# IPC Section 459

## A Comprehensive Analysis of IPC Section 459: Grievous Hurt Caused Whilst Committing Lurking House-trespass or House-breaking  
  
Section 459 of the Indian Penal Code (IPC) deals with a specific and aggravated form of house-trespass or house-breaking. It addresses situations where individuals, while committing lurking house-trespass or house-breaking by night, voluntarily cause grievous hurt to any person or attempt to cause death or grievous hurt to any person. This detailed analysis will explore the various nuances of Section 459, examining its constituent elements, judicial interpretations, related provisions, defences, and practical implications.  
  
\*\*I. The Text of Section 459\*\*  
  
The text of Section 459 states:  
  
“Whoever commits lurking house-trespass or house-breaking by night, and while so lurking or house-breaking, voluntarily 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 with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”  
  
\*\*II. Deconstructing the Elements of the Offence\*\*  
  
To secure a conviction under Section 459, the prosecution must prove the following elements beyond reasonable doubt:  
  
1. \*\*Lurking House-trespass or House-breaking by Night:\*\* This forms the foundational element of the offence. It necessitates demonstrating that the accused committed either lurking house-trespass (Section 443) or house-breaking by night (Section 445). Let's analyze these individually:  
  
 \* \*\*Lurking House-trespass (Section 443):\*\* This involves concealing oneself or lurking in any building or vessel used as a human dwelling, or any place used as a place of worship or for the custody of property, with the intent to commit an offence or to intimidate, insult, or annoy any person.  
  
 \* \*\*House-breaking by Night (Section 445):\*\* This entails committing house-trespass (Section 441) after having made preparations for causing hurt, assault, or wrongful restraint, or fear of such actions. The crucial distinction lies in the element of "preparation."  
  
 \* \*\*“By Night”:\*\* The offence must be committed during the period between sunset and sunrise. This temporal element is crucial for distinguishing Section 459 from related offences.  
  
2. \*\*Voluntarily Causing Grievous Hurt or Attempting to Cause Death or Grievous Hurt:\*\* While committing the act of lurking house-trespass or house-breaking by night, the accused must have:  
  
 \* \*\*Voluntarily caused grievous hurt to any person:\*\* “Grievous hurt” is defined under Section 320 of the IPC and includes injuries such as emasculation, permanent privation of the sight of either eye, permanent privation of the hearing of either ear, privation of any member or joint, destruction or permanent impairing of the powers of any member or joint, permanent disfiguration of the head or face, fracture of a bone, or 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 follow his ordinary pursuits. The hurt must be caused "voluntarily," meaning the accused intended or knew that his actions were likely to cause grievous hurt.  
  
 \* \*\*Attempted to cause death or grievous hurt to any person:\*\* An “attempt” is defined under Section 511 of the IPC. The prosecution must demonstrate that the accused intended to cause death or grievous hurt and took some action towards achieving that objective, even if they ultimately failed. The act must go beyond mere preparation and demonstrate a direct movement towards the commission of the offence.  
  
  
3. \*\*Concomitance of Acts:\*\* The causing of grievous hurt or the attempt to cause death or grievous hurt must occur \*while\* the accused is committing lurking house-trespass or house-breaking by night. There must be a direct link between the two actions.  
  
4. \*\*Punishment:\*\* Upon conviction, the accused is liable to life imprisonment, or imprisonment of either description (rigorous or simple) for a term which may extend to ten years, and is also liable to a fine. The severity of the punishment underscores the gravity of the offence.  
  
  
  
\*\*III. Distinguishing Section 459 from Related Sections\*\*  
  
Section 459 is a specialized provision that targets a specific combination of offences, making it distinct from other related sections:  
  
\* \*\*Section 325 (Punishment for voluntarily causing grievous hurt):\*\* This section deals with the general offence of voluntarily causing grievous hurt, while Section 459 specifically addresses such hurt caused \*during\* lurking house-trespass or house-breaking by night.  
  
\* \*\*Sections 307/308 (Attempt to murder/ culpable homicide):\*\* While Section 459 includes attempts to cause death, it is linked specifically to lurking house-trespass or house-breaking by night. Sections 307 and 308 are broader in scope.  
  
\* \*\*Section 448 (Punishment for house-trespass):\*\* This section deals with basic house-trespass and prescribes a significantly lighter punishment.  
  
  
\* \*\*Section 458 (Grievous hurt caused whilst committing lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint):\*\* Section 458 specifically requires preparation for hurt, assault, or wrongful restraint. Section 459 doesn’t have this requirement; the grievous hurt or attempted death/grievous hurt itself is the focus.  
  
  
\*\*IV. Judicial Interpretations and Case Laws\*\*  
  
  
Judicial interpretations have clarified various aspects of Section 459. Key aspects include:  
  
\* \*\*“Grievous Hurt”:\*\* Courts rely on the definition provided under Section 320 and consider the nature and severity of injuries inflicted to determine whether they qualify as grievous hurt.  
  
\* \*\*“Attempt”:\*\* Courts examine the actions of the accused to determine if they went beyond mere preparation and constituted a direct movement towards causing death or grievous hurt.  
  
  
\* \*\*"While so lurking or house-breaking":\*\* The courts have emphasized the need for a direct connection between the act of lurking house-trespass or house-breaking and the causing of grievous hurt or attempt to cause death/grievous hurt. The two acts must be part of the same transaction.  
  
  
\*\*V. Practical Implications and Examples\*\*  
  
  
Section 459 has practical implications in scenarios involving:  
  
\* An intruder breaking into a house at night and assaulting a resident, causing grievous hurt.  
\* A person lurking in a building at night and attacking someone with a deadly weapon.  
\* An individual entering a dwelling at night and attempting to strangle an occupant.  
  
  
\*\*VI. Defences against Charges under Section 459\*\*  
  
  
Possible defences against charges under Section 459 include:  
  
  
\* \*\*No lurking or house-breaking:\*\* Challenging the prosecution's claim of lurking house-trespass or house-breaking. This could involve arguing lawful entry, mistake of fact, or lack of intent to commit an offence while lurking.  
  
\* \*\*No grievous hurt or attempt to cause death/grievous hurt:\*\* Contesting the severity of the injuries or arguing that the actions did not constitute a genuine attempt to cause death or grievous hurt.  
  
  
\* \*\*Self-defence:\*\* If the accused caused grievous hurt or attempted to cause death/grievous hurt in self-defence, it may be a valid defence if the force used was proportionate to the threat faced.  
  
  
\* \*\*Accident:\*\* If the injuries were caused accidentally and without any criminal intent, this could be a defence.  
  
  
\* \*\*Consent:\*\* This defence is rarely applicable in cases involving grievous hurt or attempted death, but in specific circumstances, where the victim consented to certain acts that resulted in unintentional grievous hurt, it might be considered.  
  
  
  
\*\*VII. Conclusion\*\*  
  
  
Section 459 serves as a strong deterrent against violent acts committed during nighttime intrusions into dwellings. By imposing severe penalties, it protects the safety and security of individuals in their homes and reinforces the sanctity of private property. Understanding the complexities of this section is crucial for legal professionals, law enforcement, and the public alike. It demonstrates the legal system's commitment to safeguarding individuals from potentially life-threatening harm and upholding the right to a secure and peaceful existence within their homes. This detailed analysis has provided a comprehensive exploration of Section 459, outlining its scope, application, and significance in the Indian legal framework.