# IPC Section 27: Property in possession of wife, clerk or servant.

## Section 27 of the Indian Penal Code: "Property in Possession of Wife, Clerk or Servant" – A Detailed Analysis  
  
Section 27 of the Indian Penal Code (IPC) addresses a specific scenario regarding the possession of property by a wife, clerk, or servant. It clarifies the legal position regarding such possession and its implications for offences related to theft, criminal breach of trust, and similar property-related crimes. Understanding the nuances of this section is crucial for accurate application of the law in such cases.  
  
The section states:  
  
> When property is in the possession of a person’s wife, clerk or servant, on account of that person, it is in the legal possession of that person.  
  
  
This seemingly straightforward statement has significant implications for determining possession and ownership in specific contexts. Let's break down the elements:  
  
\*\*1. Property:\*\*  
  
This refers to any movable property, tangible or intangible, that can be subject to possession. It can include money, jewelry, documents, electronic devices, and other similar items.  
  
\*\*2. Possession:\*\*  
  
Possession, in legal terms, refers to physical control over property coupled with the intention to exercise that control. It signifies a factual relationship between a person and property. Section 27 clarifies a specific aspect of possession related to the relationship between a person and their wife, clerk, or servant.  
  
\*\*3. Wife, Clerk, or Servant:\*\*  
  
The section specifically mentions three relationships: wife, clerk, and servant. These relationships are characterized by a degree of subordination and agency, where the wife, clerk, or servant typically acts on behalf of or under the control of the person mentioned in the section (referred to as the "principal" for clarity).  
  
\* \*\*Wife:\*\* In the context of this section, the term "wife" refers to a legally married spouse. The provision recognizes the traditional role of the wife in managing household affairs and handling property belonging to the husband.  
\* \*\*Clerk:\*\* This term refers to an employee or assistant who performs clerical or administrative duties for the principal. Clerks often have access to and control over the principal's property as part of their employment.  
\* \*\*Servant:\*\* This term encompasses domestic servants, employees, and other individuals engaged in service to the principal. Servants often have custody and control over the principal's property in the course of their duties.  
  
  
  
\*\*4. "On Account of that Person":\*\*  
  
This crucial phrase clarifies the basis of possession by the wife, clerk, or servant. The property must be in their possession "on account of" the principal. This means the possession must be derived from the principal's ownership or control over the property. The wife, clerk, or servant holds the property as a representative or agent of the principal, not as an independent owner.  
  
\* \*\*Examples:\*\* A wife holding jewelry gifted by her husband, a clerk holding cash belonging to the employer, a servant holding the principal's car keys, all represent possession "on account of" the principal.  
  
  
\*\*5. Legal Possession of that Person:\*\*  
  
The section states that when the conditions mentioned above are met, the property is in the \*legal possession\* of the principal. This signifies that while the wife, clerk, or servant might have physical custody of the property, the principal retains legal control and ownership. This distinction is crucial for determining criminal liability in property-related offences.  
  
  
\*\*6. Implications for Offences:\*\*  
  
Section 27 has significant implications for offences like theft and criminal breach of trust:  
  
\* \*\*Theft:\*\* If a wife, clerk, or servant misappropriates property in their possession "on account of" the principal, it can constitute theft against the principal. This is because the principal retains legal possession of the property, even if the wife, clerk, or servant had physical custody.  
\* \*\*Criminal Breach of Trust:\*\* Similarly, if a clerk or servant misappropriates property entrusted to them by the principal, it can constitute criminal breach of trust. Section 27 reinforces the principal's ownership and control over the property, making the misappropriation a breach of trust.  
  
  
\*\*7. Illustrations:\*\*  
  
\* A servant entrusted with household cash takes some money for personal use. This is theft against the employer, as the servant's possession of the cash was "on account of" the employer.  
\* A clerk responsible for handling company funds uses some of the money for personal investment. This is criminal breach of trust, as the clerk was entrusted with the funds on behalf of the company.  
\* A wife pawns jewelry gifted to her by her husband without his consent. This can be considered theft against the husband, as she held the jewelry "on account of" him.  
  
  
\*\*8. Exceptions and Limitations:\*\*  
  
Section 27 is not absolute. It doesn't apply if the wife, clerk, or servant has independent ownership or possession of the property. For example, if a wife uses her own earnings to buy jewelry, it is her property, and Section 27 doesn't apply.  
  
\*\*9. Judicial Interpretations:\*\*  
  
Several judicial pronouncements have clarified the scope and application of Section 27. Courts have emphasized the requirement of possession "on account of" the principal and have distinguished between physical custody and legal possession.  
  
  
\*\*10. Conclusion:\*\*  
  
Section 27 of the IPC clarifies the legal position regarding possession of property by a wife, clerk, or servant when that possession is derived from the principal's ownership or control. It establishes that the principal retains legal possession in such cases, even if the wife, clerk, or servant has physical custody. This distinction has significant implications for offences like theft and criminal breach of trust, enabling the law to hold individuals accountable for misappropriating property entrusted to them. Understanding the nuances of this section, including the requirement of possession "on account of" the principal, is crucial for proper application of the law.