# IPC Section 389

## Indian Penal Code Section 389: Putting person in fear of accusation of offence, in order to commit extortion  
  
Section 389 of the Indian Penal Code (IPC) deals with the attempt to commit extortion by putting a person in fear of accusation of an offense punishable with death, imprisonment for life, or imprisonment for ten years or more. It criminalizes the act of creating a threatening environment with the intent to extort property, even if the extortion itself is not successful. This section complements Section 388, which deals with the completed offense of extortion through such threats. This detailed analysis will explore the various facets of Section 389, including its ingredients, essential elements, related sections, potential defenses, and relevant case laws.  
  
\*\*I. The Text of Section 389:\*\*  
  
"Putting person in fear of accusation of offence, in order to commit extortion.—Whoever, in order to commit extortion, puts or attempts to put any person in fear of any accusation which he knows to be false, of any offence punishable with death or with 1[imprisonment for life], or with imprisonment for 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."  
  
\*\*II. Ingredients of Section 389:\*\*  
  
1. \*\*Intent to Commit Extortion:\*\* The fundamental element of Section 389 is the intention to commit extortion. The accused must have the specific intent to induce the victim to deliver property or valuable security by instilling fear. This differentiates it from other offenses involving threats or intimidation where the intent might be different.  
  
2. \*\*Putting or Attempting to Put a Person in Fear of Accusation:\*\* The accused must either succeed in putting the victim in fear of an accusation or make a demonstrable attempt to do so. The section explicitly covers both successful and unsuccessful attempts, highlighting the focus on the creation of the threatening environment.  
  
3. \*\*Knowledge of Falsity:\*\* The accused must \*know\* that the accusation they threaten to make is false. This subjective element of mens rea is critical. Even if the accusation is objectively false, Section 389 does not apply if the accused genuinely believes it to be true.  
  
4. \*\*Punishment for the Threatened Offense:\*\* The offense that the accused threatens to accuse the victim of must be punishable with death, imprisonment for life, or imprisonment for ten years or more. This threshold of severity distinguishes Section 389 from threats related to less serious offenses.  
  
5. \*\*Connection between Fear and Extortion:\*\* The fear of accusation must be instilled \*in order to\* commit extortion. There must be a direct causal link between the threat and the intended extortion. The prosecution must demonstrate that the accused intended to use the induced fear to obtain something from the victim.  
  
  
\*\*III. Distinction between Section 388 (Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.) and Section 389 (Putting person in fear of accusation of offence, in order to commit extortion):\*\*  
  
The key difference lies in the completion of the extortion. Section 388 requires the actual commission of extortion – the victim must have handed over property or valuable security due to the fear instilled. Section 389, on the other hand, focuses on the \*attempt\* to commit extortion by putting the victim in fear, regardless of whether the victim actually parts with any property. It criminalizes the inchoate offense, while Section 388 penalizes the completed act of extortion.  
  
\*\*IV. Related Sections:\*\*  
  
\* \*\*Section 383 (Extortion):\*\* Defines the base offense of extortion.  
\* \*\*Section 384 (Punishment for extortion):\*\* Prescribes the punishment for basic extortion.  
\* \*\*Section 387 (Putting person in fear of death or of grievous hurt, in order to commit extortion):\*\* Deals with the attempt to commit extortion by threat of physical harm.  
\* \*\*Section 388 (Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.):\*\* Covers the completed offense of extortion through threats of serious accusations.  
\* \*\*Section 503 (Criminal intimidation):\*\* Deals with threats to harm a person's reputation, property, or person.  
\* \*\*Section 506 (Punishment for criminal intimidation):\*\* Prescribes the punishment for criminal intimidation.  
\* \*\*Section 511 (Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonments):\*\* Deals with attempts to commit various offenses, including extortion.  
\* \*\*Section 211 (False charge of offence made with intent to injure):\*\* While distinct, this section addresses the act of making false charges, which could be relevant in understanding the context of a threat under Section 389.  
  
  
\*\*V. Essential Elements for Prosecution:\*\*  
  
To secure a conviction under Section 389, the prosecution must prove beyond reasonable doubt that:  
  
1. The accused intended to commit extortion.  
2. The accused put or attempted to put the victim in fear of a false accusation of an offense.  
3. The accused knew the accusation was false.  
4. The offense threatened is punishable with death, imprisonment for life, or imprisonment for ten years or more.  
5. The fear of accusation was instilled to facilitate the intended extortion.  
  
\*\*VI. Defenses against Section 389:\*\*  
  
Several defenses can be raised against a charge under Section 389:  
  
1. \*\*Lack of intention to commit extortion:\*\* The accused might argue they had no intention to extort anything from the victim and the alleged threat had a different purpose.  
2. \*\*Belief in the truth of the accusation:\*\* This is a crucial defense. The accused can argue they genuinely believed the accusation to be true, even if it is objectively false.  
3. \*\*No act or attempt to put in fear:\*\* The defense might argue that the accused did not take any action or make any attempt to instill fear in the victim. Perhaps the alleged threat was never communicated or was misinterpreted.  
4. \*\*Accusation not relating to a sufficiently serious offense:\*\* The defense can argue that the offense the accused threatened to accuse the victim of does not meet the severity threshold defined in the section.  
5. \*\*No connection between fear and intended extortion:\*\* Even if there were threats and fear, the defense could argue there was no intent to leverage that fear to extort anything from the victim. The threat might have been made for a different reason altogether.  
6. \*\*Mistake of fact:\*\* The accused could argue they acted under a genuine and reasonable mistake of fact that negated the criminal intent.  
7. \*\*Absence of preparation:\*\* The defense could argue that the accused's actions did not go beyond mere preparation and did not constitute an attempt to put the victim in fear.  
  
  
\*\*VII. Relevant Case Laws:\*\*  
  
Judicial precedents play a vital role in interpreting and applying Section 389. These cases offer valuable insight into how courts have addressed issues such as the nature of the threat, the requirement of knowledge of falsity, and the necessary link between the threat and the intended extortion. While specific case citations are beyond the scope of this general description, legal professionals must research relevant case law to understand the practical application of Section 389 in different factual scenarios.  
  
  
\*\*VIII. Conclusion:\*\*  
  
Section 389 of the IPC criminalizes the attempt to extort property by threatening a person with a false accusation of a serious crime. It focuses on the creation of a threatening environment aimed at facilitating extortion, even if the extortion is not ultimately successful. Understanding the ingredients, essential elements, related sections, and potential defenses is crucial for both prosecution and defense in cases involving this section. This detailed analysis provides a comprehensive overview of Section 389 and its implications. However, consulting a legal professional is always recommended for specific legal advice related to individual circumstances and cases.