# IPC Section 368

## A Comprehensive Analysis of Section 368 of the Indian Penal Code: Wrongfully Concealing or Keeping in Confinement, Kidnapped or Abducted Person  
  
Section 368 of the Indian Penal Code (IPC) addresses the offence of wrongfully concealing or keeping in confinement a person who has been kidnapped or abducted. This section builds upon the foundations laid by Sections 359 (Kidnapping), 361 (Kidnapping from Lawful Guardianship), 362 (Abduction), and other related kidnapping and abduction offences. It recognizes that the act of kidnapping or abduction is often not an end in itself, but rather a means to achieve some other illegal or immoral purpose, such as extortion, forced labor, or sexual exploitation. Section 368 specifically targets the subsequent act of concealing or confining the victim, recognizing the ongoing harm and vulnerability they face while being held against their will. A detailed understanding of this section is crucial for effective law enforcement, prosecution, and adjudication of these offences.  
  
\*\*I. The Essence of Section 368:\*\*  
  
Section 368 criminalizes the act of continuing to conceal or confine a person who has already been kidnapped or abducted. This emphasizes the ongoing nature of the crime and the continued deprivation of liberty suffered by the victim. It recognizes that the harm extends beyond the initial act of kidnapping or abduction and that the subsequent confinement can lead to further physical or psychological trauma, exploitation, and abuse.  
  
\*\*II. Dissecting the Elements of Section 368:\*\*  
  
To establish an offence under Section 368, the prosecution must prove the following elements beyond a reasonable doubt:  
  
1. \*\*Kidnapping or Abduction:\*\*  
  
The foundation of this offence is a prior act of kidnapping or abduction. The prosecution must demonstrate that the victim was initially kidnapped or abducted as defined in the relevant sections of the IPC.  
  
\* \*\*Kidnapping (Section 359):\*\* This involves conveying a person beyond the limits of India, taking or enticing a person out of the keeping of their lawful guardian, or concealing a person from someone who has the right to their custody.  
  
\* \*\*Abduction (Section 362):\*\* This involves compelling or inducing a person to go from any place with the intention of secretly and wrongfully confining them.  
  
2. \*\*Wrongful Concealment or Confinement:\*\*  
  
The core of Section 368 lies in the act of wrongfully concealing or keeping the kidnapped or abducted person in confinement.  
  
\* \*\*Wrongfully Concealing:\*\* This involves actively hiding the victim from those who have a right to know their whereabouts, such as family members, law enforcement, or legal guardians. This can involve moving the victim to different locations, using false identities, or restricting their communication with the outside world.  
  
\* \*\*Keeping in Confinement:\*\* This involves restricting the victim's freedom of movement and preventing them from leaving a particular place. The confinement can take various forms, from physical restraint to threats and intimidation.  
  
3. \*\*Knowledge of Kidnapping or Abduction:\*\*  
  
The accused must be aware that the person they are concealing or confining has been kidnapped or abducted. This knowledge can be direct or inferred from the circumstances. It is not necessary for the accused to have been involved in the initial act of kidnapping or abduction. However, they must be aware that the victim is being held against their will.  
  
  
\*\*III. Distinguishing Section 368 from Related Offences:\*\*  
  
Section 368 needs to be distinguished from related offences:  
  
\* \*\*Section 359 (Kidnapping), 361 (Kidnapping from Lawful Guardianship), and 362 (Abduction):\*\* These sections address the initial act of kidnapping or abduction, while Section 368 focuses on the subsequent act of concealing or confining the victim.  
  
\* \*\*Section 340 (Wrongful Confinement):\*\* While both sections deal with confinement, Section 368 specifically applies to situations where the confinement follows a kidnapping or abduction. Section 340 applies to any wrongful confinement, regardless of whether it was preceded by kidnapping or abduction.  
  
\* \*\*Section 364A (Kidnapping for Ransom):\*\* If the kidnapping or abduction is done for ransom, and the victim is concealed or confined, Section 364A would apply, which carries a more severe punishment.  
  
\* \*\*Sections 365, 366, and 367:\*\* These sections address kidnapping or abduction with specific intentions, such as secret and wrongful confinement, forced marriage or illicit intercourse, and grievous hurt or slavery. If the victim is subsequently concealed or confined, Section 368 can be applied in addition to these sections.  
  
\*\*IV. Punishment under Section 368:\*\*  
  
Section 368 prescribes a punishment of imprisonment for a term which may extend to seven years, and shall also be liable to fine. The actual sentence imposed can vary depending on the specific circumstances of the case, the duration and nature of the confinement, any harm caused to the victim during the confinement, and the presence of any aggravating factors.  
  
\*\*V. Evidentiary Challenges in Proving Section 368:\*\*  
  
Proving the elements of Section 368 can present certain evidentiary challenges:  
  
\* \*\*Establishing prior kidnapping or abduction:\*\* The prosecution must provide sufficient evidence to prove the initial act of kidnapping or abduction. This may involve witness testimonies, forensic evidence, or other forms of circumstantial evidence.  
  
\* \*\*Proving knowledge of kidnapping/abduction:\*\* Demonstrating that the accused knew the victim had been kidnapped or abducted can be challenging. Circumstantial evidence, such as the accused's behavior, statements, and efforts to conceal the victim, can be crucial.  
  
\* \*\*Establishing wrongful concealment or confinement:\*\* The prosecution must prove that the concealment or confinement was wrongful, meaning it was not legally justified or authorized.  
  
  
\*\*VI. The Importance of Thorough and Timely Investigation:\*\*  
  
Prompt and thorough investigation is critical in cases involving Section 368. Locating the victim quickly, preserving evidence, gathering witness testimonies, and documenting the conditions of confinement are essential for a successful prosecution.  
  
  
\*\*VII. Conclusion:\*\*  
  
Section 368 of the IPC plays a crucial role in addressing the ongoing harm caused by the wrongful concealment or confinement of kidnapped or abducted persons. It complements the other kidnapping and abduction offences by focusing on the continued deprivation of liberty and the potential for further exploitation and abuse. Understanding the nuances of this section, including the specific elements, the evidentiary challenges, and its relationship with related offences, is essential for effective law enforcement, prosecution, and judicial interpretation. A comprehensive and sensitive approach to investigation and prosecution is vital to secure justice for the victims and uphold the fundamental right to liberty and freedom of movement.