.

Sixth Exception.—**Merits of public performance.**—it is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations

- (a) A person who publishes a book, submits that book to the judgment of the public.
- (b) A person who makes a speech in public, submits that speech to the judgment of the public.
- (c) An actor or singer who appears on a public stage, submits his acting or signing in the judgment of the public.
- (d) A says of a book published by Z—“Z’s book is foolish; Z must be a weak man. Z’s book is indecent; Z must be a man of impure mind”. A is within the exception, if he says this in good faith, in as much as the opinion which he expresses of Z respects Z’s character only so far as it appears in Z’s book, and no further.
- (e) But if A says—“I am not surprised that Z’s book is foolish and indecent, for he is a weak man and a libertine”. A is not within this exception, in as much as the opinion which he expresses of Z’s character is an opinion not founded on Z’s book.

Seventh Exception.—**Censure passed in good faith by person having lawful authority over another.**—It is not defamation in a person having over another any authority, either

conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a school-master, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within the exception.

Eight Exception.—**Accusation preferred in good faith to authorized person.**—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration

If A in good faith accuse Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, and child, to Z's father—A is within this exception.

Ninth Exception.—**Imputation made in good faith by person for protection of his or other's interests.**—It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations

- (a) A, shopkeeper, says to B, who manages his business his business—“Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty”. A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.
- (b) A, a Magistrate, in making a report of his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Tenth Exception.—**Caution intended for good of person to whom conveyed or for public good.**—It is not defamation to convey a caution, in good faith, to one person against another, provide that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

COMMENTS

In section 499 the words “makes or publishes any imputation” should be interpreted as words supplementing to each other. A maker of imputation without publication is not liable to be punished under that section; *Bilal Ahmed Kaloo v. State of Andhra Pradesh*, (1997) 7 Supreme Today 127.

500. Punishment for defamation.—Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Simple imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—Triable by Court of Session—Compoundable by the person defamed.

Para II: Punishment— Simple imprisonment for 2 years, or fine, or both —Non-cognizable—Bailable—Triable by Magistrate of the first class—Compoundable by the person defamed with the permission of the court.

COMMENTS

A person cannot be said to have committed an offence under section 500, or 501 or 502 or 504 of the Code merely because some news item or article is published attributing certain utterances to that person; *Laloo Prasad v. State of Bihar*, (1997) 2 Crimes 498 (Pat).

501. Printing or engraving matter known to be defamatory.—Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Simple imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—Triable by Court of Session—Compoundable by the person defamed.

Para II: Punishment— Simple imprisonment for 2 years, or fine, or both —Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

502. Sale of printed or engraved substance containing defamatory matter.—Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Simple imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—Triable by Court of Session—Compoundable by the person defamed.

Para II: Punishment— Simple imprisonment for 2 years, or fine, or both —Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

CHAPTER XXII

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person in whom the person threatened is interested, is within this section.

Illustration

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Compoundable by the person insulted.

[505. Statements conducing to public mischief.—(1) Whoever makes, publishes or circulates any statement, rumour or report,--

- (a) (a) with intent to cause, or which is likely to cause, any officer, soldier, [sailor or airman] in the Army, [Navy or Air Force] [of India] to mutiny or otherwise disregard or fail in his duty as such; or
- (b) (b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or
- (c) (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community;

shall be punished with imprisonment which may extend to [three years], or with fine, or with both.

[(2) Statements creating or promoting enmity, hatred or ill-will between classes.— Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race,

place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) Offence under sub-section (2) committed in place of worship, etc.—Whoever commits an offence specified in sub-section (2) in any place of worship or in an assembly engaged in the performance of religious worship religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

Exception.—It does not amount to an offence, within the meaning of this section when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it [in good faith and] without any such intent as aforesaid.]

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for 3 years, or fine, or both—Non-cognizable—Non-bailable—Triable by any Magistrate—Non-compoundable.

Para II: Punishment—Imprisonment for 3 years, or fine, or both—Cognizable—Non-bailable—Triable by any Magistrate—Non-compoundable.

Para III: Punishment—Imprisonment for 5 years and fine—Cognizable—Non-bailable—Triable by any Magistrate—Non-compoundable.

COMMENTS

(i) *Mens rea* is a necessary postulate for the offence under section 505(2) of the code; *Bilal Ahmed Kaloo v. State of Andhra Pradesh*, (1997) 7 Supreme Today 127.

(ii) Publication or circulation is *sine qua non* under section 505(2) of the Code; *Bilal Ahmed Kaloo v. State of Andhra Pradesh*, (1997) 7 Supreme Today 127.

506. Punishment for criminal intimidation.—Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—Triable by any Magistrate—Compoundable by the person intimidated .

Para II: Punishment—Imprisonment for 7 years, or fine, or both—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

STATE AMENDMENT

State of Uttar Pradesh:

—Imprisonment for 7 years, or fine, or both—Cognizable—Non- bailable—Triable by Magistrate of the first class—Non-compoundable.

[Vide Notification No. 777/VIII 9-4(2)—87, dated 31st July, 1989, Published in U.P. Gazette, Extra., Pt. A, sec. (kha), dated 2nd August, 1989.

507. Criminal intimidation by an anonymous communication.—Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, in addition to the punishment under section—Non-cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

508. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.—Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations

(a) sits dharna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(b) threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 1 year, or fine, or both—Non-cognizable—Bailable—
Triable by any Magistrate—Compoundable by the person against whom the offence was committed.

509. Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Simple imprisonment for 1 year, or fine, or both—Cognizable—Bailable—
Triable by any Magistrate—Compoundable by the woman whom it was intended to insult or whose privacy was intruded upon the permission of the court.

510. Misconduct in public by a drunken person.—Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten years, or with both.

CLASSIFICATION OF OFFENCE

Punishment—Simple imprisonment for 24 hours, or fine of 10 rupees, or both—Non-cognizable—Bailable—Triable by any Magistrate—Non-compoundable.

CHAPTER XXIII

OF ATTEMPTS TO COMMIT OFFENCES

511. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.—Whoever attempts to commit an offence punishable by this Code with [imprisonment for life] or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with [imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence], or with such fine as is provided for the offence, or with both.

Illustrations

(a) makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(b) makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life or imprisonment not exceeding half of the longest term provided for the offence, or fine, or both—According as the offence is cognizable or non-cognizable—According as the offence attempted by the offender is bailable or not—Triable by the court by which the offence attempted is triable—Non-compoundable.

COMMENTS

This section is in applicable to offences created by any special law.