# IPC Section 137: Deserter concealed on board merchant vessel through negligence of master.

## IPC Section 137: Desertion Concealed on Board Merchant Vessel Through Negligence of Master - A Detailed Explanation  
  
Section 137 of the Indian Penal Code, 1860, deals with the specific offense of a shipmaster's negligence leading to the concealment of a deserter on board a merchant vessel. This section addresses a unique scenario within maritime law, focusing on the responsibility of the master to prevent and detect desertions, and penalizing their negligence in failing to do so. The section reads as follows:  
  
"Whoever, being the master or person in charge of a merchant vessel, negligently suffers any deserter from Her Majesty’s Army or Her Majesty’s Navy, or from the Army or Navy of the East India Company, to be concealed on board his vessel, 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."  
  
Despite the outdated reference to "Her Majesty's Army/Navy" and the "East India Company," the essence of the law remains relevant. It targets the negligence of the ship's master in allowing a deserter from the armed forces (now the Indian Armed Forces) to remain hidden on board their vessel.  
  
Let's break down the key components of this section for a comprehensive understanding:  
  
\*\*1. The Offender:\*\* The section specifically targets the "master or person in charge" of a merchant vessel. This identifies the individual responsible for the overall operation and management of the ship. The "master" is the designated commanding officer, while the "person in charge" covers situations where someone else assumes command due to the master's absence or incapacity. The legal responsibility rests squarely on the individual holding ultimate authority over the vessel.  
  
\*\*2. The Actus Reus (Guilty Act):\*\* The offense consists of "negligently suffer[ing] any deserter… to be concealed on board." This requires two elements:  
  
\* \*\*Presence of a Deserter:\*\* A "deserter" refers to someone who has unlawfully abandoned their service in the armed forces. The prosecution must establish that the individual concealed on board was indeed a deserter, requiring proof of their enlistment and subsequent unauthorized absence.  
\* \*\*Negligent Suffering of Concealment:\*\* This is the crux of the offense. "Suffering" implies permitting or allowing something to happen. "Negligence" indicates a lack of due care and attention that a reasonable person in the master's position would have exercised. It isn't about intentional concealment but rather a failure to take reasonable steps to prevent or detect the deserter's presence. This could involve inadequate checks of crew and passengers, insufficient security measures, or a failure to investigate suspicious activities.  
  
\*\*3. The Mens Rea (Guilty Mind):\*\* The section explicitly mentions "negligence" as the mental element. This means the prosecution doesn't need to prove the master intentionally aided the deserter. It's sufficient to demonstrate a lack of reasonable care, resulting in the deserter's concealment. This distinction is crucial. A master might not be aware of the deserter's presence, but if their negligence facilitated the concealment, they can still be held liable.  
  
\*\*4. "Merchant Vessel":\*\* The law applies specifically to merchant vessels, meaning ships engaged in commerce or trade, as opposed to warships or other government vessels. This distinction highlights the specific context of the law and the responsibilities placed upon those involved in commercial shipping.  
  
\*\*5. Punishment:\*\* The prescribed punishment is imprisonment for up to six months, a fine up to one thousand rupees, or both. The relatively lenient punishment reflects the nature of the offense, focusing on negligence rather than deliberate complicity. However, it serves as a deterrent against laxity in security and crew management aboard merchant vessels.  
  
\*\*Evidentiary Challenges and Defenses:\*\*  
  
Proving this offense can be challenging. The prosecution must establish:  
  
\* The individual was a deserter.  
\* The deserter was concealed on board.  
\* The master was negligent in allowing this concealment.  
  
The master could offer several defenses, such as:  
  
\* \*\*Lack of Negligence:\*\* Demonstrating they took all reasonable steps to prevent and detect deserters, including proper security measures, crew checks, and investigations of suspicious behavior.  
\* \*\*Lack of Knowledge:\*\* Arguing they were genuinely unaware of the deserter's presence and had no reason to suspect it.  
\* \*\*Due Diligence:\*\* Showing they implemented appropriate procedures and acted diligently in fulfilling their responsibilities.  
  
\*\*Relevance in Contemporary Context:\*\*  
  
While the language of the section is archaic, the principle remains relevant. Desertion, though less prevalent in its traditional form, can still occur. Moreover, the concept of a shipmaster's responsibility for the security of their vessel and the prevention of illicit activities remains crucial in combating various maritime crimes, including smuggling, human trafficking, and piracy. Though this section might not be frequently invoked, it embodies the importance of vigilance and due diligence for those in charge of merchant vessels. It underscores the expectation that they actively maintain security and prevent their vessels from being used for illegal purposes, reflecting a broader principle of responsible ship management crucial for maritime safety and security.