# IPC Section 356

## Section 356 of the Indian Penal Code: Assault or Criminal Force in Attempt to Commit Theft of Property Carried by a Person  
  
Section 356 of the Indian Penal Code (IPC) deals with the specific offense of assaulting or using criminal force against a person in an attempt to commit theft of property carried by that person. This provision recognizes the inherent vulnerability of individuals carrying property and the potential for violence during such theft attempts. It aims to deter such acts by prescribing a more severe punishment compared to simple theft or assault. This essay will provide a comprehensive analysis of Section 356, exploring its various facets, including its essential ingredients, the interplay between theft, assault, and criminal force, the meaning of "attempt," the nature of property covered, the burden of proof, defenses available to the accused, the prescribed punishment, relevant case laws, and the significance of this section in protecting individuals from violence during theft attempts and safeguarding their property.  
  
\*\*I. The Text of Section 356:\*\*  
  
Section 356 of the IPC states: “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.”  
  
\*\*II. Essential Ingredients of Section 356:\*\*  
  
To establish the offense under Section 356, the prosecution must prove the following essential ingredients beyond a reasonable doubt:  
  
1. \*\*Assault or Use of Criminal Force:\*\* The accused must have either assaulted or used criminal force against the victim.  
 \* \*\*Assault (Section 351):\*\* Making any gesture or preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that the person making the gesture or preparation is about to use criminal force.  
 \* \*\*Criminal Force (Section 350):\*\* Intentionally using force to any person, without that person's consent, in order to the committing of any offense, or with the knowledge that such force is likely to cause injury, fear, or annoyance.  
  
2. \*\*Attempt to Commit Theft:\*\* The assault or criminal force must be used in an attempt to commit theft. This means that the accused must have taken some steps towards committing theft, even if they did not ultimately succeed in stealing the property.  
  
3. \*\*Property Worn or Carried by the Person:\*\* The target of the theft attempt must be property that the victim is wearing or carrying at the time of the offense. This highlights the vulnerability of individuals carrying possessions and the potential for violence in such situations.  
  
  
\*\*III. Interplay between Theft, Assault, and Criminal Force:\*\*  
  
Section 356 creates a composite offense that combines elements of theft, assault, and criminal force. The accused must not only intend to commit theft but must also use assault or criminal force in furtherance of that attempt. The use of force distinguishes this offense from simple theft and reflects the increased risk of harm to the victim.  
  
\*\*IV. Meaning of "Attempt":\*\*  
  
The term "attempt" in Section 356 requires that the accused goes beyond mere preparation and takes some concrete steps towards committing theft. The exact point at which preparation transforms into an attempt depends on the facts and circumstances of each case. The courts generally consider whether the accused's actions unequivocally demonstrate an intention to commit theft and whether they have crossed the line from preparation to execution.  
  
\*\*V. Nature of Property Covered:\*\*  
  
Section 356 covers any property that the victim is wearing or carrying at the time of the offense. This can include items like jewelry, clothing, wallets, bags, mobile phones, or any other possession that the victim has on their person. The value of the property is not relevant for establishing the offense.  
  
\*\*VI. Burden of Proof:\*\*  
  
The burden of proving the offense under Section 356 lies squarely with the prosecution. They must establish all the essential ingredients of the offense beyond a reasonable doubt. The accused is presumed innocent until proven guilty and is not required to prove their innocence.  
  
\*\*VII. Defenses Available to the Accused:\*\*  
  
An accused charged under Section 356 can raise various defenses:  
  
\* \*\*No intention to commit theft:\*\* The accused can argue that they did not intend to steal the property.  
\* \*\*No assault or criminal force:\*\* The accused can argue that their actions did not constitute assault or criminal force as defined under the IPC.  
\* \*\*No attempt to commit theft:\*\* The accused can argue that their actions were merely preparatory and did not amount to an attempt to commit theft.  
\* \*\*Consent:\*\* While consent is generally not a defense to theft, it can be relevant in negating the element of force. If the victim consented to the taking of the property, there would be no theft, and thus no offense under Section 356.  
\* \*\*Mistake of fact:\*\* The accused can argue that they acted under a genuine and reasonable belief in a set of facts that, if true, would have made their actions lawful.  
  
  
\*\*VIII. Prescribed Punishment:\*\*  
  
Section 356 prescribes a punishment of imprisonment for up to two years, or with fine, or with both. This is a more severe punishment compared to simple theft or assault, reflecting the increased risk of harm to the victim when force is used in an attempt to steal property they are carrying. The actual sentence imposed will depend on the specific facts and circumstances of the case, the nature of the assault or criminal force used, and the value of the property involved.  
  
  
\*\*IX. Relevant Case Laws:\*\*  
  
Several court judgments have shaped the interpretation and application of Section 356. These cases often focus on the meaning of "attempt" and the distinction between preparation and execution:  
  
\* \*\*\*State of Maharashtra v. Mohd. Yakub\*\*\*: This case clarified the distinction between preparation and attempt in the context of theft.  
  
  
\*\*X. Conclusion:\*\*  
  
Section 356 of the IPC plays a vital role in protecting individuals from violence during theft attempts and safeguarding their property. It addresses the specific scenario where force is used in an attempt to steal property carried by a person, recognizing the increased risk of harm in such situations. By prescribing a more severe punishment than simple theft or assault, this section aims to deter such acts and protect the safety and security of individuals. Understanding the nuances of Section 356, including its essential ingredients, the concept of "attempt," and the available defenses, is crucial for ensuring its effective implementation and safeguarding individual rights.